

The Harbor Times

Volume 4 Issue 1

The Newsletter of The Connecticut Harbor Management Association

February 2000

Dredging Issues Received Much Attention In 1999

By Geoff Steadman

The Board of Directors of the Connecticut Harbor Management Association (CHMA) believes that dredged material management issues are among the most important and urgent issues affecting Long Island Sound (LIS). Perhaps the biggest continuing challenge for LIS decision makers concerns how to balance goals for environmental conservation with goals for recreational, commercial, and other uses of the Sound. The dredging issues now receiving so much attention must be resolved if we are to achieve and maintain an appropriate balance.

As we continue to conduct research on LIS dredging issues, we think it goes without saying that timely and economical dredging of navigation channels, anchorages, port facilities, marina basins, and other areas is needed to maintain the viability of Connecticut's marine related businesses and industry. Dredging is also needed to provide public access to the Sound for the many thousands of persons who enjoy recreational boating and other activities that depend on safe navigation. At the same time, dredging and dredged material disposal must be carried out in a manner that does not degrade the Sound's vital natural resources and ecological functions, now and in the future. After all, it is the Sound's natural environmental quality that provides opportunity for recreational, commercial, and other water uses

that provide such important economic and social benefits.

The Board recognizes the different opinions regarding dredged material management and the impacts of dredged material disposal in LIS. We also recognize the complicated and controversial nature of this topic. The Connecticut Department of Environmental Protection (DEP), representatives of the U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (Corps), and National Marine Fisheries Service (NMFS), as well as scientists from the University of Connecticut and other institutions have stated that dredging and dredged material disposal in LIS is properly managed and no significant environmental impacts are occurring. Others disagree. Determining the extent of any impacts, however, needs to be based on objective scientific analysis, not public perception or opinion.

The CHMA has pursued constructive dialogue on dredging issues since its inception. Back in March of 1997, for example, before the debate concerning open water disposal of dredged material intensified, we convened a panel discussion on LIS dredging issues featuring representatives of the DEP, Corps, and NMFS. In 1999 the Board of Directors continued to participate in a

number of activities, summarized below, to increase our understanding of the issues and to encourage cooperative efforts to resolve them in an objective, balanced, and practical manner.

• EPA/Save the Sound Workshop at Stamford UCONN:

This day-long workshop in March, "Dredged Material Management in Long Island Sound Beyond the Year 2000" was co-sponsored by the EPA and the environmental organization Save the Sound. The CHMA covered the conference registration fee for a representative from each of our member harbor management commissions. We heard informative presentations on: 1) the existing planning and regulatory framework for managing LIS dredged material disposal; 2) recommendations from the August 31, 1998 report "Long Island Sound Dredged Material Management Approach" prepared for the DEP; 3) the Corps' Disposal Area Monitoring System (DAMOS) program for monitoring LIS disposal sites; and 4) the process to prepare an Environmental Impact Statement (EIS) to designate a site or sites for dredged material disposal in LIS as required by the Federal Ocean Dumping Act (ODA). (See the separate article in this Harbor Times.) In addition, selected representatives of major "stakeholder" groups, including the CHMA, provided comments. Board President Bob Sammis spoke for the organization and emphasized the need for continued timely and economical dredging projects. Smaller group sessions were then held to get input from all participants concerning the issues affecting dredged material

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management. For a copy of workshop proceedings, call Tracy Egoscue at Save the Sound at (203) 327-9786; for information on the DEP's 1998 dredging report contact George Wisker at (860) 424-3034.

● **Response to Cablevision Editorial.** In May, Cablevision of Connecticut broadcast an editorial expressing concern over the disposal of contaminated dredged material in LIS. The Board provided a written response with background information on dredged material management in the Sound and the economic importance of dredging for marine related businesses. We also pointed out that the issues are more complex than Cablevision suggested. As a result, Bob Sammis was asked to make a broadcast response to the editorial on behalf of the CHMA which aired in June.

