PUBLIC NOTICE

Rick/ Clitt
Copies to (via fax)
Tony Wolfskill
Bob Ramagnoli
Tim Iannuzzi

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: 1999-00111-RS
Issue Date: October 26, 1999
Expiration Date: November 10, 1999

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

Bob/Tony → looks like NJ Decon Program is slowing down. Bay Pits are becoming the disposal method of choice.

Tim - Note that the potential fish that are claimed to be impacted. . . .

APPLICANT: Stratus Petroleum Corporation
9040 Roswell Road, Suite 380
Atlanta, GA 30350

ACTIVITY: Reprofiling of bottom topography.

WATERWAY: Passaic River

LOCATION: City of Newark, Essex County, New Jersey.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 USC 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Act on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). A preliminary assessment of the re-profiling site indicates that the work would impact approximately 20,000 square feet of EFH for the following species:

Red hake	Larvae, Juveniles, Adults
Winter flounder	Eggs, Larvae, Juveniles, Adults
Windowpane flounder	Larvae, Juveniles, Adults
Atlantic sea herring	Larvae, Juveniles, Adults
Bluefish	Juveniles, Adults
Atlantic butterfish	Larvae, Juveniles, Adults
Atlantic mackerel	Juveniles, Adults
Summer flounder	Larvae, Juveniles, Adults
Scup	Eggs, Larvae, Juveniles
Black sea bass	Juveniles, Adults
King mackerel	Eggs, Larvae, Juveniles, Adults
Spanish mackerel	Eggs, Larvae, Juveniles, Adults
Cobia	Eggs, Larvae, Juveniles, Adults
Sand tiger shark	Larvae
Sand bar shark	Larvae, Adults

Loss of this habitat may adversely affect the above species, however the District Engineer has made a preliminary determination that this site-specific adverse effect will not be substantial. Further consultation with National Marine Fisheries Service regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, US Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved

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that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur. For activities within the coastal zone of New Jersey the applicant's certification and accompanying information is available from the New Jersey Department of Environmental Protection, Bureau of Coastal Regulation, CN 401, 501 East State Street, Second Floor, Trenton, New Jersey 08625-0401, Telephone Number (609) 633-2289. Comments regarding the applicant's certification should be so addressed.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

A Waterfront Development Permit from the New Jersey Department of Environmental Protection

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (212) 264-0184 and ask for Mark Steven Roth.

For more information on New York District Corps of Engineers programs, visit our website at http://www.nan.usace.army.mil

