

The Honorable Frank Pallone  
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state and local governments, businesses, and citizens to reduce toxic pollution in the watershed.

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We will be calling upon every member of the New Jersey and New York delegations, as well as the affected state and local governments, to continue our constructive and cooperative efforts to sustain port growth and environmental protection. We will also be submitting periodic reports to the President on our success in implementing this plan and on any continuing obstacles to harbor dredging.

We appreciate your continuing leadership and advice as we work together to ensure a healthy economy and a healthy environment for the region.

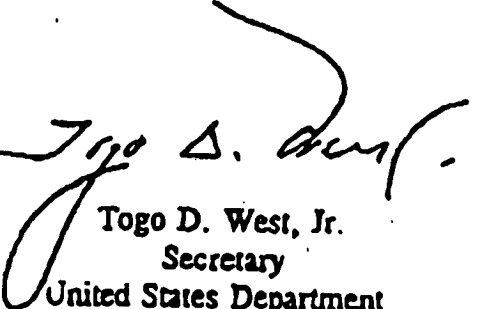
Sincerely,



Carol M. Browner  
Administrator  
United States Environmental  
Protection Agency



Federico F. Pena  
Secretary  
United States Department  
of Transportation



Togo D. West, Jr.  
Secretary  
United States Department  
of the Army

In addition, the Corps and EPA will accelerate their work with the affected state and local governments on a sound dredge material management plan, and complete the interim plan by August 30, 1996. This interim plan will identify any steps that are necessary to sustain dredging through 1997. The final plan will be completed by September, 1998.

Most importantly, we expect that our commitments concerning the MDS will diminish or eliminate the possibility of litigation challenging permits and the EPA rule change during the period prior to September 1, 1997. This proposal is predicated on that result.

*3. We will help ensure the health of the Port and the environment for the 21st Century*

The short-term efforts identified here cannot truly help the Port without effective long-term strategies to ensure that dredge material is managed properly. We recognize the significant efforts and commitments that New York and New Jersey have made with us to put those strategies in place. We will reinforce those efforts, so that long-term growth of the Port is sustained and sustainable.

Recognizing that a vital Port should be able to accommodate the full range of world-class ships, the Corps will soon begin an expedited feasibility study of alternatives for a 50 foot deep Port, including recent legislative proposals on this issue. The Corps will seek Congressional authorization and take steps to reprogram funds to allow the study to begin in 1996, and the study will be designed for completion in 1999. Recognizing that dredging is not the only issue affecting the future of this and other Ports, the Department of Transportation is committed to a six-month study of the causes of cargo diversion from our East Coast ports. This study, which will be developed in consultation with other affected agencies, will recommend any additional measures that are needed to enhance the international competitiveness of our East Coast ports.

Continued growth of the Port must be coupled with aggressive development of disposal alternatives and expanded efforts to reduce toxic pollution in the harbor. The Administration will continue to support legislation and appropriations to support cost-sharing of upland disposal alternatives. The Administration will also seek support for the range of continuing efforts to develop acceptable alternatives. For example, EPA is today announcing \$1.2 million in contract awards to support development of decontamination technologies for dredge material. In addition, the Corps will immediately seek necessary authorization and funding to begin the technical design and feasibility studies needed for environmentally sound confined containment facilities, in anticipation that such facilities may be part of the final dredge material management plan. We also will pursue additional steps to reduce and address toxic pollution in the estuary. We will seek to minimize polluted runoff by funding and supporting local and region-wide watershed planning and implementation activities. By September 1996, EPA will invest \$100,000 to facilitate pollution reduction in the Arthur Kill. All of these efforts will be coordinated with the Harbor-Estuary Comprehensive Conservation and Management Plan, which is the blueprint for working cooperatively with

modified to reflect these new commitments. We also will seek to reinforce this approach in appropriate legislation.