● **Environmental Impact Statement for LIS Dredged**

Material Disposal. In 1999 the EPA and the Corps began the process of preparing an Environmental Impact Statement for designating a site or sites for dredged material disposal in LIS and for preparing a management plan for any designated site(s). (See page 6 in this Harbor Times.) The Board is closely following and participating in the EIS process. As part of that process, Board members attended the public "scoping" meeting in Stamford in June and the public workshop in Stratford in October. The Board also provided written comments to the EPA on issues and concerns to be addressed in the EIS. We will continue to report on the EIS process and be a source of information to our interested members.

Attendance at National Conferences. Board member Geoff Steadman attended the Coastal Zone Management Conference in San Diego in July and the Submerged Lands Management Conference in New Jersey in October. Both of these

national conferences included presentations and discussion sessions on dredged material management, with much information applicable to our dialogue on LIS dredging issues.

In San Diego, officials from the ports of Long Beach, Los Angeles, and Oakland and other major ports and harbors throughout the country described their programs for dredging and dredged material management and the continuing economic, regulatory, and other difficulties they must overcome to achieve proper disposal of many millions of cubic yards of dredged material, including contaminated material, each year. Those officials, along with representatives of the Corps and other governmental agencies, provided case studies of projects for the beneficial use of dredged material. Officials of the Port of Oakland emphasized that if dredged material management planning is to be successful, all stakeholders, including development interests and environmental groups, must recognize and respect each others' objectives as important and legitimate. This seems good advice to follow as we address the issues of dredged material management in LIS.

Corps officials also presented information concerning: the National Dredging Policy adopted by the President; development of dredged material management plans (a goal is to prepare a 20-year plan for every Federal navigation project); formation of the National Dredging Team (NDT) and Regional Dredging Teams of Federal agencies to help resolve dredging issues; and other relevant topics. (For more information, including the NDT's report "Local Planning Groups and Development of Dredged Material Management Plans," visit the EPA's website pages at www.epa.gov/owow/oceans/ndt/.)

Dredged material management was also a major topic of discussion at the Submerged Lands Management Conference which included a

day-long boat tour of the vast terminal facilities and Federal navigation channels of the Port of New York and New Jersey. Port Authority and Corps officials described their dredging program which must handle the disposal of over 4 million cubic yards of dredged material/year, an amount that will increase if current channel deepening plans are implemented. Officials described the closing of the ocean "mud dump" disposal site as a result of legal action against the EPA and Corps; the effect of that closing on the cost of dredged material disposal; and their resulting work to prepare the Port's 40-year Dredged Material Management Plan.

New Jersey officials said that closing of the "mud dump" (for all but clean material intended to cover existing contaminated sediments) forced the State to take a hard look at its regulatory program concerning dredged material disposal and to plan for long-range disposal needs. As a result, the Governor put together a team to come up with a solution to the dredged material disposal problems, the New Jersey DEP established an office of Dredging and Sediment Technology, and the State is now pursuing a number of alternatives to ocean disposal of dredged material. Those alternatives include beach nourishment, habitat development, structural and nonstructural fill (including fill for landfill cover and remediation of brownfield sites), agricultural uses, mine reclamation, and confined disposal options including burial in the Newark Bay Confined Disposal Facility (an excavated area 70 feet deep in the bottom of Newark Bay). Decontamination technologies are also being studied. Officials said that after the "mud dump" was closed, some contaminated material was shipped by rail to Utah for disposal at a cost of \$119/cubic yard. Disposal options now available, they say, have brought the average cost down to about \$29/cubic yard of up-

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Dredging Issues

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land disposal

- **Annual Meeting of CHMA.**

Among the speakers invited by the Board to address our annual meeting in September was a representative of the group Clean Harbor Action. This group was formed by marine industry interests to lobby for deletion of LIS from the Federal Ocean Dumping Act and against other legislation that would adversely affect the speed and cost of dredging projects. We heard a summary of the group's concerns and activities, including its opposition to proposed Federal bills introduced by Congressman Forbes and Senator Moynihan of New York that would affect dredged material disposal in LIS. Through Clean Harbor Action's efforts, a number of coastal communities and regional organizations have expressed opposition to the proposed legislation and the provisions of the ODA as applied to LIS.

