

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION JOINTLY WITH COMMITTEE ON WATERFRONTS
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HELD AT: Committee Room - City Hall

B E F O R E:

DONOVAN J. RICHARDS
Chairperson

DEBORAH L ROSE
Chairperson

COUNCIL MEMBERS:

COSTA G. CONSTANTINIDES
ERIC A. ULRICH
RORY I. LANCMAN
STEPHEN T. LEVIN
CHAIM M. DEUTSCH
COREY D. JOHNSON
DANIEL R. GARODNICK
PAUL A. VALLONE

2
3 [gavel]

4 CHAIRPERSON ROSE: The meeting of the
5 Waterfronts Committee and the Environmental
6 Protection Committee is now in session. And...

7 CHAIRPERSON RICHARDS: ...start. Well
8 thank you Madam Co-Chair and just want to
9 acknowledge a few member, well few members we have
10 here who'll, who'll come in and out where we have
11 Council Member Eric Ulrich, we have Council Member
12 Chaim Deutsch, and of course Council Member Rose.
13 Thank you. Alrighty [phonetic] good, good
14 afternoon. I am Chairman Donovan Richards, Chair of
15 the Environmental Protection Committee and to date
16 the Environmental Protection Committee will hold an
17 oversight hearing on the Rahway Arch Project and
18 its potential impact on Staten Island. The west
19 shore of Staten Island is surrounded by the Arthur
20 Kill 600 foot wide salt water titled straight
21 connecting the Rahway River, the Kill Van Kull and
22 Newark Bay to the north with Raritan Bay and the
23 Raritan River to the South. Vast modifications of
24 the physical structures of the Arthur Kill were
25 made to serve the harbor area including dredging

2 and bulk heading. The Arthur Kill complex is also
3 notable for the network of remaining upland and
4 wetland open space within a highly industrialized
5 area. These natural communities support regionally
6 fish and wildlife populations especially waiting
7 birds. The Arthur Kill complex supports seasonal
8 all year around populations of 178 species of
9 special emphasis incorporating 37 species of fish,
10 128 species of birds, federally endangered species,
11 and species of concern, as well as New York state
12 endangered species. New York state listed special
13 concern animals and New York state listed rare
14 plants. The Rahway Arch site is a 125 acre property
15 located in Carteret, New Jersey that is a chemical
16 byproduct waste disposal site. From the 1930s to
17 2003 this site was a recipient of more than two
18 million tons of cyanide contaminated sludge and
19 numerous tons of other undocumented [phonetic],
20 undocumented solid and hazardous waste. Currently
21 contains six 15 acre impoundments that were
22 constructed above existing grade with wooden and
23 earthen dikes. The impoundments are directly
24 adjacent to the Rahway River and are routinely
25 subject to flooding during high tides. The sludge

2 in the impoundments, the fill material used on the
3 site and groundwater on the site has been found to
4 contain cyanide and other heavy metals. In 2010

5 Rahway Arch Properties LLC purchased the property.

6 Under New York Jersey state law as the current

7 owner Rahway is responsible for conducting a full

8 site investigation and correcting any deficiencies

9 and ensuring that the remedy is protective of human

10 health and the environment. The latest project to

11 address the significant contamination at this site

12 incredibly involves adding 2 million additional

13 tons of petroleum contain, contaminated soils to

14 the site. Based on the information obtained during

15 the initial investigation Rahway Arch proposed to

16 cap the six impoundments by importing and

17 processing approximately two million tons of

18 petroleum contaminated soil that will be processed

19 at a temporary recycling facility located on the

20 site. The cap is designed to be 29 feet tall above

21 flood level and provide for future site

22 development. The process is being managed by Soil

23 Safe Incorporated and requires a Class B recycling

24 permit. The project has been estimated to take five

25 years. Since 1936 New York, New Jersey, and

2 Connecticut have recognized the need for
3 cooperation in order to achieve joint water quality
4 goals. They entered into an interstate compact to
5 address joint environmental problems. In particular
6 the compact states, states that the states will
7 engage in faithful cooperation in the control of
8 future pollution and agree to provide for the
9 abatement of existing pollution in the tidal and
10 coastal waters in the adjacent portions of the
11 signatory states, environmental conservation law
12 article one 210501 to 21-505. The compact also
13 includes a pledge to cooperate in the control of
14 future pollution and to provide for the abatement
15 of existing pollution in the tidal and coastal
16 waters in the adjacent portion of the signatory
17 states. Despite the compact New Jersey, the
18 Department of Environmental Protection granted the
19 Class B recycling permit to Soil Safe for the
20 Rahway Arch site recently. Both the cyanide
21 contaminated sludges left on site by SIATECH
22 industries and the petroleum contained soils that
23 will be brought to the site might escape the site
24 via the Rahway River and, and into the Arthur Kill.
25 This hearing seeks to explore steps that New York

2 City can take to protect its water quality and
3 shoreline from improvident projects on the
4 shoreline such as this. Now we will have opening
5 statements from Staten Island's own Council Member
6 Debbie Rose.

