



Date: August 23, 2002
To: Traci Lima
From: Danni Goulet, PE – Dredging Coordinator
Subject: Comments for Proposed Dredging Regulations

The CRMC respectfully submits the following comments pertaining to the proposed dredging regulations prepared by the RIDEM.

Overall, the regulations are clear, workable and cover area's that have required some additional guidance. There are some specific areas of concern to the CRMC or in general. These are outlined below. The specific section of concern is in italics followed by our comment or suggested modification.

Many of the issues, particularly the reuse contaminate levels, are likely to be modified from the proposed levels. It is the opinion of the CRMC that rather than be hasty in the adoption of the regulations with the anticipation of modification, that the DEM develop a reasonable working level or the preferred action would be to await adoption until better data is available for level determination. Modification after the fact is likely to be significantly more challenging.

5.3 It is Stated that *In accordance with 40 CFR 230.10, the in-water disposal of dredged or fill material is prohibited unless:*

In Section 230.10 (excerpt attached), it is written that “in-water disposal will not be permitted unless.....”.

If something is prohibited according to CRMC and RIDEM regulations, it will require a compelling public purpose in order to be permitted. Re-phrasing this line to read ... *the in-water disposal of dredged or fill material will not be permitted unless:* will be in keeping with 230.10 and allow future in-water or CAD disposal without a compelling public purpose or change in the regulations.

5.4 *Upland dewatering, disposal or beneficial use of dredge material is prohibited in the following areas, unless.....*

Is it possible to allow dewatering in these area's if the dewatering system is lined? A prohibition will require a compelling public purpose. It is unlikely that this will preclude a project but it is likely to limit viable alternatives. In lieu of a prohibition consideration on a case by case basis should be allowed.

7.5 For in-water disposal of dredged material, the following

Without modification of 5.3 (as stated above), it was construed that this is prohibited, by several reviewers.

7.6.4 Samples must be managed to meet the method requirements for handling, preservation and storage.

The chain of custody with notations of sample condition and preservation should be required along with the laboratory results and notes / qualifications.

8.2.5 Calculations verifying the estimated volume of dredged material;

Suggest that this section read “Stamped calculations, performed by a Professional Engineer with experience with dredge projects, verifying the volume of dredge material”. There have been issues recently with non-professional volume calculations and earthwork volumes are typically an engineering function.

9.1.3 Calculations verifying the disposal or beneficial use location capacity and the dewatering area capacity;

Suggest that this section read “Stamped calculations, performed by a Professional Engineer with experience dredge material handling, verifying the beneficial use location capacity and dewatering area capacity with consideration for material bulking”;

9.2 The criteria for Upland and Beneficial reuse of material are inconsistent. The levels for residential are defined below;

3.13 Direct Exposure Criteria shall mean the concentrations of Hazardous Substances in soil protective of human health and the environment from exposures including but not limited to ingestion as identified in Table 1 of Rule 8.02.B (Method 1 Soil Objectives) or any other direct exposure criteria approved by the Director pursuant to Rule 8.02.C (Method 2 Soil Objectives) or Rule 8.04 (Method 3 Remedial Objectives) of the Remediation Regulations

In some cases, the Proposed Beach Nourishment criteria is several orders of magnitudes less than what is considered safe for residential exposure. The levels are also significantly lower than surrounding states (MA & CT) that have active dredge and reuse programs successfully running without environmental degradation or negative human health effects. Arsenic will be treated separately in these comments. Additionally, beach exposure is transient, recreational at best, and therefore impacts from exposure are minimal.

Parameter	RI DEM Proposed Limits	RI DEM Residential Direct Exposure Criteria	MA reuse for Beach Nourishment or all Unconfined Disposal ¹	CT reuse for Beach Nourishment or all Unconfined Disposal
% Silt / Clay	10%	N/A	< 60 % ³	5%
% Moisture	25%	N/A	< 40 %	²
TPH	ND	500 ppm	5%*	²
PCB	ND	10 ppm	< 0.5 ppm	²
Arsenic (As)	1.7 mg/kg	1.7 mg/kg	< 10 ppm	²
Cadmium (Cd)	1.0 mg/kg	39 mg/kg	< 5 ppm	²
Chromium (Cr)	10 mg/kg	390 mg/kg	< 100 ppm	²
Copper (Cu)	10 mg/kg	3100 mg/kg	< 200 ppm	²
Lead (Pb)	25 mg/kg	150 mg/kg	< 100 ppm	²
Mercury (Hg)	0.05 mg/kg	23 mg/kg	< 0.5 ppm	²
Nickel (Ni)	5.0 mg/kg	1000 mg/kg	< 50 ppm	²
Zinc (Zn)	25 mg/kg	6000 mg/kg	< 200 ppm	²

Note: mg/kg and ppm are equivalent units

¹ Beach Nourishment Grain Size to match (limit silts) - Limits are same as ACOE Category 1 Limits

* Percent volatile solids, percent oils and greases (hexane extract is <0.5% and 0.5% - 1.0% respectively)

² Material with limited fines (3-5%) is assumed to be clean, dredge material has bulk sediment chemistry and reviewed individually

³ Material for beach nourishment reviewed individually with nourishment area considered

The CRMC is concerned with limiting the potential for degradation but recognizes the realities of marine sediments. Attached to these comments are what are considered background levels from a marine pollution text book, based on Narragansett Bay sediment samples.

The Practical Handbook of Estuarine and Marine Pollution has several tables that contain sediment data for Narragansett Bay. The exact location of the samples is not elaborated, however as a “background” the information provides some valuable insight.

Table 1.17 details the following levels of trace metals in Sediments. Chromium, 93.6 ppm, Copper 78.95 ppm, Lead 60.25 ppm, Zinc 144.43 ppm, Cadmium 0.35 ppm, Silver 0.56 ppm, Mercury 0.0 ppm.

Table 2.6 details the concentrations of Heavy metals in above ground portions of *Spartina Alterniflora*. These levels are Copper 12-16 ppm, Lead 21-22 ppm, Zinc 42-69 ppm and Cadmium 0.2 -0.3 ppm.

Below are proposed levels of contaminants that take into consideration what is deemed safe by the DEM for residential exposure, the mandate to protect all of our coastal resources and what is successfully working nearby.