- **Water Quality Conference at Port Jefferson, New York.** Board Member Steadman was invited to speak on the "Role of Harbor Management Commissions as Advocates for Dredging Federal Navigation Projects in Connecticut" at a November conference on water quality sponsored by the New York State Wetlands Forum and Save the Sound. The presentation included a description of the powers and duties of local harbor management commissions (HMCs) in Connecticut and the extent to which harbor management plans address both dredging and environmental protection issues. Also included was a review of the basic steps in the Federal dredging process and how HMCs can help advance that process. The experiences of two municipalities were presented as case

studies. The presentation was followed by a discussion of the larger issues affecting dredged material management in LIS, including preparation of the EIS for dredged material disposal.

- **Review of Dredging Issues with Southwestern Regional Planning Agency.**

In December, the Board of the Southwestern Regional Planning Agency (SWRPA) considered a proposed resolution to urge Connecticut's Congressional delegation to delete LIS from the Ocean Dumping Act. CHMA Board member Dave Dunavan was asked to provide information to help SWRPA better understand the issues involved and the effect of the ODA requirements locally.

- **Pursuit of Local Requests for Federal Dredging Projects; Support for Nonfederal Dredging Projects.** In addition to the Board's efforts to advance understanding and resolution of LIS-wide dredging issues, several Board members represent harbor management commissions that are actively working with the Corps and Connecticut DEP to achieve Federal dredging of their towns' harbors. We share our experiences and are a source of information for member commissions involved with the Federal dredging process. In addition, all of our Board members' commissions provide support for beneficial nonfederal dredging projects needed to maintain the viability of water-dependent uses and provide public access to LIS.

In the Year 2000 the CHMA will continue to share information, support and conduct research on LIS dredging issues, and report objectively on those issues in The Harbor Times and other publications. For more information or to discuss any of the topics addressed in this article, please

Harbor of the Year

Each year the Board of directors of the Harbor Management Association consider the applications of the various Harbor Commissions and others who submit for review their harbor and its outstanding project for this most prestigious award. Since its inception it has been awarded but three times; to Milford, to Norwich and to Hartford/East Hartford. Those who are familiar with the "Head of the Harbor - Milford Landing" project, "Chelsea Wall and Harbor Front" or "Riverfront Recapture" in our state's capital know just how much effort it has taken each community to achieve this level of excellence and to win the award. The Board will be considering projects throughout the spring and summer for this award which will, if deserving, be presented at the annual meeting-banquet in the Fall of 2000. If you feel that your community has the project that deserves this type of recognition, please contact a Board member or the President for more details.

The award itself is, if we do say so, quite magnificent. It is a solid oak plaque that measures 16" by 20" and has mounted on it a compass rose in gleaming solid brass a full 12 1/2" in diameter. Below the rose will be an engraved brass plate stating,

**Connecticut Harbor Management
Association
Harbor of the Year
_____, Connecticut
2000**

Considering that the award weighs in at better than 8 1/2 lbs., it is not hard to believe that it is becoming the centerpiece of a number of municipal offices and the source of a great deal of community pride and comment. We invite you to put your city or town on the map and reap the significant publicity value of this award. Talk to us soon.

Harbormasters' Use of Personal Boats

Liability-related questions have been raised concerning Harbormasters' use of personal vessels for conducting State duties. Assistant Attorney General Pernerewski says there is no authority or obligation for the State to cover the cost of liability insurance for a Harbormaster's vessel. His opinion is that Harbormasters and Deputy Harbormasters using personal vessels to conduct their State duties must carry their own vessel insurance and make their insurance companies aware they are undertaking those duties. He suggests that some legislative changes may be needed to clarify insurance requirements for the use of personal vessels to conduct Harbormaster duties.