7 CHAIRPERSON ROSE: Thank you so much
8 Chair Richards. And I'd like to say also good
9 afternoon and welcome to this joint oversight
10 hearing concerning the Rahway Arch Projects impact
11 on Staten Island. I am Deborah Rose and I am the
12 Chair of the Waterfronts Committee and I am joined
13 by my colleague Donovan Richards who is the Chair
14 of the Environmental Protection Committee. And I
15 want to thank Cullen Howell [sp?] and Samara
16 Swanton [sp?] for all of their help in assisting us
17 in preparation for this hearing today. The Western
18 Shore of Staten Island surrounded by the Arthur
19 Kill, a 600 foot wide saltwater titled straight
20 that separates New Jersey from Staten Island.
21 Although this region is heavily populated and
22 highly industrial it contains significant natural
23 stretches along its waterways which protect water
24 quality, prevent flooding, provide habitat for an
25 abundance and variety of wildlife and offer public

recreational opportunities. The Rahway Arch site is a 125 acre property located in Carteret New Jersey that formerly housed an industrial waste disposal facility. The site currently contains six 15 acre impoundments which contain approximately two million tons of toxic sledge, sludge. The sludge contains a number of heavy metals including cyanide. These impoundments are directly adjacent to the Rahway River and are routinely subject to flooding during high tides and severe weather events. Rahway Arch properties purchased the property in 2010. Recently the company has proposed a, has proposed to cap the six impoundments by putting approximately two million tons of a mixture that contains petroleum contaminated soil on top of the impoundments. This project is being managed by soil safe Inc. The stability of the sludge to support the contaminated soil or any structures on top of it is questionable as are the berms that form the impoundments. Many groups and elected officials have expressed serious concerns about the project including the possibility that the cyanide sludge could be expelled into the Kill and that the impoundments could collapse under the weight of the

2 additional contaminated fill. This project is of
3 serious concern to my constituents some of whom
4 live directly across from the Arthur Kill, who live
5 directly across the Arthur Kill from this project.

6 Our committees have invited numerous organizations
7 and individuals to testify here today including the
8 New Jersey Department of Environmental Protection
9 which has issued permits for the project, EPA, and
10 the Army Corp of Engineers, and Soil Safe.

11 Unfortunately although we have received some
12 written submissions including from E-Star
13 Environmental Group which has been hired to
14 remediate this site none of these entities are here
15 today to answer questions. This is unfortunate and
16 I think it's an affront because it impedes our
17 ability to understand more about this project and
18 how it will impact many of my constituents and
19 citizens of New York City. None the less the
20 committees look forward to hearing from the
21 individuals and organizations that are here today
22 about this project and how the current plan to cap
23 the site with two additional tons of contaminated
24 soil could affect the waters of the Arthur Kill and
25 the residents and the eco systems of the west shore

2 of Staten Island. And we have testimony from E-Star
3 Inc. today that we will, that will be read into the
4 record. We will not read it in its entirety but we
5 thought that we would read some of the relevant
6 responses that pertain to this hearing today. And
7 we will now have Cullen Howell read those relevant
8 parts of their statement.

9 CULLEN HOWELL: So this a, a June, a
10 June 9th, 2014 letter from E-Star Environmental
11 Group to Mr. Gary Altman Legislative Council, New
12 York City Council and this letter from Albert Free
13 [sp?] who is President of E-Star Environmental
14 Group. On page three of the document it says in
15 part some of the incorrect statements regarding
16 this remediation project that I need to address
17 with correct information and facts including the
18 following. The project will be importing toxic and
19 highly contaminated waste. This is incorrect. No
20 solid, toxic, or hazardous waste will be brought to
21 the site. Only approved recyclable materials will
22 be brought to the site and will be used in a proven
23 process to make the engineered fill for the cap
24 system. The recycled material used to construct the
25 cap system must meet New Jersey residential direct

2 contact soil remediation standards for all
3 constituents except six polynuclear aromatic
4 hydrocarbon otherwise known as PAH compounds that
5 currently exist on this site at concentrations that
6 exceed the standards. The allowable concentrations
7 of these six compounds in the recycled material
8 that will be used to construct the cap system will
9 be less than 40 percent of the average
10 concentrations of these six compounds that already
11 exist at the site today, on the site today. To be
12 clear the recycled engineered fill material used to
13 cap the site will be a durable soil cement matrix
14 that will be overwhelmingly residential and
15 chemical quality except for six compounds. And the
16 concentrations of these six compounds, of those six
17 compounds will be substantially less than what is
18 already at, on the site today. Finally the entire
19 surface of the cap system will be covered in 12
20 inches of clean soil meeting all residential
21 standards. This remediation and closer proccess
22 [phonetic], process is identical to the
23 remediation, the remedial designs engineered and
24 permitted for contaminated sites all over the
25 country including in New York by DEC at Fresh Kills