Recommended Dredge Material Reuse Levels, Beach and Upland

CRITERIA	Dredge Material Reuse Criteria
% Silt Clay	Individual (NTE 20%)
% Moisture	25 %*
TPH	100 ppm
PCB	0.5 ppm
Arsenic	7 ppm
Cadmium	5 ppm
Chromium	100 ppm
Copper	100 ppm
Lead	100 ppm
Mercury	0.5 ppm
Nickel	25 ppm
Zinc	150 ppm

* moisture at final placement (allowance for hydraulic placement on beaches)

The chloride concentration of 200 mg/kg dry material beyond 200 feet of Mean High Water is appropriate and is considered part of the recommended levels.

Arsenic is an issue in many states and the regulations vary wildly. The current level of 1.7 is based on a study of State and Federal hazardous waste files. This data set immediately limits the scope such that “background” levels for an entire State appear to be a significant extrapolation. The data was further limited with its criteria that attempted to find background arsenic levels from hazardous waste files. The author concedes that the conclusion of the low average could be a result of strict study guidelines.

There have been several recent cases where the naturally occurring arsenic significantly exceeded the residential and industrial limits. This required delay and expense of the applicant. It is estimated through the limited data (at the 95% confidence level) that 7 ppm may be the upper limit of naturally occurring arsenic in Rhode Island. This limit is reflected in 9.2.6. The DEM has determined that this is the background at several sites and there are no further restrictions (non-jurisdictional) required.

For consistency and reasonableness, an Arsenic level of 7 ppm for reuse would provide protection for both human health and protection of the coastal resources. Recent findings and the realities of marine sediment show the need for the determination of the actual background levels in the State based on a specific study, not reuse of existing material.

Comments concerning Appendix A, are in red. Incorporation of these comments will insure that the information is suitable for both DEM and CRMC, easing the burden on the applicant.

Appendix A

Application Site Plan Requirements

All site plans must be at least 8-1/2" x 11" in size but no larger than 24" x 36". If plans larger than 8-1/2" x 11" are utilized, one set of plans reduced to 8-1/2" x 11" are required with the CRMC application package.

All site plans depicting projects submitted for review and/or approval must have all markings permanently fixed. Site plans which are pieced together with tape or contain markings of pen, pencil, crayon, markers or other items which can be changed or altered at a later date are not acceptable. Blueline or blackline prints or photocopies of originals are acceptable.

All site plans must contain a title block, original date of the plan and latest revision date of the plan if applicable. The title block must include the name of the person or party involved, the proposed project title if any, the principal street/road abutting the site, the tax assessor's plat and lot number(s), the city or town, the name of the preparer and the scale of the plan. Site plans prepared by a licensed or registered professional must contain the stamp of the professional affixed to each sheet prepared along with the date and the signature of the professional. Only one datum for the project shall be utilized. The applicant shall also provide proof of property ownership.

All plans containing more than one (1) sheet must be numbered consecutively.

For all projects, site plans must depict at minimum, the following:

- Magnetic North Arrow;
- Entire property boundary outline and dimension, including any easements;
- Insert map showing location of site in the community;
- A locus using USGS quadrangle map;
- All streets and rights of way within 50 feet of the property lines of the proposed activity with fixed reference points including utility poles, house numbers, stone walls, bulkheads, buildings, edge of woods/fields, trails, parking areas, above and underground utilities, drainage structures and any other infrastructure on-site or within 50 feet of the property line(s).
- Scale of plans, with graphic scale if plans are reduced;
- A legend which explains all markings and/or symbols.
- Surface Water Bodies
- Delineation of all freshwater and coastal wetland jurisdictional areas of the DEM, Council and ACOE within 100 feet of the property lines of the project;
- Any jurisdictional area that extends beyond the property line shall be shown for 100 feet beyond the property line
- Existing and proposed utilities and drainage facilities;

For projects proposing dredging, the following must be included:

- The area to be dredged with **separate plans showing** the existing and proposed contours of the dredging area;
- Cross sectional views **in two directions with a maximum spacing of 200'** of the area to be dredged showing the existing and proposed contours of the dredging area;
- In-water facilities, such as docks, piers, floats, etc. **within 100 feet of the property line including all moorings;**
- Location of federal navigation projects, such as channels, anchorage areas, etc.;
- Mean high and mean low water elevations;
- The datum used to reference all grades and depths;
- Location of aquatic resources in the area such as shellfish beds, eel grass beds, migratory pathways, habitat for finfish.
- Location of sampling points.

For projects proposing dewatering, the following must be included:

- **Separate site plans that detail the existing conditions and topography at two foot intervals and proposed site conditions and topography at two foot intervals. All existing topography and proposed grading shall be shown 50 feet beyond the property lines;**
- **The existing plans shall detail the groundwater classification of the site, zoning designations and the FEMA limits and elevations.**
- **Proposed limits of disturbance of the dredge area including all side slopes of the dewatering area, of any stock pile area, construction vehicle access/storage;**
- Temporary and permanent erosion and sediment controls;
- Temporary and permanent stormwater and water quality management controls and best management practices;
- Location of all proposed dewatering basins, settling basins, and storage areas for all dredged material;
- **Cross-sectional views of the settling basins, including wall construction and volume calculations;**
- Details of the berms, overflow and outlet weirs and runoff collection systems associated with the proposed basins and all point source discharge locations. The selection and design of settling basins shall be consistent with the USACE publication entitled Engineering and Design, Confined Disposal of Dredged Material, Engineer Manual No. 1110-2-5027.
- **The location of any pier or dock proposed for transfer or off-loading of dredged material from scows to land and their position relative to the dredge site and the proposed dewatering location including certification by a professional that such facilities are adequate for the proposed purpose;**
- All access roads to be utilized by trucks for offloading, transferring or removing dredged material to the dewatering location(s) and final disposal location(s);
- **Certification by a Professional Engineer that all adjacent structures (within 25 feet of the limit of disturbance) have the capacity to withstand the proposed dredging/dewatering operations and that the stability has been investigated and will not be effected.**

For projects proposing upland disposal or beneficial use of dredged materials, the following must be included:

- Location of the disposal/beneficial use area including areas 100 feet beyond the proposed limits of disposal/reuse;
- Separate plans detailing the existing and proposed conditions including contours at two foot intervals. This is not required for landfill disposal but is required for all types of upland disposal/beneficial use;
- Cross sections of the upland disposal / reuse in two directions at 200' maximum spacing;
- Method of placement of dredge material at the site including access points and any disturbances placement may cause.
- Groundwater classification of the disposal/beneficial use area;
- The edge and elevation of any flood plain and the limit of any floodway (on the project datum);
- The location of all wells within 2000 feet;
- Zoning approval from municipality;
- Temporary and permanent erosion and sediment controls;
- Temporary and permanent stormwater and water quality management controls and best management practices;

For projects involving freshwater wetlands, the following must be included:

- The edge of any swamp; marsh; bog; pond; emergent, submergent, shrub, or forested wetland; or any special aquatic site;
- The edge of any river, stream, intermittent stream, area subject to flooding and/or storm flowage;
- The edge of any fifty-foot (50') perimeter wetland;
- The edge of any one hundred foot (100') or two hundred foot (200') riverbank wetland;
- The edge and elevation of any flood plain and the limit of any floodway; Note: The Department may grant an exception to this requirement when pre-determined 100-year flood elevations are not available from published sources including previous engineering studies, and a registered professional engineer provides clear and convincing documented evidence that the project site is above any probable 100-year flood elevation;
- The name of any surface or flowing water body or any other wetland where applicable
- Where changes to existing grades are proposed, the plan shall show both existing and proposed contour line elevations at maximum intervals of two (2') feet. Where no changes to grades are proposed, include a notation which so indicates;
- Profiles and/or cross sections drawn to scale;
- Proposed limits of all vegetative clearing and surface or subsurface disturbance;
- Temporary and permanent erosion and sediment controls;
- Temporary and permanent stormwater, flood protection and/or water quality management controls, and best management practices;
- Proposed measures to conduct, contain or otherwise control the movements of surface water, groundwater, or stormwater flows; and the ultimate destination of such flows;
- Construction activities either above or below the earth's surface which may affect any wetland including the height of planned buildings.

For Rehandling Facility projects, the following must be included:

- All existing and proposed private wells **within 2000 feet**;
- All existing and proposed infrastructure, including roadways; surface and subsurface utilities; sewer and sanitary lines, water quality structures;
- All existing and proposed site drainage facilities, both above surface and subsurface;
- Proposed locations of loading and unloading areas;
- Proposed location of processing, tipping, sorting, and treatment areas;
- Cross sections of proposed storage basins, berms;
- Cross sections and/or details for any proposed structure;
- Proposed sedimentation and erosion controls;
- Proposed weighing facilities (if any);
- On-site traffic patterns;
- Proposed landscaping.

Section 230.10 - Restrictions on discharge

Note: Because other laws may apply to particular discharges and because the Corps of Engineers or State 404 agency may have additional procedural and substantive requirements, a discharge complying with the requirement of these Guidelines will not automatically receive a permit. Although all requirements in 230.10 must be met, the compliance evaluation procedures will vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities.

a. Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

1. For the purpose of this requirement, practicable alternatives include, but are not limited to:

- i. Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters;
- ii. Discharges of dredged or fill material at other locations in waters of the United States or ocean waters;

2. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered.

3. Where the activity associated with a discharge which is proposed for a special aquatic site (as defined in Subpart E) does not require access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose (i.e., is not "water dependent"), practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise. In addition, where a discharge is proposed for a special aquatic site, all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.

4. For actions subject to NEPA, where the Corps of Engineers is the permitting agency, the analysis of alternatives required for NEPA environmental documents, including supplemental Corps NEPA documents, will in most cases provide the information for the evaluation of alternatives under these Guidelines. On occasion, these NEPA documents may address a broader range of alternatives than required to be considered under this paragraph or may not have considered the alternatives in sufficient detail to respond to the requirements of these Guidelines. In the latter case, it may be necessary to supplement these NEPA documents with this additional information.

5. To the extent that practicable alternatives have been identified and evaluated under a Coastal Zone Management program, a section 208 program, or other planning process, such evaluation shall be considered by the permitting authority as part of the consideration of alternatives under the Guidelines. Where such evaluation is less complete than that contemplated under this subsection, it must be supplemented accordingly.

- b. No discharge of dredged or fill material shall be permitted if it:
1. Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard;
 2. Violates any applicable toxic effluent standard or prohibition under section 307 of the Act;
 3. Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or results in likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph;
 4. Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.
- c. Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests required by Subparts B and G, after consideration of Subparts C through F, with special emphasis on the persistence and permanence of the effects outlined in those subparts. Under these Guidelines, effects contributing to significant degradation considered individually or collectively, include:
1. Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites.
 2. Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;
 3. Significantly adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy; or
 4. Significantly adverse effects of discharge of pollutants on recreational, aesthetic, and economic values.
- d. Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem. Subpart H identifies such possible steps.

Construction uncovers a pile of trouble

07/17/2002

BY ANDREA L. STAPE
Journal Staff Writer

WEST GREENWICH -- It's tough to say which is growing faster, Immunex Corp.'s new drug-manufacturing facility off Route 95 or the mammoth piles of dirt next to it.

The dirt looks like it's winning in a landslide.

It's not unusual to see dirt piles at construction sites, especially when the project is a 500,000-square-foot manufacturing plant, a 100,000-square-foot office building and 700-car parking garage. But this earth mountain has history.

Seattle-based Immunex broke ground on its new manufacturing facility and administration building in November. The company is spending \$500 million on the new campus, which is being built right next to its existing 250,000-square-foot manufacturing plant. Both will be used to produce its blockbuster rheumatoid arthritis drug Enbrel.

When excavation began on the office building and the parking garage at the end of last year, the company's subcontractor, Northeast Construction, had no place to put the earth since construction hadn't yet started on the manufacturing plant, according to Kristen Weinberg, a spokeswoman with Immunex. It was carted off to three locations across Rhode Island, including a nursery, said Weinberg.

Then Immunex discovered the dirt was dirty.

According to state regulations, the soil contained levels of arsenic and beryllium that were too high for the dirt to be dumped in residential areas. Immunex learned of the contamination from the site's previous owners, Wyeth-Ayerst Pharmaceuticals, only after the dirt had been removed, according to Weinberg.