President's Message

by Bob Sammis

The year drew to a close and with most of the boats hauled and the marinas and clubs shut down for the onset of winter, it is appropriate to see what has been accomplished over the past year. Certainly it has been busy and each of our harbors and constituents have had a busy time keeping up with everything.

Perhaps the best way to see what happened is to review some of the highlights of the annual meeting and banquet. This year we assembled earlier than before at the Woodwinds as your President was going to leave the following week for New Zealand and Australia. Sufficient to say, I could take an entire issue to describe their vital and booming harbors. We did see the beginning of the America's Cup preparation in Auckland and more sailing trials in Sydney..... but back to our world.

The exhibits this year were focused around two themes. The first was the focus on the larger cities' major projects that are here or will be here shortly. Our winner of Harbor of the Year-1998, Riverfront Recapture, showed up with their Operations Director, Craig Mergens, who showed a good deal of the Hartford/East Hartford waterfront and the area that at one time would have been the home of the Patriots. Even though that is no longer in the picture, the development of this area as reflected in their annual report is enough to inspire anyone. The next exhibit of particular note was Bridgeport's Harbour Place which had one of the financial backer's pull out, but nevertheless has found new resources and appears to be back on track. Joe Savino, Bridgeport's Harbor Master, was on hand to explain the details and the works that are going on in the whole revitalization of the harbor area. There are too many facets underway or newly on the scene to describe them all, but for a starter it would be well worth one's while to catch a ball game at the new Bluefish

Stadium, a stone's throw from the harbor, and aside from being fun, is affordable. A newcomer to the major developments is New London. John Brooks, the Director of Waterfront Development, brought diagrams and pictures for the major project that will stretch from the State Pier to the Lighthouse.

What is particularly impressive is that the State has begun to acknowledge, in a significant manner, the impact that a vital, people-orientated waterfront has not only locally, but also for the economy and tourism of the entire state. This is a welcome change from the benign neglect apparent in prior decades.

The other major exhibit and second theme was from the Army Corps of Engineers from Concord, Mass. Dr. Tom Fredette brought the whole show regarding the dredged material monitoring process (DAMOS) and fielded numerous questions as to permitting and procedures. I think it is safe to say that he and Carl Boutillier, also of the Corps, came away with the feeling of how important dredging is to our communities and marine businesses.

Our business meeting was short and very worthwhile. We officially voted Mike Griffin, the Harbor-master of Norwalk, in as the Harbor-masters' representative on our Board and Geoff Steadman as the Board representative of the Associate members. We found that our finances are in good shape and that the members wanted to convene a special meeting to discuss issues germane to the harbor commissions. The Board is working on that.

The dinner was really very good this year. We had an unusual number of highlights at the dinner and though they were many, each brought valuable information to those gathered there. The first after-coffee speaker was John Craine, the Co-Chair of the High Speed Ferry Safety Task Force. As many are aware, the Sound is being plied with more and more ferries, many high speed and this group is

working with a myriad of agencies and organizations to make this a smooth transition.

Mike Griffin has been working with Dave Rossiter to raise the organization and professionalism of the Harbormasters. He reported working with the Attorney General's office to clarify the duties and responsibilities of the Harbormasters and to provide them with an organization for support and training. Dan Natchez then spoke of his efforts to coordinate the statewide effort to revise the pending legislation in Washington concerning dredging and the moving of sediments to designated sites in the Sound. The group he represents, Clean Harbor Action, covers both marine trades and organizations from both New York and Connecticut.

We also had Charles Evans, Director of the DEP's OLISP, give welcoming remarks and thoughts for the future.

Certainly the Keynoter, Neal A. Overstrom, President of the Mystic Aquarium, was given a warm welcome. He presented a slide and discussion program on the multi-million dollar renewal of the Aquarium, the work that it entailed, and the enormous success that it has enjoyed with the new format, exhibits and programs.