2 Land for, Fill which is directly across the Arthur
3 Kill quite literally overshadowing the borough of
4 Carteret. To reiterate no toxic, solid, or
5 hazardous waste will be used on the project. Next
6 bullet point. This, the project will create a
7 chemical waste of repository along the Rahway
8 River. This is incorrect. At the present time the
9 site is a chemical waste repository and is
10 discharging leachate into the groundwater at the,
11 and the Rahway River approximately one half mile
12 upstream from the Arthur Kill. It was used to
13 dispose of two million tons of cyanide contaminated
14 industrial waste from 1937 through 1974. Since that
15 time an unknown amount of undocumented fill which
16 recent investigations have shown to be contaminated
17 has been brought to the site. This project will
18 remediate the site and ensure the waste and
19 contaminants contained in these old and
20 deteriorating impoundments will not have any future
21 impact on the environment. Next bullet point. The
22 project will affect the health and wellbeing of
23 Staten Island Residents. Remediation of this site
24 will have a positive impact on the health and
25 wellbeing of Staten Island residents. At the

present time this site contains uncontrolled deposits of contaminated materials, continues to leach cyanide into the Rahway River and faces the risk of a release if a Berm fails. Remediating this site will eliminate the leachate the potential for berm failure and the potential for release of the contaminated materials into the Rahway River. This is on page, next is on page five. Capping the contaminated site will fill the flood, flood plain and will cause upstream flooding and the site has the capacity to store 800 million gallons of floodwater. Looking at the river hydraulics this site is not in the floodway. The floodway is adjacent to this site and will not be charged, changed by the remediation. The site was filled long ago with alum yps [sp?] waste material. The berms that form the impoundments are approximately 12 feet high along most of the River Bank. In fact observations made on site during and after Sandy show that the majority of the site was not flooded even with the storm surge created by Sandy. The Rahway is in the, is in the vicinity, the Rahway River in the vicinity of this site is tidal flooding from a severe storm in a tidal area is

2 caused by storm surge coming from the ocean not
3 water flowing down, down the river. The problems
4 associated with the upstream flooding of the Rahway
5 River are caused by existing constructions located
6 upstream from this site that restrict water flow
7 during storms. Remediate, remediation of this site
8 will not have any impact on those constrictions or
9 flooding. This was explicitly confirmed by New
10 Jersey DEP flood experts and other hydrologists
11 familiar with the site, with the area and site. The
12 storage capacity of the site is also grossly
13 exaggerated. To store 800 million gallons on, on 85
14 acres the flood waters would need to reach an
15 elevation of 41 feet above mean sea level. If this
16 occurred not only would the site be flooded but so
17 would most of Manhattan, Long Island, and the New
18 York metropolitan area. Finally I must question the
19 concept of thinking that flooding 85 acres that are
20 contaminated with cyanide metals and PAHs is a
21 sound environmental engineering practice. As an
22 LSRP my primary responsibility is to protect human
23 health and the environment. Allowing the site to
24 flood would be in direct conflict with that
25 responsibility. The last bullet point is on page

2 six. A new flood would spread contaminated soil
3 throughout the area. This is incorrect.
4 Precipitation and wind have been spreading
5 contamination from this site for more than 70
6 years. The site remediation will cap the
7 contaminated sludge and other contaminated
8 materials on this site with a durable layer of low
9 permeability soil cement. This will prevent
10 percolation though the contaminated materials
11 protecting the groundwater and the river. The cap
12 site will be elevated above the most stringent
13 flood elevations eliminating the possibility of
14 that the contaminated sludge could be washed out
15 from floods. The environmental hazards of this site
16 will finally be completely eliminated.

17 CHAIRPERSON ROSE: Thank you. As stated
18 before the entire statement will be read into the
19 record after, at the conclusion of this hearing.
20 Thank you for reading the relevant parts. And now
21 we will have the first panel and as you come, well
22 I'll wait till you get here. Debbie Manns from New
23 York New Jersey Bay Keeper and Paul Gallay [sp?]
24 Riverkeeper, Riverkeepers. And would you please
25

give us your name and the organization that you're representing and Mr. Howell will swear you in.

CULLEN HOWELL: Please raise your... or you, well you can go ahead and state your name.

DEBBIE MANNS: Debbie Manns, New York New Jersey Bay Keeper.

PAUL GALLAY: Paul Gallay Hudson Riverkeeper.

CULLEN HOWELL: Great. Can you please raise your right hand? Do you swear affirm to tell the truth, the whole truth, and nothing but the truth.

PAUL GALLAY: I do.

CULLEN HOWELL: Great.

DEBBIE MANNS: Alright. So thank you very much for holding this hearing. It's a lot more than we've ever gotten in New Jersey. So really appreciate your leadership on this. I have a few opening remarks and then I'll just move into the PowerPoint and it won't take up too much of your time. I've submitted both written testimony that outlines this further and the technical documents from New Jersey DEP staff if you have trouble falling asleep at night. But it defies logic