Arsenic and beryllium are poisonous and also can cause cancer.

The drug manufacturer promptly issued a dirt recall. About 1,400 cubic feet of soil, enough to fill 70 tractor-trailer sized dump trucks, was returned to the West Greenwich site by April, and Immunex began testing the arsenic and beryllium levels, said Weinberg.

"It was not contaminated -- we are actually going to use it for backfill. That soil is OK for industrial use," said Weinberg.

When it comes to unforeseen construction problems, it's not unusual for a building project to reclaim soiled dirt, according to Paul Kulpa, a scientist with the Rhode Island Department of Environmental Management.

"A lot of developers will . . . test the soil ahead of time. Sometimes they do it after the fact and they find out that they created a huge pile of dirt and it's contaminated -- it all depends when the developers test," said Kulpa.

Although Weinberg said it didn't cost Immunex any more to cart the soil away and bring it back, she declined to say how much the operation cost. But she did say the dirt might end up saving the company money in the long run.

Now Immunex doesn't have to pay for more dirt to fill in the holes around the new buildings, Weinberg said. Consequently, the dirt piles around the new facility continue to grow -- the mound behind the construction includes the dirt that was carted off and returned. The mountain next to the highway was created by more recent excavation, she said.

The company, which has been purchased by Amgen Inc., says it expects the new facility to employ 350 people.

Staying on track meant dealing quickly with the contamination problem. Arsenic and beryllium are naturally occurring elements in the earth's crust, said Kulpa. Usually when there are levels of them in the soil that exceed regulations, it's because humans dumped it there, he said.

But in this case, both the DEM and Immunex's independent environmental-testing firm, Providence's Environmental Science Services, agreed that the contaminants in Immunex's soil are naturally occurring. Although the land was previously used as a horse farm, neither the state agency nor the consulting company could find any chemical dumping in the land's background, according to a report filed with the DEM.

Some areas of the state just have higher levels of these two elements, said Kulpa.

Although the levels of arsenic and beryllium in Immunex's soil are too high for it to be used on residential property, it can be used to fill in spots on commercial developments. The state's requirements differ since people traditionally spend more time in the dirt at home than at work.

Also, the DEM's arsenic and beryllium tolerance is much lower than the surrounding New England states -- regulations Immunex has asked the state to change.

In the meantime, the dirt piles up -- a mix of reclaimed earth and new excavation. And Immunex has become intimately familiar with the dirty details of dealing with dirt.

"I now know more about dirt than I ever wanted to know," said Weinberg.

No significant risk to campus

Brown contacts DEM about high arsenic levels in College Green soil

Brown University has filed a report with the Rhode Island Department of Environmental Management describing levels of arsenic that exceed state limits in soil samples from The College Green. As the University works with the DEM to decide what remedial efforts may be appropriate, a geochemical consultant hired by Brown has reported that these concentrations of arsenic do not pose a health risk to the campus community, and that typical activities on the Green may continue.

PROVIDENCE, R.I. — In a report delivered yesterday (Tuesday, Sept. 11) to the Rhode Island Department of Environmental Management, environmental officers at Brown University described findings of arsenic in soil samples taken from The College Green. Although the average level exceeds state standards, health and environmental experts see no reason to take any action for public safety reasons.

“An independent consultant hired immediately by the University has determined that these levels of arsenic do not constitute a health threat or significant risk to anyone who uses the College Green or to employees who maintain it,” said Stephen Morin, Brown’s director of Environmental Health and Safety. “There is no reason for any member of the community to curtail typical activities, including lawn mowing, sitting or lying directly on the grass, even diving after a Frisbee.”

A Brown University senior discovered the arsenic levels in late August while working out methods for a study of trace metals in Rhode Island orchards and potato fields. The test samples from the Green showed a significantly high level of arsenic as well as the presence of lead. The student and Harold Ward, professor of environmental studies, contacted Brown’s Office of Environmental Health and Safety, and the University, in turn, brought in GZA GeoEnvironmental Inc. to conduct more extensive testing and analysis.

“On August 28, GZA took 14 soil samples from various spots on the Green and conducted additional tests of air quality, designed to correspond to an employee operating a riding mower for six hours,” Morin said. “The soil testing by GZA basically confirmed the student’s results, while the air samples did not detect any amount of airborne arsenic or lead.”

Arsenic occurs naturally in soil in concentrations generally ranging from 1 to 40 parts per million, with significantly higher concentrations where mining operations have existed or coal has been used for fuel. [Permissible levels vary widely from state to state – 30 ppm in Massachusetts, 10 ppm in Connecticut. Rhode Island’s DEM sets stringent standards of 1.7 ppm in residential settings and 3.8 ppm in commercial areas. The average level from samples on The College Green was about 24 ppm.](#)

Concentrations of lead in soil samples from The College Green exceeded state limits but were typical of urban soil.

Studies by GZA and Brown’s Office of Environmental Health and Safety have not determined the source of the arsenic or how long it has been present in the soil. Much of the Green was resodded in the summer of 1995 when the University installed an automatic sprinkler system. However, elevated levels of arsenic were also found in areas of the Green that did not receive new sod.

“Brown notified DEM as soon as it learned about the arsenic,” Morin said. “We asked GZA to conduct further tests and prepare a site report, which we have also forwarded to DEM. What remains is for Brown and DEM to agree upon a course of action, which could range from replacing the soil to managing it in place.”

Brown has also submitted its risk assessment to the Rhode Island Department of Health and will work with the department on resolving these issues. “The Department of Health is very supportive of the approach Brown has taken with respect to the soils on the College Green,” said Dr. Robert Vanderslice, chief of the Office of Environmental Health Risk Assessment of the Department of Health. “We are also confident that Brown has ensured the safety of the students and employees and that appropriate actions will be taken if conditions change.”

“The health and well being of our students, faculty and staff is of paramount concern to Brown University,” said Laura Freid, executive vice president, public affairs and University relations. “Although we are satisfied that there is not a significant health risk, we do want the community to be aware of the situation. We are grateful to our student and his faculty advisors for alerting us to this potential problem and we commend the Office of Environmental Health and Safety for working so quickly and efficiently. We have taken and will continue to take every measure to make sure that there is no risk to our community.”