It was a shame that we had to call it quits around 9:30 after a full afternoon and evening, but everyone went away with lots of ideas and a lot of new friends. The value we hope to bring to this type of gathering is not only to advance our and your marine projects, but to introduce you to the people who are the movers and shakers in the costal community. This cross pollination we hope is inspirational and instructional. The second part is to introduce you to the regulators with whom you will have to interface, so that it becomes a more personalized, rather than a "them vs. us" situation. I think we are succeeding.

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Harbormasters Study Liability and Other Issues

By Mike Griffin & Geoff Steadman

Many of the State's Harbor masters and Deputy Harbor masters have been meeting as a group for almost a year now. They've been discussing issues of common interest and intend to speak to those issues with a common voice. The meetings have been held on a semi-regular basis at the New Haven Coast Guard Station, usually on the third Wednesday of the month. Mike Griffin, State of Connecticut Harbormaster for Norwalk, is leading the group efforts. Mike was elected to the Board of Directors of the Connecticut Harbor Management Association (CHMA) last September to represent the interests of the Harbormasters and Deputies. The group is also getting support from Dave Rossiter and Al Stevens of the Department of Transportation's Bureau of Aviation and Ports, and Geoff Steadman from the CHMA Board.

The group has started a good dialogue on a number of issues ranging from liability-related concerns to the lack of formal training and education programs for Harbormasters and Deputy Harbormasters. Many of these issues are complex and interrelated, and have not been addressed definitively in the past. Our first priority has been to consider the potential liability of Harbormasters (and Deputy Harbormasters) for actions taken within the scope of their duties. We enlisted the aid of State Assistant Attorney General (AAG) Paul Pernere-waki, assigned to the Bureau of Aviation and Ports who has provided guidance and legal opinions to our group.

The principal legal opinion concerning Harbormaster liability was prepared by AAG Arnold Shimelman at the request of Dave Rossiter. This November 2, 1992 opinion concluded that:

harbormasters are state officers and employees as defined by Connecticut General Stat-

utes Section 4-141 and are as a consequence protected from liability and entitled to indemnification and representation for acts not wanton, reckless or malicious that were performed in the discharge of their duties, pursuant to Connecticut General Statutes Sections 4-165 and 5-141d.

This conclusion is based, in part, on a September 6, 1985 legal opinion by the State Attorney General for the Department of Higher Education and addresses the indemnification of state officers and employees. The Shimelman opinion, however, is an advisory opinion which means it's not a formal opinion by the Attorney General. Our group asked AAG Pernere-wski if it would be prudent at this time to request a formal opinion concerning Harbormaster liability. Paul doesn't feel that it is necessary; the existing statutes and previous informal opinions are clear enough on the subject.

Another relevant opinion is in a letter of June 20, 1991 to State Representative Sally Bolster from Lawrence Halloran, Counsel to Governor Weicker, concerning the potential liability of the Five Mile River Commission and Harbormaster. (This Commission, it should be noted, is established by State statute; it is not a municipal Harbor Management Commission established by local ordinance under Connecticut General Statutes Section 22a-113k.) The letter concludes that:

commission members and the harbormaster are indemnified from financial loss and expense arising out of claims, suits, and judgments by reason of an alleged act or omission resulting in damage or injury, as long as they are acting within the scope of employment or in the discharge of their duties and the act or omission was not wanton, reckless or malicious.

Attorney Halloran also wrote that, in the event of a legal dispute, under C.G.S. 3-125'

125 the Attorney General shall appear for the state, the governor., and for all heads of departments and state boards, commissioners, harbormasters, in all suits and other proceed-

ings, except upon criminal recognizances and bail bonds, in which the state is a party or is interested, or in which the official acts and doings of said officers are called into question... All legal services required by such officers and boards in matters relating to their official duties shall be performed by the Attorney General or under his direction.