FOR/ Joseph J. Seebode
Chief, Regulatory Branch

Enclosures

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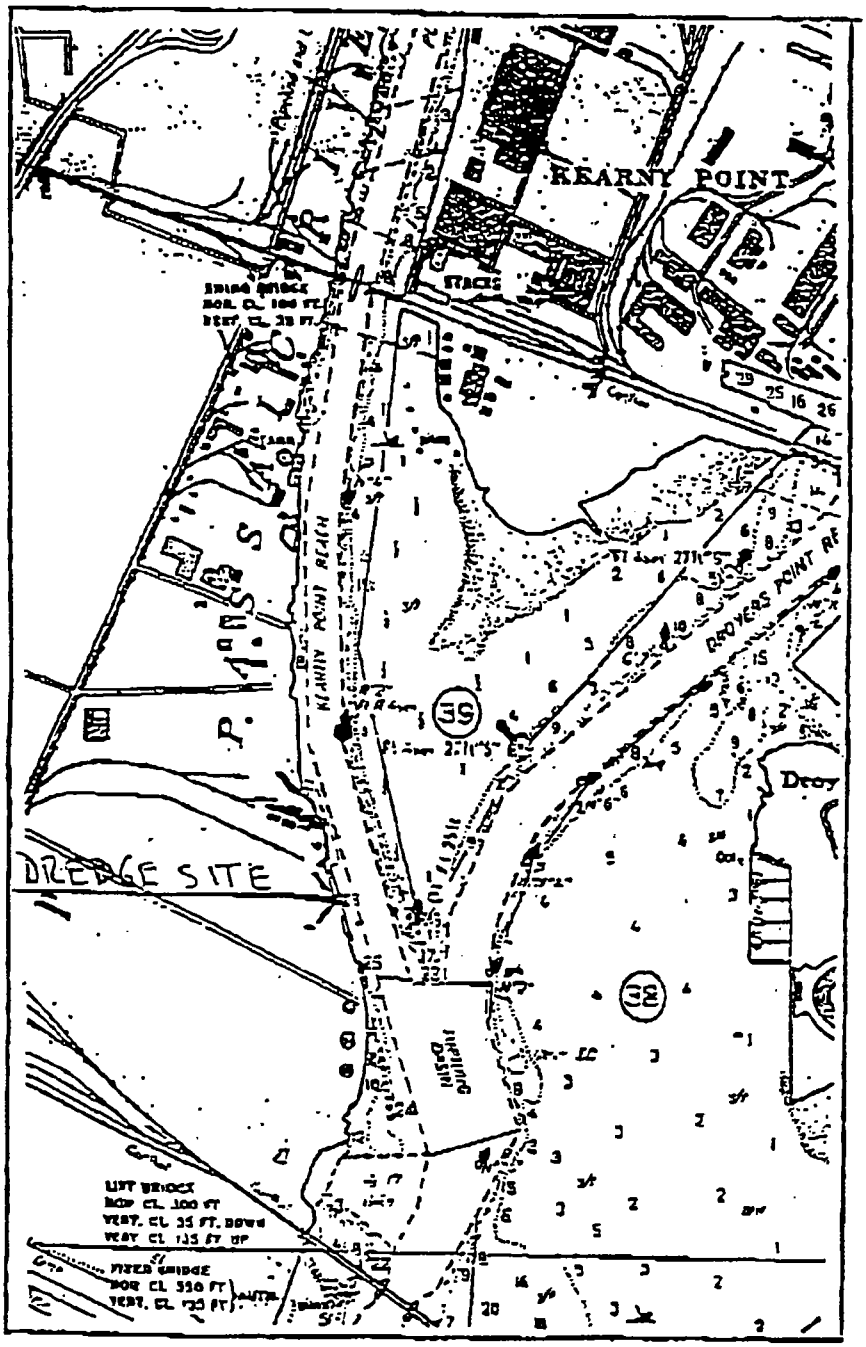
WORK DESCRIPTION

The applicant, the Stratus Petroleum Corporation, has requested that the Department of the Army (DA) modify an existing permit (DA Permit Number 1999-00110). The modification would authorize the partial dredging of the applicant's berthing facilities within their terminal in the Passaic River, in the City of Newark, Essex County, New Jersey. The dredged material would be disposed of at the subaqueous Newark Bay Confined Disposal Facility (NBCDF) in the City of Newark, Hudson County, New Jersey.

The existing permit authorized disposal of material from a rectangularly-shaped area, approximately 950 feet long by 150 feet wide, to a depth of -23 feet below the plane of Mean Low Water plus two feet of overdepth. Approximately 18,000 cubic yards of material would be dredged and transported by barge to a state-approved upland disposal facility. The upland disposal site would be selected under the auspices of the State of New Jersey in order to provide dredged material for a demonstration sediment decontamination program. This program would allow the beneficial reuse of the decontaminated dredged material. Barge overflow at the proposed dredging site was not authorized. After dredging and treatment, return flow to the waterway of the liquid phase may be necessary. Barges would be used to transport this liquid to its release point back at the dredging site.

The modified permit would authorize the reprofiling of a rectangularly-shaped area within the footprint authorized by the permit, approximately 400 feet long by 50 feet wide, to a depth of -20 feet below the plane of Mean Low Water plus two feet of overdepth. Approximately 2,500 cubic yards of material, of the previously authorized 18,000 cubic yards of material, would be relocated to deeper areas of the site using a clamshell bucket or by dragging a steel bar or pipe along the sea bottom. If a clamshell bucket is used for the reprofiling, some upward mechanical transport of the waterway's bottom would occur.