especially after Hurricane Sandy that a company that wants to import petroleum contaminated soil and pile it up to 29 feet on a site located in a flood plane at the mouth of the Rahway River and the Arthur Kill would get permitted. But that is exactly what the New Jersey Department of Environmental Protection has done. In fact the permit, the project is just one permit away from receiving full approval. Concerns by local residents about flooding, increased truck traffic, and polluted runoff were ignored by the state of New Jersey in their quest to approve the project. The Christie Administration even waved its own flood hazard area rules to permit the project. In fact it has been the elected officials of Staten Island that have shown the greatest leadership on this alarming issue. Our review of the project has shown that the site is regularly inundated flood plane has exclusively negative technical reviews at the DEP staff level. The company has numerous violations on its existing two sites in New Jersey and has questionable financing that recently led the New Jersey DEP to revise its self-guarantee form and instructions to ensure that the

information contained in the reform accurately reflects a company's ability to self-guarantee in accordance with New Jersey DEP regulations. So you know as I was reviewing the permit the site is actually, it is a five year permit. It's a permitted to take in 840 thousand tons of material a year so when I did the math that's actually over four million tons over the length of the permit and that's a permit that allows them to operate 24/7. So this is a beautiful picture of the site. I know it's described as sludge ponds but there's actually a lot of beautiful habitat on the area, on the site as well. So this is, these are our concerns as was discussed before. Propose to pile up to 29 feet of contaminated soil and fill on top of sludge ponds and re, unreinforced dirt berms. Usually a standard cap for a brownfield site is, in New Jersey is two feet. An internal DEP engineer reviews of the project warn that the cap will likely collapse into the river and surrounding wetlands and those are those technical documents I provided to you. And the DEP staff also questioned the logic of introducing new contaminants to a property as a way to clean it up. I think anyone would question that

idea. But the DEP technical staff concerns are being overridden by New Jersey DEP's top staff including all the documents that I showed before you. I do want to address a couple of the points and the letter from E-Star. Keep in mind the New Jersey site remediation program has been privatized. So what that means is that companies hire their own engineers. So E-Star is an engineer hired by Soil Safe to provide its analysis of the appropriateness of the project. And then these documents are given to DEP and then DEP has oversight. There is at most state agencies now there's a capacity issue so DEP really acts in an oversight role on these projects no longer as direct control I should say. So they said there's a leachate problem, it's one of the most contaminated sites on the Rahway River. The prior owner SIATECH who just sold the property to the company in 2009 denies that any contamination was going into the Rahway River and the Arthur Kill. DEP did not require Soil Safe to conduct any water quality sampling to verify whether or not their claim that this is causing contamination is true. And so the question we have to ask is by doing what we're,

they're proposing are we actually making things worse. The company has a history of violations at their other sites in New Jersey including one site collapsing into adjacent wetlands. There are state threatened and endangered species on the property which also ax the foregoing area for the harbor herrings which are bistate species of concern. The facility is permitted to accept up to 7,000 tons a day, approximately 340 trucks. No truck route has been provided. All this material will be trucked in, not barged in. So far New Jersey DEP has only required a 500 thousand dollar financial assurance for a project that's estimated to cost 15 million dollars. The site is adjacent to a self-designated environmental justice community in Linden, New Jersey and the application process has been unorthodox allowing for repeated revisions and issuing conditional permits before the application was even completed. And now we have a couple slides on these unanswered question about flooding impacts. This is a community that's upriver from the site that's experienced severe flooding primarily from rain events, that's... And just again to dispute a claim by the LSRP. It's a little

2 challenging to see but I'll just show you... It's at
3 the bend of the river. So if you can see that this
4 is an actual FEMA map showing inundation from
5 Hurricane Sandy. So the entire flood, site was
6 underwater during Hurricane Sandy. So this is FEMA
7 Information. And DEP is sending letters to flood
8 prone communities saying that there's no need to be
9 concerned about flooding because the area to be
10 filled with contaminated soils only covers a flood
11 fringe that access doors for flood waters caused by
12 alluvial flooding which is just another fancy name
13 for rainfall flooding. This the FEMA flood map and
14 you will see... so this property itself is subject to
15 both tidal and rained fall event caused flooding.
16 And that's that fringe area around the side. So
17 what we'd like you to do... and again thank you for
18 holding this hearing... is to provide support in our
19 appeal of the permit issued by New Jersey DEP. We
20 have appealed the Land Use permit, explore
21 opportunities to the interstite [phonetic]
22 environmental commission to ensure that New Jersey
23 is complying with the parameters of the tri-state
24 compact agreement and not polluting our shared
25 waters. And just you know recognition that this

2 project is really a disposal activity and not a
3 recycling activity has been permitted by the New
4 Jersey DEP and as such should be governed by
5 appropriate regulations. New Jersey DEP has chosen
6 not to do this and this is not the first time this
7 company has been allowed to use questionable
8 practices to dispose of contaminated material.
9 Therefore we ask the council to reach out to US EPA
10 and ask the agency to review New Jersey DEP's
11 delegated authority to implement the federal
12 resource conservation and recovery act. Thank you.

