STATE OF NEW YORK

2150

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the filling of borrow pits in Jamaica Bay

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. Due to the increase in vessel size in recent years, New York State waterways such as channels, berthing areas and harbors are being excavated in a process known as dredging to maintain sufficient depth for safe and efficient vessel operation.

Dredged material is naturally accumulated sediment, much of the dredged material does contain some contaminants at varying concentrations.

Jamaica Bay was dredged to supply soil for a number of construction projects. This process created borrow pits in the bay. These borrow pits have been identified as an attractive alternative for the disposing of dredge material.

Over the years local stakeholders, environmentalists and the fishing community have noted that while the borrow pits were man-made and a byproduct of former construction/dredging projects, they have contributed immensely to the health of the water quality of Jamaica Bay. It is currently recognized that we have the cleanest water quality in over one hundred years, tremendous fish populations and even the return of large marine mammals such as seals, dolphins and even the occasional whale. These groups identify the dredged areas of the bay referred to as borrow pits as one of the key reasons for this abundant marine life. In addition to hosting massive schools of fish, these deep borrow pits act as "heat sinks" working to absorb temperatures and helping to keep the water temperatures of the bay from spiking to harmful levels. The filling of any of the borrow pits of the bay, or its tributaries, would harm the health of the bay.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. Subdivision 1 of section 15-0505 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:

1. No person, local public corporation or interstate authority shall excavate or place fill below the mean high water level in any of the navigable waters of the state, or in marshes, estuaries, tidal marshes and wetlands that are adjacent to and contiguous at any point to any of the navigable waters of the state and that are inundated at mean high water level or tide, without a permit issued pursuant to subdivision 3 of this section**, except that no person, local public corporation or interstate authority shall excavate or place fill in any of the borrow pits of Jamaica Bay or its tributaries at any time**. For the purposes of this section, fill shall include, but shall not be limited to, earth, clay, silt, sand, gravel, stone, rock, shale, concrete (whole or fragmentary), ashes, cinders, slag, metal, **dredged material** or any other similar material whether or not enclosed or contained by (1) crib work of wood, timber, logs, concrete or metal, (2) bulkheads and cofferdams of timber sheeting, bracing and piling or steel sheet piling or steel H piling, separated or in combination. [~~**Nothing contained in this section is intended to be, nor shall be construed to limit, impair or affect the memorandum of understanding which any state department enters into with the Department of Environmental Conservation or the general powers and duties of the Department of Transportation relating to canals or the general powers and duties of the Department of Environmental Conservation relating to flood control.**~~]

§ 3. This act shall take effect immediately.