It is clear, says AAG Pernere-wski, that State of Connecticut Harbormasters and Deputy Harbormasters are "state officers and employees" as defined in C.G.S. 4-141 for purposes of indemnification (not, he points out, for purposes of receiving state employee benefits such as workers compensation, vacations, sick days, and pension benefits). This statute says that state officers and employees include "every person elected or appointed to or employed in any office, position or post in the state government, whatever his title, classification or function and whether he serves with or without remuneration or compensation..." Harbormasters and Deputies meet this definition because they are appointed by the Governor in accordance with C.G.S. 15-1.

The immunity of State officers and employees from personal liability is established in C.G.S. 4-465 which states that :

No state officer or employee shall be personally liable for damage or injury, not wanton, (Continued on Page 7) Harbormasters Study reckless or malicious, caused in the discharge of his duties or within the scope of his employment.

Provision for the indemnification of State officers and employees

Presidents Message (Continued from page 4)

Just a few words in closing. This coming year we will be facing a number of challenges. One is to expand our Board, another is to develop an even closer relationship with the regulators and to encourage more Harbormasters to take an active role in the organization. Should you, member or friend, have suggestions please let us know.

Bob Sammis

The Environmental Impact Statement for Long Island Sound Dredged Material Disposal

By Dave Dunavan and Geoff Steadman

In 1998 the U.S. Environmental Protection Agency (EPA) and the Corps of Engineers began a process to formally designate a site or sites for dredged material disposal in Long Island Sound (LIS). The two agencies caution, however, that this process may or may not result in the designation of any particular site or sites. The agencies also agreed to prepare a disposal site management plan for any site(s) that may be designated. The Federal Marine Protection Research and Sanctuaries Act (Ocean Dumping Act or ODA) requires that sites used for open water disposal of dredged material be designated by the EPA in accordance with criteria established by the Act, and that no site shall now be designated without a disposal site management plan. (The Act also says that if no disposal site has been designated, the Corps, under certain circumstances, can select an alternative disposal site to be used for a limited period of time.) Congress amended the ODA in 1980 (the Ambro Amendment) to make dredged material disposal in LIS subject to ODA's requirements. Many of our readers are aware of the current debate and controversy concerning the application of the ODA to LIS. (See the Spring '98 and '99 issues of *The Harbor Lines*.)

Although the ODA requirements for LIS disposal site designation and management plan preparation have been in effect since 1980, the agencies did not proceed with this work until after a lawsuit (*Forbes v. Corps. of Engineers*) was filed in response to the open water disposal of material dredged from the Thames River for the Seawoif submarine project. This material was placed at the New London disposal site and

capped with clean material with the approval of the State of Connecticut.

The Connecticut Commissioner of Environmental Protection has stated that the ODA has provided no additional protection to LIS environmental quality and has resulted in more expensive dredging projects; he has asked Connecticut's Congressional delegation to give serious consideration to deleting LIS from the ODA. The group Clean Harbor Action formed by marine industry interests is also lobbying for deletion of LIS from the ODA.

There are, of course, other perspectives on this issue which are being presented by some environmental groups, New York State's coastal management agency, some of New York's State and Federal lawmakers, and others. At the same time as debate continues on whether the ODA should be applied to LIS, the EPA/Corps process for disposal site designation is moving forward. Since the designation of one or more disposal sites in LIS by the EPA will constitute a significant Federal action, an Environmental Impact Statement (EIS) conforming to the requirements of the National Environmental Policy Act must be prepared in connection with that designation. Through an EIS, a Federal agency must consider all reasonable alternatives to a proposed action; identify potential environmental impacts; and involve the public and other agencies in the decision-making process.

The Connecticut Harbor Management Association (ChMA) is closely following and participating in the EIS process for US disposal site designation. In 1999 that process included public "scoping" meetings in June and public workshops in October. At the scoping meetings, background information on LIS dredging issues and the EIS process was presented by EPA, Corps, Connecticut, and New York officials. In addition, public comments were heard to help identify issues to be addressed in the EIS.