13 PAUL GALLAY: Thank you very much for...

14 CHAIRPERSON ROSE: Thank you.

15 PAUL GALLAY: ...inviting me to testify.

16 I'm the president of Hudson Riverkeeper colleague
17 of Ms. Manns' and our organizations are both part
18 of the International Water Keeper Alliance. For 10
19 years I worked at the New York State Department of
20 Environmental Conservation in the New York City
21 office and I think I probably spent more time on
22 Staten Island than I did anywhere else other than
23 my office in Long Island City. I was involved in
24 the closure of the Fresh Kills Landfill [sp?] the,
25 the Visepilper Ground Fill[sp?] Restoration, the

2 Berman Barge Enterprise, abatement case. And I have
3 a simple message. We cannot go backwards. Our
4 country is pockmarked with hazardous waste sites
5 that were created by following practices like this.

6 ...I saying well we got some stuff we don't want,
7 let's use it in a place where we, maybe we can just
8 put it here and, and then we won't have to worry
9 about it anymore. And you always have to worry
10 about it. It always comes back to bite you. We have
11 our environmental laws on the books for a reason.

12 We've learned too much to go backwards with
13 projects like this. You know the near, New Jersey
14 DEP has issued reports where they criticize the
15 submissions as in some cases incomplete, in some
16 cases inaccurate. And what they have has concerned
17 the staff, the technical staff, the people who make
18 these agencies function. The technical engineers
19 have said that the design, the engineering design
20 of the impoundments is quote unquote technically
21 questionable and will quote unquote likely lead to
22 displacement or release of sludge into the adjacent
23 wetlands and or Rahway River. Now I worked for an
24 agency like this for 10 years and I know that
25 sometimes bureaucrats can use bureaucratic language

2 or technical, people can use technical language.
3 That's pretty straight forward. That's, that's
4 smoke and gun. And so I say this in general terms
5 to support what Ms. Mann has said already, do not
6 let this happen. Do whatever you can to stop this
7 from happening until those incomplete reports are
8 made complete, until those inaccurate statements
9 are made accurate, to those criticisms of the
10 engineering are addressed and rebuffed or proved to
11 be accurate. Do not allow this to happen without
12 adequate regulatory oversight. When I work for the
13 New York State Department of Environmental
14 Conservation from 1990 to 2000 there were 42
15 hundred people working at the DEC. Now there are 29
16 hundred. I cannot give you the stats for the New
17 Jersey DEP but I imagine they are similar. We are
18 entering a period where regulators don't have the
19 tools and in some cases don't have the political
20 will to do their job for the people who don't who
21 don't want to see more hazardous waste sites
22 created. I want us to learn from the past. Do not
23 let this happen without proper evaluation ahead of
24 time, proper evaluation of the company's
25 reliability both as a bad actor and also as someone

2 without adequate financial assurance. Do not let
3 this happen even if it gets permitted with adequate
4 safeguards on the site 24/7/365. Again do not let
5 the mistakes of the past be repeated. We're better
6 than that. Our communities deserve better than
7 that. Thank you.

8 CHAIRPERSON ROSE: Thank you. Thank you
9 both for, for your testimony. It, it's amazing to
10 me that, that this process has been allowed to go
11 forward. And so Ms. Manns could you just give me a
12 brief idea of what residents of New Jersey or
13 elected officials or regulatory agencies have done
14 in, in, in order to properly oversee this project
15 or to make sure that the permitting process is, is
16 done complete and according to the regulations.

17 DEBBIE MANNS: Sure. I mean we've been
18 working on this issue for over a year and a half
19 and we've been testifying everywhere from, when it
20 was in front of the county to, to receive approvals
21 and, and submitting written comments to the state.
22 And we have been working with local community
23 residents all along the Rahway River from Linden
24 and, and Carteret. There's a very active Facebook
25 page to the upriver residents concerned about the

flooding. And you know all their letters have been just kind of brushed away as you know we're fine with this project, you don't need to worry about flooding. It's, it's going to be better than what's going on there before. But there's like no data behind that and there's no science behind it. We recently asked for a public hearing in the community on the air permit because of the cumulative impacts of bringing all those trucks through the community that's as I said an underserved community and an extension of the Con Ed period and, and that was recently denied. So it's been extremely challenging. The, most of the, of local elected officials are in favor of it because it's going to make money for the community. The host town will get a tipping fee of a \$1.35 per ton which is committed to use to his marina. And you know we have our state senators connected to the project so one it has a law partner that's a property owner. The other state senator who happens to be the chair of environmental committee in the senate represented the company at the county level in his personal capacity as an attorney. So it's, it's been a challenging issue for us.

2 CHAIRPERSON ROSE: Have you in fact, do
3 you know what permit is still pending that they,
4 they haven't yet approved what they're waiting for
5 approval for?

6 DEBBIE MANNS: Yes, the last permit is
7 the air permit. The common period on that...

8 CHAIRPERSON ROSE: Oh.

9 DEBBIE MANNS: ...closes tomorrow. They
10 received their Class B recycling permit on this
11 past Monday.

12 CHAIRPERSON ROSE: Are you aware of
13 whether any of the six impoundment areas are
14 currently leeching toxic substances into the Rahway
15 River? And in your view will the capping of the
16 site as has been proposed stop this leeching from
17 occurring.