FLORIDA

ALJ Holds Arsenic Soil Cleanup Goals Unenforceable

A Florida Administrative Law Judge held that the Florida Department of Environmental Protection's (FDEP) arsenic cleanup goals in its Soil Cleanup Goals for Florida are unenforceable because they violate the requirement that all agency statements of general application be promulgated as rules. In September 1995, FDEP finalized guidance on generic residential and industrial risk-based cleanup goals for hazardous materials in soils. The ALJ ruled that FDEP illegally applied the arsenic soil cleanup goal guidance as a default determination of hazardousness, forcing a dredge and fill permit applicant either to attempt to set an alternate level by site specific risk assessment or have its application denied. City of Stuart v. Florida Department of Environmental Protection, Case No. 96-1112RU (DOAH Final Order Dec. 9, 1996).

**Narragansett BayWatch
P.O. Box 964
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September 4, 2002

State of Rhode Island
Department of Environmental Management
Office of the Director, ATTN: Terrence D. Gray, P.E.
235 Promenade Street
Providence, Rhode Island 02908-5767

RE: Comments on Proposed Dredging Regulations

Dear Sir,

I represent a community-based organization that is opposed to the dumping of dredge spoils in the waters of Narragansett Bay. Our organization, Narragansett BayWatch, is an arm of the Conimicut Neighborhood Association and counts among its membership and supporters several hundred area fishermen, recreational users of the Bay, shoreline property owners, and others with environmental concerns. We have been involved with this issue for over two years and have come to the conclusion that there is insufficient capacity within the waters of Narragansett Bay to support the unconfined in-water dumping of dredged spoils. The Bay is simply too valuable a resource for the overlapping concerns of the citizens of Rhode Island; one area will have significance to one party, while another area will raise the concerns of another party.

We understand that marinas must dredge and we do not oppose their doing so. We do feel that there are enough options now available, on-land disposal, Confined Aquatic Disposal or the use of the Army Corps' site(s), to make unconfined open water disposal a risk not worth taking.

After reviewing the RI-DEM proposed regulations, it is our opinion that the draft regulations are very complete in regards to on-land disposal, but fall very short on in-water disposal. We feel that the regulations should utilize the same tiered approach used for open water disposal as used for on-land disposal. The completeness of on-land disposal regulations coupled with the overall lack of guidance of the in-water disposal, will make in-water disposal cheaper and therefore in-water disposal will become the preferred first option for generators.

It is also our position that in-water disposal should be markedly MORE conservative than on-land disposal. We remind you that most on-land disposal sites will be commercial properties that are paved over, posing very little risk of exposure to anyone. Unconfined in-water disposal involves aquatic life; public use of the water, public consumption of the very aquatic life that lives in this material and may ultimately absorb these contaminants. It is naive to think that the shellfish and/or fin-fish will not move through material deposited in one location, but end up being caught for consumption in another. Several species have been identified to be susceptible to bio-accumulation of very toxic compounds, such as mercury and lead. We would like to make the following comments and observations:

- 1) The disposal site evaluation should not just examine the immediate area, but examine the receptors within an effective radius of the site, 2000 feet. The evaluation should look for the presence of sensitive receptors, public beaches, sensitive marshlands, breeding grounds for aquatic life and/or transplant sites for shellfish. The evaluation should examine tides and currents within this radius to determine the probable route the contamination will travel.
- 2) Where sensitive receptors are noted, such as a breeding area for animals, the bioassay testing discussed in the Army corps "Green Book" should be utilized, in conjunction with an examination of the potential for bio-accumulation and the possible consumption by people.

- 3) There should be a maximum contaminates level for particular compounds. Where compounds have been shown to be carcinogenic, we feel the FDA food standard should be utilized.
- 4) An outright ban on in-water disposal within 1000' of a public beach, sensitive marshland and/or an accepted breeding ground for endangered and/or valuable species. This is to include lobster, flounder, mackerel, fluke, sea bass, weakfish, striped bass, bluefish or baitfish.
- 5) Acknowledging that marinas are active sites, where activities change. A maximum length of time samples taken will be used for assessing the site's toxicity, such as two years.
- 6) Last, and perhaps most important, the regulation proposes to allow dredging of less than 10,000 cubic yards without the same intense scrutiny of larger dredging applications, and without the openness of public hearings. This will create a terribly large "loophole" through which dredging can be done in less than 10,000 c.y. increments which will defeat the purpose of the regulation.

Thank you for considering our comments and concerns. If you need additional information, I can be reached at home (739-2488), at work (433-6272), or by cell phone (640-3953). I can also be reached at BayWatch2001 @.aol. com.

Sincerely,

Lonnie L. Barham
Narragansett BayWatch

-----Original Message-----

From: Christopher A. D'Ovidio

Sent: Thursday, September 05, 2002 9:50 AM

To: rgagnon@dem.state.ri.us

Subject: RIDEM dredge regs - comments

The dredge regulations should include and address the CWA antidegradation policy. Pursuant to 40 CFR 131.12 et. al. a new permit (e.g. 401 water quality certification) shall not be issued if the discharge contains impairing pollutants when the receiving water body is already impaired for those pollutants. Except for a few exceptions this should not be allowed. One such exception is when a TMDL has been established for the impaired water body. As of this date, RIDEM has not established any TMDL's for any water body in RI. In addition, pursuant to the CWA and CFR, the permittee/applicant has the obligation to demonstrate that their activity does not have the potential to discharge these pollutants.

Christopher A. D'Ovidio, ESQ.

4 September 2002

Terence D. Gray, P.E.
Department of Environments Management
235 Promenade Street
Providence, RI 02908

Dear Mr. Gray,

To follow please find the Public Comments of the East Bay Economic Initiative:

EBEI is grateful for all of the effort put in by all of the agencies and participants in the working group who helped to formulate the proposed regulations. As we progressed through the process it became increasingly clear that the issue of using dredge material for beneficial reuse in upland applications had complete consensus as to the desirability of the activity.

In general terms the proposed regulations reflect a great improvement in the way that upland projects are treated. The changes should help to break the gridlock that has prevented dredging in marinas in Rhode Island. The result will be an improved permit process to achieve a more expensive result. The proposed regulations exceed the standards set forth by the Army Corps of Engineers and the state standards in every other New England state.