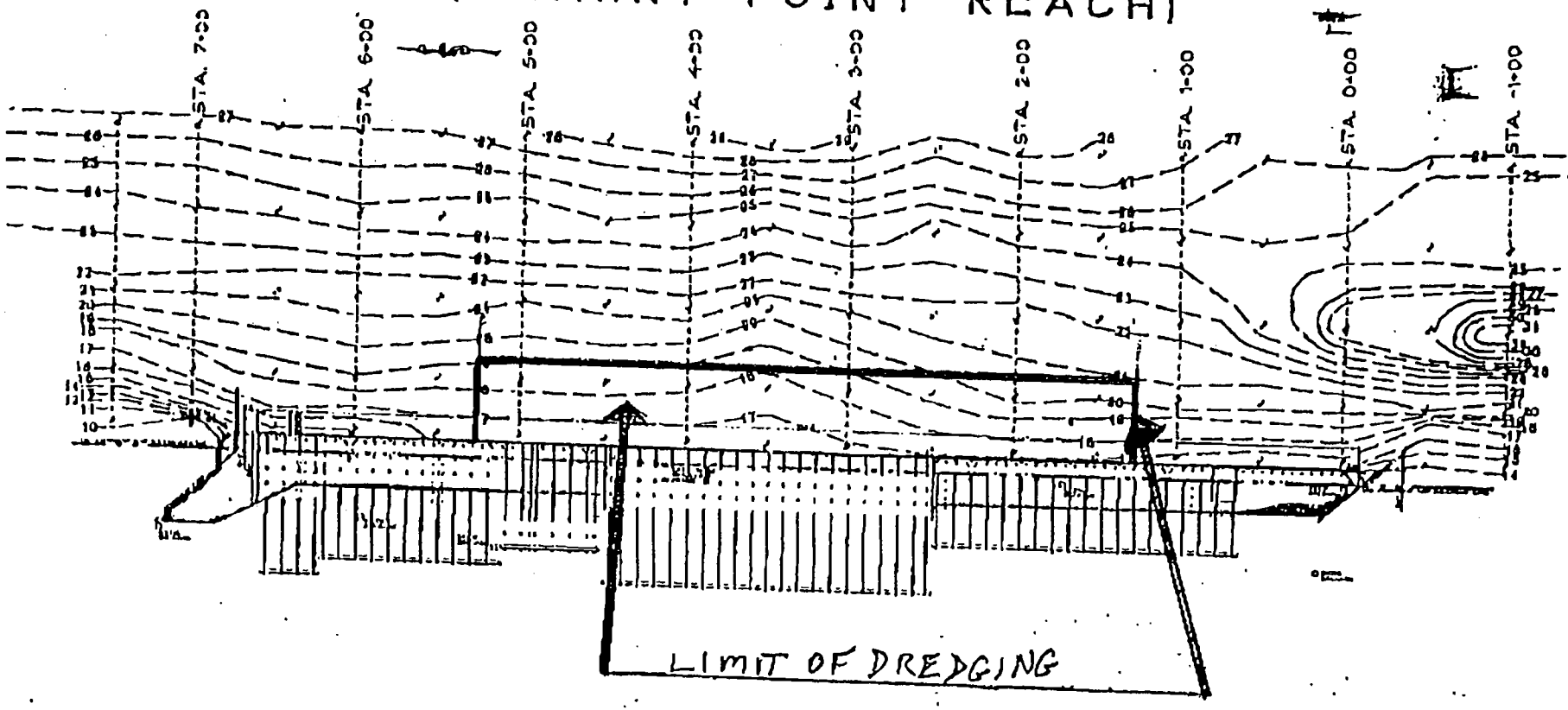
The purpose of the proposed work is to reestablish adequate depths of water for safe navigation. It should be noted that the disposal location cited in the permit is not available yet, and it is uncertain as to when it will be in service, while the continued siltation in the berthing area has created an emergency situation. Because Stratus has determined that they can no longer postpone the dredging, they propose to undertake the proposed reprofiling to provide temporary relief from the existing situation.



MARINE TERMINAL RENOVATION
FOR
STRATUS PETROLEUM
NEWARK, NEW JERSEY
DECEMBER, 1998
SHEET 1 OF 2

VICINITY MAP
NOT TO SCALE

PASSAIC RIVER
(KEARNY POINT REACH)



NOTE: ALL SOUNDINGS BASED ON MLW DATUM.

0 25' 50' 75' 100' 200'
GRAPHIC SCALE

PROPOSED DREDGING AREA
SCALE: 1"=100'

HBD
HISSEY, BAY, BEIL & DEYMAN
CONSULTING ENGINEERS

MARINE TERMINAL RENOVATION
FOR
STRATUS PETROLEUM
NEWARK, NEW JERSEY
DECEMBER, 1990
SHEET 2 OF 2

Nov 4 1999 10:00AM
No. 1040 P. 7/7 84:SSFH