18 DEBBIE MANNS: Well so based on the data
19 we have and gotten you know through the freedom of
20 information requests with the state agency I can't
21 find monitoring data or sampling data that shows
22 the contamination moving from the site to the
23 river. So that's what I would look for. And what
24 they're proposing is, they're saying rainwater is
25 hitting the site now, it's hitting the sludge

2 ponds, percolating through, picking up
3 contamination, and moving out through the
4 groundwater to the river. So normally what would
5 happen on a, a case like that you would address not
6 only the, you know stopping water from coming in
7 but the ground water. In this case they're only
8 proposing to put a cap on which we worry because of
9 the stability issues of both the sludge and the
10 berms will squeeze the material like a toothpaste
11 tube out into the river and adjacent wetlands. And
12 also there's no other institutional controls on the
13 site to control remediation. So normally you would
14 think of something of a more structural nature to
15 stop the groundwater flow into the river. But that
16 was, that's never been proposed so it's, it's very
17 unusual remedial technique.

18 CHAIRPERSON ROSE: So there's was no
19 conversations about containment, like actually
20 containing it, the sludge so that it's not pushed
21 out?

22 DEBBIE MANNS: No.

23 CHAIRPERSON ROSE: And, I'll just have
24 one more question then my colleague... Is there a
25 chance that the impoundment areas could actually

2 collapse? And, and what ramifications would that
3 have on Arthur Kill?

4 DEBBIE MANNS: Yeah I think there, there
5 is a definite chance. I mean they're just, because
6 of the, when the site came into fruition they're
7 just, it's just dirt you know kind of piled up and
8 then, in, made into a hill. And then inside that
9 they put the waste. So it's, it's just dirt. It's a
10 dirt hill. And it is directly adjacent both to the
11 jurisdictional wetlands of the, of the US at the
12 Army Corp.

13 CHAIRPERSON ROSE: Right, mm-hmm.

14 DEBBIE MANNS: Which they very you know
15 have tried to avoid with the activity and then
16 directly adjacent to the Rahway River. So it's,
17 it's very, it's quite possible that that, just the
18 sheer weight of that material on the site could,
19 could have some really horrible consequences.

20 CHAIRPERSON ROSE: And do you have any
21 concerns about the material that's the two million
22 tons of material that's being brought in, the
23 quality of it and the level of contaminants?

24 DEBBIE MANNS: I do, I mean we, we
25 always, you know if there's, if there's a problem

with the site then, then clean it up right. You have a viable company SIATECH who's responsible for the pollution. You have the company clean it up. What you have now is a third party trying to make money by importing petroleum contaminated soil from out of state including New York. It's probably from places like Newtown Creek and bringing it onto the site. And they have a very... it's actually we're really unclear about how they're going to stabilize the soil. We know they're going to put an additive into it but they're never clear on what that is. And so you're not even sure if one it's going to stabilize the PAHs which are known carcinogens in the soil but also stabilize the soil itself which is a big concern. So you could have a lot of like slopping off.

CHAIRPERSON RICHARDS: Well thank you for your testimony and I'm just glad to see you guys show up. It would have been nice for Soil Safe to obviously show up instead of sending paper. But you know that's another story for another day. I wanted to know, so one on your recommendation... Council Member Rose and I met yesterday and I think on all these particular points and, and things that

2 you asked for we certainly are going to support
3 certainly making sure that you know we work with
4 the interstate environmental commission to make
5 sure that we're holding New Jersey's feet to the
6 fire on this particular issue and I know Debbie has
7 been a steadfast fighter on this issue and made
8 sure that it moved today. I had a few questions. So
9 have you heard that Soil Safe is currently 100
10 million dollars in debt and, and do you think that
11 they would be able to remedy the situation if you
12 know if they're already in debt?

13 DEBBIE MANNS: Yeah so it's, it's
14 interesting... Soil Safe because they have the other
15 properties in New Jersey that they owned and
16 operated had to submit financial guarantees. And,
17 and we finally got ahold those and, and looked at
18 them and they kind of structured what I've, what
19 I've been told is a waterfall effect. So you have a
20 company within a company within a company and they,
21 they feed, you know they fund each other. But what
22 is happening is the parent companies are loaning
23 money to the, you know the companies down the line.
24 So there's like huge debts that they're carrying.
25 And you know that, that's been verified and it, and

it's been covered actually extensive, extensively by the media in New Jersey and so there is a big concern. They're not the property owner in this, this case but because they're not coming in as a, a site remediation or clean up they're not requiring the same sort of self-guarantees that you would normally see for activity of this site because they're saying they're a recycling facility. So it's a big concern yeah, for sure.

CHAIRPERSON RICHARDS: ...the last question I had and I think you sort of spoke and I don't know if you want to speak a little bit more on it. I think you, you spoke of I guess adequate oversight being part of the way to, to obviously keep this site in good shape. Do you think that that's the appropriate remediation strategy or, or are there other remediation strategies for this site? In, in your mind what are some of those techniques or strategies that you would use at the worst case scenario if this thing went through?

PAUL GALLAY: Well Council, Councilman I, I appreciate that the question is if this goes through. And of course that's the if that I think is the threshold. Is the engineering properly done,

2 can this be done safely on a black board. And if it
3 can be done safely on a black board that doesn't
4 mean it's going to be done safely in the world.