**SPECIFIC COMMENTS ON JULY, 2002 DRAFT OF RULES AND
REGULATIONS FOR DREDGING**

SECTION 1

- No comments on any sub-section.
- General comment: does not consider any open water disposal.

SECTION 2

- No changes in all three drafts.

SECTION 3

- No comments.

SECTION 4

- Subsection 4.7 has a 90 day time limit for disposal after dewatering. The amount of time to dewater spoils varies greatly depending on weather. There is also the amount of time the applicant may need to find an appropriate disposal site. A 90-day limit is too short.
- Subsection 4.10 should specify the range of the normal window so the applicant can plan accordingly. It was Nov. to Dec. 31 in the 1st draft, then taken out in the 2nd drastic. This is a very short window. Originally the Corps and the State agreed on a window of Nov 1-Jan 15 for a GPG Corps permit.
- There are several more definitions that should be included such as: TCLP, Bulk Sediment Analysis, Biological Testing, Alternatives Analysis, Compositing, 404 waters, 103 waters, DAMOS, etc.
- There seems to be no reference to any terms relating to open water disposal. The terms are dedicated to upland disposal.

SECTION 5

- If Subsection 5.3 considers open water disposal, it is severely lacking in scope. This should be a section by itself containing greater detail/information. For example, Subsection 7.5 should be part of this section. Also, Section 10 should include all of the above so that the open water disposal issue is cohesive and not this disjointed.
- Subsection 5.3, paragraph 4 leads me to believe that the statement is based on an applicant independently choosing a dumping site. If a site were established/chosen by the Corps and the State, this statement would not be needed. The work that went into choosing the site would already make certain that dumping would not allow for adverse impacts the statement makes. For that matter, paragraphs 1 through 4 of this Subsection can be viewed that way.

SECTION 6

- Subsection 6.4. Nowhere in this document does it state that a qualified professional be required to file a dredging application. If this were true, the applicant, at the pre-application meeting would have no clue about a sediment sampling plan. We maintain that time and money would be saved if the State stipulated the requirement. How is it that when open water disposal is proposed, the Corps and the State get together and agree to a plan generated which is then given to the applicant?

SECTION 7

- Subsection 7.2, paragraph 3; the State should identify the number and location of the sample sites.
- Subsection 7.2, paragraph 5 has nothing to do with Subsection 7.7
- Subsection 7.3.5 is not required by ACOE or any other NE state.
- Subsection 7.4. At this point in the process, the State should know if a TCLP is required; it should be a standard requirement for upland disposal (like all other states). The "may have to be tested" only adds more time to the process. This could have been done at the very beginning. Notice the vagueness in 7.4 and the specificity of 7.4.2.
- 7.4.3. This is standard with the Corps. If you have 90% sand (>0.0625 mm), you are not required to conduct a bulk sediment analysis.
- 7.5. It does not specify who determines the sampling plan; I know the Corps does This is more confusion for the applicant.
- 7.6.3. Who approves which samples are composited?
- 7.6.4. Whose standards do the applicant follow. The Corps has standards for open water disposal, but not for upland disposal (except for beach nourishment).
- 7.7. Again, this statement is vague. It does not adequately address the fact that the Corps prepares the sampling plan and that they perform a suitability determination. It just seems like this document tries to circumvent the open water issue.
- 7.9. The open water option is not available at this point. The testing that the State required was for upland disposal. Testing for open water disposal is different.

SECTION 8

- 8.2.1. Refer to Section 10.
- 8.2.8. Assume you want to dredge 20K. You have a window of 2 months to complete the job if you have only 1 year to do so. You have to move about 30 barge loads/tide/750 cy per load. This gives you 40 days to accomplish the job; that's assuming perfect weather and no downtime. It won't happen. The Corps gives you a permit good for 5 years. Other states give a 3-year permit with extensions to get the job done. It also seems that the Department might require the applicant to evaluate a number of biological parameters depending on project

size, etc. Do they really expect each applicant to perform some very serious biological investigations, data for which the State probably already has? The Dept. of Fish and Wildlife have all this data. They should be the one's to inform the applicant. DEM should be much more specific regarding the requirements of this section.

SECTION 9

- 9.2.4. Since the data in this table is important to decision making, it should be included in the document.

SECTION 10 This entire section should refer only to ACOE and EPA standards, as exceeding these standards violates the Marine Infrastructure Act of 1996. This section should be pulled from the proposed regulations and addressed separately.

- 10.1.2.& 3. No one is going to randomly pick an area of water and propose to dump spoils there. A site, approved and studied by the EPA, Corps, and the State is selected. So why does the applicant have to perform these surveys? Another duplication of effort. 10.1.4. It is at best a guess to specify your traffic to and from the disposal site. Weather, breakdowns, and tide all have a significant affect on the timeline. It is impossible to indicate how to control the dispersion of sediment as the bottom of the scow opens up.
- 10.1.5. I do not understand this requirement. After the last barge dumps, everything is dismantled and everyone goes home.
- 10.1.6. I think the State believes that this requirement is meant for applicants who will randomly dump. We know that will never be allowed. Ten applicants use the site and ten applicants have ten different consultants monitoring the site. The DAMOS branch of the Corps is responsible for this.
- 10.1.8. When the Corps gives a suitability determination and disposal at the approved site is given, there is no need for the tiered approach. DAMOS performs the monitoring and evaluation of any impacts on the aquatic environment. The tiered approach is another means of testing in order to acquire Corps OK to use a site. This usually happens when the bulk sediment analysis is indicative of high levels of contaminants. It is not a standard requirement for open water disposal. **All of the Section 10 park (except 10.1.1) exceed ACOE requirements. Why is there no mention of 103 waters requirements?**

SECTION 11

- Again, trying to produce a specific/detailed plan for dewatering is difficult due to various uncontrollable variables. You can conjure up a plan, but I guarantee you won't keep to it. Most of this section refers to the operator(s) of the site.

SECTION 12

- I don't have much input here. Again, it refers to the operator(s) of the site. I suspect that they will have some input of their own about this document.