Although we recognize that eventual closure of the MDS, followed by remediation, is appropriate, immediate closure could jeopardize the Port, which may need short-term use of the site to dispose of category 2 material. To strike the appropriate balance, use of the site for category 2 material will have to be supported with certifications by the permit applicant, and a finding by the Corps of Engineers that: 1) the affected states or ports were asked to provide alternative sites for disposal of the material identified by the permit, and that the states or ports failed to provide a reasonable alternative site; and 2) the disposal of category 2 material at the MDS will not increase the elevation at the MDS higher than 65 feet below the surface. Any elevation limits will be designed to contain material within the current lateral limits of the MDS, and will be set based on scientific evidence.

*2. We will help remove the immediate obstacles to dredging the Port*

The Port Authority of New York and New Jersey, terminal operators, shipping lines, and labor groups have identified numerous ways in which we can help expedite dredging in the Port. We have heard, and are responding to, their concerns.

Making the MDS available for category 2 material for the next 12 months, and allowing the elevation at the site for category 2 material to increase, would remove the most immediate and major federal obstacles to dredging. The designation of the Historic Area Remediation Site will assure long-term use of category 1 dredge material.

Our outreach to the companies, longshoremen, harbor pilots, and others whose livelihood depends on the Port, has identified many additional steps our agencies can take to further facilitate adequate dredging in the Port. A major source of concern and potential cost for permit applicants has been uncertainty surrounding the testing that must support permit applications. Accordingly, by the end of August, EPA will finalize its proposal that tests of only two species, not three, will be required of permit applicants. EPA then will invest at least nine months in a process for all affected groups -- industry, labor, and environmental groups -- to help the Agency review the ocean disposal testing requirements and ensure that any further revision reflects both sound policy and sound science.

The Corps of Engineers will expedite the processing of dredging permit applications and completion of its own dredging projects. The Corps will issue public notices for dredging permits within 15 days after a completed application is submitted, or will have requested any additional information necessary to make the application complete. Within 90 days, the Corps will either issue the permit, deny the permit, or commit in writing to a deadline for the permit decision. The Corps responsibility for the federal channels will also be met: with cooperation from the states and the funding requested by the President, the Corps will ensure maintenance dredging for 10 high-priority federal channel projects before the end of 1997.

July 24, 1996

The Honorable Frank Pallone  
United States House of Representatives  
Washington, D.C. 20510

Dear Congressman Pallone:

Your leadership and support have been essential in advancing our shared goals of protecting the ocean environment, while ensuring the competitiveness of the Port of New York and New Jersey and the economic health of the region. We are writing to announce our commitment to several substantial new steps to provide additional Administration support for those goals. We believe the three-point plan outlined below demonstrates this Administration's commitment to the continued growth and vitality of the port, to protective regulation of ocean disposal, and to a stronger partnership with the states in protecting regional commerce and the marine environment.

*1. We will close the Mud Dump Site by September 1, 1997*

After years of contention, this Administration is prepared to help resolve the controversy over disposal at the Mud Dump Site (MDS) off the New Jersey coast.

Environmental, tourism, fishing, and other community groups have long contended that the MDS should be closed immediately. These views reflect the important environmental values that New Jersey's communities identify with their coastal environment. Community concerns have been heightened by the unhappy history of other environmental threats that these communities have had to endure -- ranging from oil spills to the littering of shorelines with medical waste. This history warrants sensitivity to concerns about the MDS, including concerns about continued use of the site for so-called "category 2" material. When these concerns are coupled with the limited category 2 disposal capacity we expect the site to provide, we must conclude that long-term use of this site for disposal activity is not realistic.

Accordingly, the Environmental Protection Agency (EPA) will immediately begin the administrative process for closure of the MDS by September 1, 1997. The proposed closure shall be finalized no later than that date. Post-closure use of the site would be limited, consistent with the management standards in 40 C.F.R. Section 228.11(c). Simultaneous with closure of the MDS, the site and surrounding areas that have been used historically as disposal sites for contaminated material will be redesignated under 40 C.F.R. Section 228 as the Historic Area Remediation Site. This designation will include a proposal that the site be managed to reduce impacts at the site to acceptable levels (in accordance with 40 C.F.R. Section 228.11(c)). The Historic Area Remediation Site will be remediated with uncontaminated dredged material (i.e. dredged material that meets current Category I standards and will not cause significant undesirable effects including through bioaccumulation). Our ongoing environmental assessment activities at the site will be