5 When you get out into the world you have the
6 possibility that there won't be adequate oversight
7 by inspectors. When I was with the New York State
8 Department of Environmental Conservation when there
9 was controversial activity we would require the
10 payment into the agency of sufficient funding to
11 hire or monitor a person who would monitor the
12 site. And that, that would help you assure that the
13 agency pays an inspector for as much of time as
14 possible if not full time. That's one possibility.

15 If you're concerned about dust or other
16 contaminants getting into the air do you adequate
17 air monitoring, do you have adequate monitoring of
18 the water releases that Ms. Manns has good grounds
19 to be concerned about from the reports that we've
20 seen? Do you have adequate review of the stability
21 of the site? You know when we were regulating the
22 Fresh Kills Landfill we were always conscious that
23 things just don't stay in one place. They're
24 settling and the settling can be in a different
25 extent depending on the sort of material or what

2 underlies it or how much water gets into that part
3 of the site. So you know I could go on and on but
4 I'm already starting to bore people. The point of
5 the story is you can't just say well let's put this
6 there and then it'll be out of the way and then
7 we'll build on top of it. You have to make sure
8 that it's a sound idea in the first place. And then
9 if it's going to get done that it's adequately
10 overseen and adequately monitored so that the
11 promises that you get from the company turn out to
12 be real when you're in the world.

13 CHAIRPERSON RICHARDS: Have these, has
14 this discussion been had with EPA, New Jersey DEP?
15 Have these particular recommendations been made to
16 them? And if so have they followed back up with
17 you? I'm assuming I know the answer already but,
18 but I, it sounds sort of like New York City DEP on
19 some days on the esquire thing, I should not do
20 that. Why did I just do that? Always get myself in
21 trouble. So on the enforcement part you know have
22 you guys had that particular discussion?

23 DEBBIE MANNS: Well I mean New Jersey
24 DEP has turned out to be one of the biggest
25 advocates for the project so when you mention

2 there's been violations or enforcement or need for...
3 oh, well those were minor violations. You know I
4 don't consider collapsing into adjacent wetlands a
5 minor violation. So, so it's been very challenging
6 with New Jersey DEP. EPA I know has really
7 scrutinized the project. So far they haven't really
8 seen a federal hook and the Army Corp as well. We,
9 we continue to have a dialogue with them and, and
10 provide them with the technical documents as we
11 have them.

12 CHAIRPERSON RICHARDS: That's all my
13 questions. Thank you guys for coming and thank you.

14 CHAIRPERSON ROSE: I'd, I'd like to
15 acknowledge that we've been joined by Council
16 Member Vallone, Garodnick, and Costantinides. And I
17 have... No I, I have a question for you I'm sorry.
18 I'm sorry. I'm sorry Ms. Mann. I'm sorry.

19 CHAIRPERSON RICHARDS: Back to Council
20 Member Rose for question.

21 CHAIRPERSON ROSE: I'm sorry. Maybe you
22 could elucidate on why a more protective
23 remediation alternative wasn't selected that would
24 allow, allow an unrestricted use of this site in
25 the future.

2 DEBBIE MANNS: You know just to be blunt
3 I think it's about money and politics. I think
4 that's what's going on here. I mean we're not naïve
5 enough to think that that's, that's not what's
6 happening.

7 CHAIRPERSON ROSE: Was there a time
8 frame put into the, the records in terms of how
9 long this recycling facility would be at this
10 location?

11 DEBBIE MANNS: They just received a five
12 year permit which is the standard for [crosstalk]
13 New Jersey. So five years yeah. And they could
14 option to renew it yeah.

15 CHAIRPERSON ROSE: And you know Mr.
16 Gallay you are very well versed on the problems
17 that Staten Island has incurred you know from Fresh
18 Kills and other environmental issues. How would New
19 York City or Staten Island be compensated if any
20 part of this proposed remediation you know fails.

21 PAUL GALLAY: You know the old line
22 about all the king's horses, all the king's men
23 couldn't put humpty back together again. We don't
24 know how people are affected with a degree of
25 specificity that we could say that you could even

2 compensate people because you don't know always if
3 people get sick are they sick because of this. You
4 have circumstantial evidence, sometimes you have
5 blood test. You can, you can type different sorts
6 of contaminants but there's only one approach and
7 it's prevention. That's why I said at the beginning
8 the environmental laws are on the books for a
9 reason so we don't make the same mistakes over
10 again. I mean one of the proudest moments of my
11 career was when the air controls went into effect
12 around this, the Fresh Kills Landfill and overnight
13 Staten Island was a better place and a healthier
14 place. And you could have air emissions that
15 wouldn't be specific to really be able to
16 compensate people. And who wants to be compensated
17 after they get sick? They want to be kept from
18 getting sick.

19 CHAIRPERSON ROSE: Thank you. Thank you
20 both very much. The next panel... Roland Lewis
21 Metropolitan Waterfront Alliance and Kathleen
22 Sforza from Northfield Community Local Development
23 Corporation.