SECTION 13

- 13.2.1. A definition of "suitability determination" should be in section 4.
- 13.3.1 & 2. Even though the law permits these time frames, they are overly burdensome.
- 13.4.1.2. The State should provide the form; otherwise there will be all sorts of public notices that will create much confusion. All other states have standards forms.

SECTIONS 14-16

- NO COMMENTS

APPENDIX A

- This document seems to come from the "Manual". The section that starts with "For all projects" is out of sync. It does not relate to dredging, but rather the start of a basic structure for any project (like a sub development). The cross section views part of "For projects proposing dredging" is something that needs clarification. Everyone (from crane operator to engineer/consultant to other state permitting people) knows what this refers to. At the very bottom, there is a requirement for contour lines. I am not sure of what. The remainder of this again relates to the operator(s), unless an individual plans to dewater and dispose on his property.

APPENDIX B&C

- No comment.

Respectfully Submitted,

J. Michael Keyworth
Chairman

To:
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street
Providence, RI 02908
Attn: Traci Lima

From: John Paul
184 Bellman Ave.
Warwick, RI 02889

Dear Ms. Lima,

Thank you for accepting my comments on the above rules. I would like to thank the DEM, CRMC and the other participants in drafting this rule at making progress on the critical issue of dredging and managing dredge materials.

I am a member of a community-based organization that is opposed to the dumping of dredge spoils in the waters of Narragansett Bay. Our organization, Narragansett BayWatch, is an arm of the Conimicut Neighborhood Association and counts among its membership and supporters several hundred area fishermen, recreational users of the Bay, shoreline property owners, and others with environmental concerns. We have been involved with this issue for over two years and have come to the conclusion that there is insufficient capacity within the waters of Narragansett Bay to support the unconfined in-water dumping of dredged spoils. The Bay is simply too valuable a resource for the use as a dumpsite.

We understand that marinas must dredge and we do not oppose their doing so. We do feel that there are enough options now available, on-land disposal, Confined Aquatic Disposal or the use of the designated off shore sites, to make unconfined open water disposal an unacceptable option. These options were not available or not as easy to use when the 1996 ACT was enacted, directing the CRMC to try to identify inbay disposal sites.

After reviewing the RI-DEM proposed regulations, it is our opinion that the draft regulations are thorough in regards to on-land disposal, but fall very short on in-water disposal. We feel that the regulations should utilize the same tiered approach used for open water disposal as used for on-land disposal. The completeness of on-land disposal regulations coupled with the overall lack of guidance of the in-water disposal, will make in-water disposal cheaper and therefore in-water disposal will become the preferred first option for generators. It is also believed that the upland disposal and beneficial reuse rules are too conservative to make them viable options for many projects.

It is also our position that in-water disposal should be markedly MORE conservative than on-land disposal. We remind you that many on-land sites will be properties that are actively managed and or paved over, posing very little risk of exposure to anyone. Unconfined in-water disposal involves aquatic life; public use of the water, public consumption of the very aquatic life that lives in this material and may ultimately absorb these contaminants. It is naive to think that the shellfish and/or fin-fish will not move through material deposited in one location, but end up being caught for consumption in another. Several species have been identified to be susceptible to bioaccumulation of very toxic compounds, such as mercury and lead. We would like to make the following comments and observations:

- 1) The disposal site evaluation should not just examine the immediate area, but examine the receptors within an effective radius of the site, 2000 feet. The evaluation should look for the presence of sensitive receptors, public beaches, sensitive marshlands, breeding grounds for aquatic life and/or transplant sites for shellfish. The evaluation should examine tides and currents within this radius to determine the probable route the contamination will travel.

2) Where sensitive receptors are noted, such as a breeding area for animals, the highest tier methodology including the bioassay testing discussed in the Army corps "Green Book" should be utilized, in conjunction with an examination of the potential for bioaccumulation and the possible consumption by people.

3) There should be a maximum contaminates level for particular compounds. Where compounds have been shown to be carcinogenic, we feel the FDA food standard should be utilized. Any material not suitable for unregulated land disposal is clearly not suitable for unconfined inbay disposal.

4) An outright ban on in-water disposal within 1000 feet of a public beach, sensitive marshland and/or an accepted breeding ground for endangered and/or valuable species. This is to include lobster, flounder, mackerel, fluke, sea bass, weakfish, striped bass, bluefish or baitfish.

5) Acknowledging that marinas are active sites, where activities change. A maximum length of time samples taken will be used for assessing the site's toxicity, such as two years.

6) There are not any provisions for the public or other interested parties to appeal a permit decision, only for the permittee. The excerpt below is from the RI PDES rules:

"RULE 49 - REQUESTS FOR AN ADJUDICATORY HEARING

a) Within 30 calendar days following the service of notice of the Department's issuance of a final draft permit or final permit (where a final draft permit does not precede the final permit) under Rule 46, any interested person may submit a request to the Department under paragraph (b) of this Rule for an adjudicatory hearing to reconsider or contest the conditions of that permit. If such a request is submitted by a person other than the permittee, that person shall simultaneously serve a copy of the request on the permittee."

7) Under section 13.4.1 Public Notice, the DEM should post on its web site all applications that have been determined complete. This posting should be done in a timely manner to facilitate the public notice needs of the citizens of the state to comment on applications.

8) Under Section 13.4.2 for projects over 10,000 cubic yards that the Department will also require the applicant to publish notice, in a form approved in writing by the Department, in an additional daily or weekly newspaper with circulation that includes the community nearest the proposed location for in-water disposal.

9) The TPH standard of ND in section 9.2.2 is too restrictive and not realistic.

10) Section 10 should reiterate or reference the requirements of section 5.3, 5.3.1 to 5.3.4 for emphasis.

Thank you for considering my comments on these regulations.

John Paul

Michelle Komar
80 Audubon Road
Warwick, RI 02888
401-785-9932

September 5, 2002

Rhode Island Department of Environmental Management
Office of the Director
235 Promenade Street
Providence, RI 02908
Attn: Ms. Traci Lima

Re: Written Comments pertaining to the “Rules and Regulation for Dredging and the Management of Dredged Material, July 2002”

Dear Ms. Lima and other RIDEM officials:

I and other members of Narragansett BayWatch attended the RIDEM public hearing held on August 5, 2002 regarding the proposed “Rules and Regulation for Dredging and the Management of Dredged Material, July 2002”. I support the written comments submitted by Narragansett BayWatch and am providing my additional comments listed below. (Herein the “Rules and Regulation for Dredging and the Management of Dredged Material, July 2002” are referred to as the Rules and Regulations.)