The EIS will consider the following alternatives for disposal of dredged material in LIS:

- no action (i.e., no designation of any sites);
- designation of one or more of the four open water disposal sites currently being used (the Western LIS, Central US, Cornfield Shoals, and New London disposal sites);
- designation of other open water disposal sites in LIS;
- identification of other types of dredged material disposal and/or management options, either in or out of the water.

Evaluation of alternatives and analysis of their environmental and socioeconomic impacts is now underway and, according to the schedule presented at the scoping meetings, is expected to be completed in the Spring of 2001 when a draft EIS and disposal site management plans(s) for any selected site(s) should be available for public review. The schedule calls for a final EIS and management plan(s) in the Fall of 2001, and for final listing of any designated site(s) in the Federal Register in the Spring of 2002.

The October public workshops were held as part of the process of evaluating alternatives and analyzing their impacts. Participants were divided into discussion groups and each group spent about two hours considering information organized in four distinct topics critical to completion of the EIS. The topics of discussion were: 1) "Dredging Needs and Alternatives"; 2) "Site Screening Process"; 3) "Evaluation Factors for Site Screening"; and 4) "Data Review and Recommendations." Fact Sheets on each of these topics were provided by the EPA and may be obtained from the address below.

During the discussion of dredging needs and disposal alternatives, limitations on the transportation of dredged material were considered, along with alternatives to con-

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fined open water or upland disposal. These include chemical and biological treatment to remove contaminants, thermal treatment to incinerate or stabilize contaminants and perhaps create a product suitable for construction applications, and beneficial use options such as beach nourishment and marsh and island creation.

Discussion of the site screening process included review of the steps that will be followed by the EPA and Corps to; 1) define the full range of reasonable and practicable alternative sites and treatment technologies; and 2) reduce the full range to a short list of preferred sites and technologies to be evaluated in detail in the EIS.

We also discussed the evaluation factors to be used in the site screening process, including criteria applicable to all disposal sites, to upland sites, to open water sites, to beneficial use sites, and to sites used for dredged material treatment technologies. A number of possible open water sites will be evaluated. The great volume of dredged material to be handled make disposal site accessibility and transportation costs significant factors in determining site feasibility.

The discussion of existing

data and data collection needs started with a review of the types of data needed to evaluate the suitability of potential open water disposal sites and the environmental impacts associated with the use of those sites. The priority data areas concern: sediment chemistry (distribution of contaminants in and near the disposal sites); tissue chemistry (of affected shellfish and finfish); physical oceanography (currents, waves, temperature, etc.); and fishing resources and activities near the disposal sites.

During the introduction to the public workshops, EPA and Corps officials emphasized that the need for continued dredging is clearly recognized by the agencies. A Corps representative stated that historically Connecticut dredging has averaged about one million cubic yards/year with the major sources being Bridgeport, New Haven, and New London harbors and the Connecticut River channel from Old Saybrook to Hartford. Interestingly, another Corps representative said at the earlier scoping meetings that 3 to over 5 million cubic yards/year were dredged and disposed of in

US during the mid-1960s when some harbors were deepened. He said that today about 300,000 cubic yards/year of dredged material are disposed of in the Sound. These different numbers highlight the importance of compiling and presenting data on dredging and disposal activities in the most precise manner possible, including data on Federal and nonfederal dredging quantities over the years, dredging from Connecticut and New York sources, and the quantities placed at each of the existing disposal sites.

The CHMA will continue to study US dredging issues, participate in the EIS process, and report on developments in *The Harbor Times*. For more information on the EIS, please visit the EPA website pages at www.epa.gov/region01/eco/lisrdreg or contact Ann Rodney, US EPA, 1 Congress Street, CWQ, Boston, MA 02114-2023, (617) 918-1538, rodney.ann@epa.gov. For more information from the CHMA, call Dave Dunavan at (203) 847-5354 or Geoff Steadman at (203) 226-9383.