4. Definitions

No definition is included for “applicant”.

No definition is included for “fill material” and how it is distinguished from “dredged material, which is important in 5.3.

No definition is included for “dredging”, which is important in 5.1. and 5.2.

4.10 Dredge Window—add to end of the sentence, “or in-water disposal”.

4.12 Maintenance Dredging as defined may be interpreted to include expansion of a facility to accommodate existing levels of use, which may not be consistent with the definition provided by the RI Coastal Resources Management Council and the US Army Corps of Engineers. Definition in the Rules and Regulations should limit maintenance dredging to no expansion or change of use of the existing facility. .

4.14 Rehandling Facility—should “landside” be inserted after “off-site”?

5. General Provisions

- 5.2 Should the waters of Connecticut and Massachusetts also be included?
- 5.3 A definition for “dredged material” is included in 4. Definitions, however, no definition for “fill material” is provided.
- 5.3.3 Delete “significant”. (In accordance with the federal Clean Water Act, state waters cannot be degraded; the TMDL program has not been completed.)
- 5.3.4 Add “dredging” so that reads, “Appropriate and practicable steps to minimize the potential adverse impacts of the dredging and disposal on the aquatic environment have been taken.”
- 5.4.3 Revise to include watersheds of a drinking water reservoir or wellhead protection areas or other important surface or groundwater in Connecticut and Massachusetts.

6. Pre-Application Process

6.1 and 6.2 The Rules and Regulations do not require a pre-application meeting. The Rules and Regulations should make an initial pre-application meeting mandatory and part of the application process and require applicants to provide notice of a preliminary proposal to dredge to CRMC and RIDEM.

The sediment sampling plan is tailored to the type of proposed disposal or reuse. At the initial pre-application meeting, RIDEM should provide the applicant with a list of potential beneficial use projects, including state, municipal and private construction projects which includes the timeframe for acceptance of dredged materials and any specific requirements for the character of the dredged material. RIDEM should also discuss potential on-site uses of the dredged material with the applicant at the initial pre-application meeting. RIDEM should also discuss in-water disposal projects (such as the US Army Corps of Engineers dredging of the Providence Harbor and Channel) which will accept dredged materials in lieu of the applicant utilizing a new in-water site. If the option of landside uses is not discussed and promoted by RIDEM at the initial pre-application meeting, the applicant may expend money for sediment sampling for in-water disposal and not want to spend money for additional testing for beneficial use or landside disposal.

RIDEM should be the Clearing House to maintain a current list of potential beneficial use projects and the list should be available on the RIDEM and CRMC websites. The list should also be attached to the application forms for dredging and disposal.

6.3 The Department should also be receptive to requests from applicants for additional pre-application meetings.

6.4 “Formal application” should be “Application for Permission to Dredge and Dispose”.

6.5 As proposed, the text implies that insignificant alterations to freshwater wetlands do not trigger requirements for additional documentation under Section 9.3. Are Insignificant Alterations of Freshwater Wetlands as a result of landside disposal or beneficial use intended to be an Exempt Activity?

7. Characterizing Material to be Dredged

7.2.1 What is the required contour/bathymetric interval?

8. Application for Permission to Dredge

8.1 The application should be “Application for Permission to Dredge and Dispose”.

9. Upland Disposal and Beneficial Use of Dredged Materials

The Rules and Regulations should be revised to recognize that CRMC also has jurisdiction over freshwater wetlands and a related permitting program.

Appendix A

Why is it not a requirement that site plans be prepared by a licensed engineer and land surveyor?

Limits of Disturbance should be required to be shown on the site plan.

There are no site plan requirements provided for in-water disposal. These should be included in the appendix, as the impression of omission seems to favor the ease of in-water disposal.

Throughout the Rules and Regulations, where the specific beneficial uses are listed, need to add the on-site use of dredged materials. If helpful in providing example in the rules and regulations--an example of on-site use for dredge materials from marina dredging is backfill for bulkhead replacement/repairs or construction or some other marine structure or fill for parking lots at the marina. Another example of on-site use is material excavated for culvert replacement or bridge repair work which may be use as backfill or encased behind wingwalls.

In general, my impression is that the Rules and Regulations prepared by RIDEM are not ready for public comment, as I could have spent much more time in commenting on the text. I am requesting that RIDEM establish a task force to work jointly with RIDEM in making revisions and readying the Rules and Regulations for another public comment period. I would volunteer my time to serve on this task force. The Rules and Regulations as proposed in text and format sway to the in-water disposal of dredged materials. In addition, the RIDEM must prepare the Rules and Regulations with the realization that both applicants and the general public will make use of the document.

Thank you for this opportunity to submit these comments. I look forward to your response. If you have any questions regarding my comments, please do not hesitate to call me at 401-785-9932.

Sincerely,

Michelle Komar

**Federated Rhode Island
Sportsmen's Club, Inc.**

September 3, 2002

P. O. Box 40476
Providence, RI
02940

Department of Environmental Management
Office of the Director
235 Promenade Street
Providence, R. I. 02908

Dear Traci Lima;

Herring or Buckeyes as the people from Warwick and the Narragansett Indians call them, to save their species, swim up Buckeye Brook to spawn in Warwick Pond. This is very hard, in fact they die after spawning. It is harder still because we have allowed the brook to become polluted. We failed to maintain this brook so we have sticks and discarded material clogging it. Some people are even trying to fill it in for an airport runway extension. These fish need our help by not dumping polluted dredged material near the mouth of our beloved Buckeye Brook. The Federated Rhode Island Sportsmen's Clubs oppose dumping your dredged materials on the south side of Conimitcut Point or anywhere near Old Mill Cove. We want our grandchildren and our great grandchildren to see that amazing sight of those blue and silvery fish jumping and swimming up stream, and people passing the word the "Buckeyes are running". Maybe they are showing us how important life is and how much we should cherish it. Habitats will be damaged so we are opposed to any dumping in this area.

Sincerely

Daniel Insana
President