Harbormasters Study

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is established in C.G.S. 5-141d as follows:

The state shall save harmless and indemnify any state officer or employee, as defined in section 141-1... from financial loss and expense arising out of any claim, demand, suit, or judgment by reason of his alleged negligence or alleged derivation of any person's civil rights or other act or omission resulting in damage or injury, if the officer, employee or member is found to have been acting in the discharge of his duties or within the scope of his employment and such act or omission is not found to have been wanton, reckless or malicious.

In addition, C.G.S. 5-141d establishes the duty of the Attorney General to provide for the defense of

State officers and employees, in any civil action or in any proceeding in any State or Federal Court "arising out of any alleged act, omission or deprivation which is alleged to have occurred while the officer, employee, or member was acting in the discharge of his duties or in the scope of his employment." The State is not required to provide for such a defense whenever the Attorney General, based on his investigation of the facts and circumstances of the case, determines that it would be inappropriate to do so and notifies the officer, employee, or member of this determination in writing. AAG Pernerewski is not aware of any instances where the Attorney General has declined to represent a State officer or employee.

In summary, Harbormasters and Deputy Harbormasters are State officers and employees and the State's responsibility for indemnifying its officers and employees is clear. Who would serve as an appointed officer if he or she could not expect to be supported by the State when involved in a legal dispute? The key, of course, if a legal dispute does arise, is that the Harbormaster must not have acted in a manner that may be considered "wanton, reckless, or malicious."

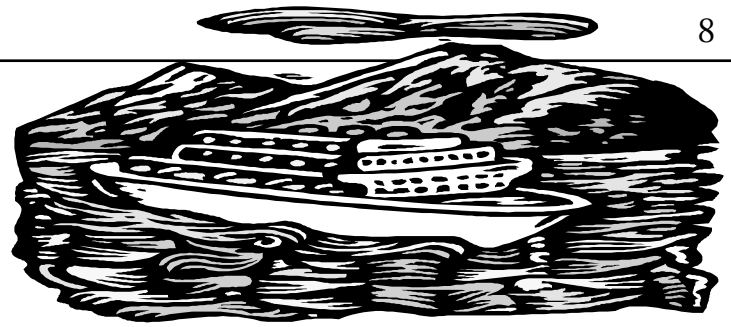


The Insurance Clause in Personal Service Agreements

During our Harbormaster group discussions it was pointed out that Personal Service Agreements between the State and Harbormasters have included an insurance clause stating:

"The contractor agrees that while performing services specified in this agreement that he shall carry sufficient insurance (liability and/or other) as applicable according to the nature of the service to be performed so as to 'save harmless' the State of Connecticut from any insurable cause whatsoever. If requested, certificates of such insurance shall be filed with the contracting State agency prior to the performance of services." AAG Pernerewski says this clause is simply part of the State's standard Personal Services Agreement with contractors, and that it should not be applied to Harbormasters or Deputy Harbormasters because they are State officers and employees, not contractors.

We will continue to conduct research on these and other matters of interest to the State's Harbormasters and report on our findings in the Harbor Times. All Harbormasters and Deputy Harbormasters will continue to receive notices of upcoming group meetings and all are invited to attend. Call Mike Griffin at (203) 849-8823 for additional information or if you have any issues you would like the group to address



The Harbor Times
Volume 4, Number 1

Editor: Al Grunow

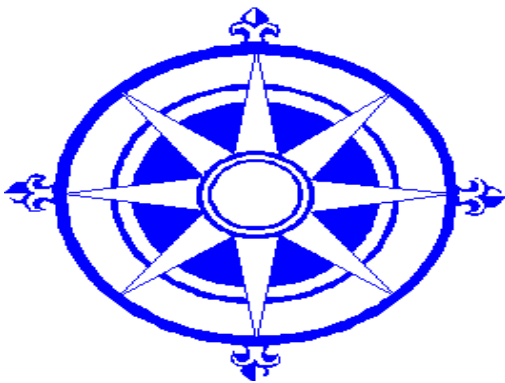
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The editor reserves the right to reject, condense or modify any submitted material as deemed appropriate.

The Harbor Times

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