24 [pause]

2 CHAIRPERSON ROSE: Please state your
3 name and organizational affiliation for the record
4 and Cullen will swear you in.

5 KATHLEEN SFORZA: Kathleen Sforza
6 Northfield Community LDC.

7 CHAIRPERSON ROSE: Okay...

8 CULLEN HOWELL: Actually Roland can you
9 state, can you state your name sorry?

10 ROLAND LEWIS: Sure. Roland Lewis
11 Metropolitan Waterfront Alliance, President CEO.

12 CULLEN HOWELL: Alright can you also
13 raise your right hand? Do you swear or affirm to
14 the truth, the whole truth, nothing but the truth?

15 ROLAND LEWIS: Sure.

16 CULLEN HOWELL: Great.

17 KATHLEEN SFORZA: Good afternoon. My
18 name is Kathleen Sforza. On the behalf of
19 Northfield Community LDC and the Staten Island
20 Community we serve I would like to thank
21 Councilwoman Rose for her leadership in this matter
22 calling attention to a situation that could have
23 very serious health ramifications for the residents
24 of Staten Island. Northfield Community LDC operates
25 a number of programs that benefit individuals and

2 stabilizes communities on Staten Island. Our
3 services include economic development, affordable
4 housing, and weatherization programs serving the
5 entire borough. One of our most significant
6 initiatives is the New York state funded Brownfield
7 Opportunity Area in Port Richmond/Mariners Harbor.
8 Under this initiative we are targeting vacant and
9 underutilized brownfield properties for remediation
10 and redevelopment. It has come to our attention
11 that in regard to the Rahway Arch Project New
12 Jersey is not taking due care in preventing toxic
13 waste from potentially leaching into US waters.
14 This likely result is cyanides, metals, and veos
15 [sp?] will enter local waterways to further
16 contaminate the environment. Staten Island already
17 suffers from environmental contamination due to the
18 long history of industrial use, land uses in New
19 York and New Jersey. The Rahway Arch Project poses
20 a conflict with a goal of cleaning up the
21 environmentally contamination in the area to create
22 a more helpful healthy environment for everyone who
23 lives and works near the waters of New York and New
24 Jersey. We join with Councilwoman Rose and many
25 concerned citizens in urging New Jersey to honor

2 its long, longstanding compact with New York and
3 Connecticut to engage in quote faithful cooperation
4 in the future, of future pollution and agree to
5 provide the abatement of existing pollution in the
6 Tidal and coastal waters in the adjacent portions
7 of the signatory states. Thank you.

8 ROLAND LEWIS: Okay and I'm Roland Lewis
9 from Metropolitan Waterfront Alliance. Just with,
10 glad to lend our voice, the 800 members, 800 strong
11 businesses and civic organizations that are the
12 alliance to the Northfield LDC to my friends from
13 the Barkeeper and the Riverkeeper. And call on the,
14 this city council and this administration to
15 pressure our, the federal government and our, our
16 colleagues across the river in, in, in New Jersey
17 to reconsider the, I guess the, I think the ill
18 thought and, and wrong our determination that they
19 do not have jurisdiction to govern house, this, the
20 contaminates all will be registered. We, we learned
21 quick, quickly and easily during Superstore Sandy
22 that we are a one harbor and contaminate and effect
23 on one side of the harbor affects the other side of
24 the harbor where the less publicized but very, very
25 large oil spills that happened during, during that

storm. So again I think it's... I can say it more
openly then, then the keepers do. It's wrong. Any
level of government that can be used, any civic
voice that can be heard should be used to, to stop
this from, potential poison from coming down to a
new, newly renovated and, and, and gloriously new
park that's being developed on it. I'll say, this
is the last thing, I very often say that the
greatest economic development of the legislation of
the last four, I mean 42 years was the clean water
act because it's allowed for redevelopment of huge
structures, billions of dollars in investment... We
can see it on the west side. We can see it out
across the country and in San Francisco. Any place
you look where the clean water act has been effect,
in effect economic growth has happened. We can't
backslide. We can't allow new, new poison to be put
into the, the ground and, and undo the work that's
being done to reinvent the shoreline of Staten
Island and elsewhere in the, in the region. Thank
you very much.

CHAIRPERSON ROSE: Thank you. I, I just
want to commend you Rolland on perfect attendance
at my Waterfront hearings. [crosstalk]

2 ROLLAND LEWIS: ...my committee.

3 [laughter] [crosstalk]

4 ROLLAND LEWIS: ...Chairwoman Rose said...

5 [crosstalk]

6 [laughter]

7 CHAIRPERSON ROSE: I want to ask you

8 what do you think the impact, well the impact of
9 this on the environmental justice communities along
10 the shores of, of Staten Island. Is the community
11 looking at, is the Staten Island Community looking
12 at the impact of, of this project on the
13 environmental justice communities in Staten Island.

14 KATHLEEN SFORZA: Well I'm, I'm not
15 sure. I know it's been reported... Staten Island
16 advance. I'm not sure how far in the community
17 they're aware of it. I mean we need to make them
18 aware of what's going on. I mean New Jersey is not
19 acting neighborly so...

20 ROLLAND LEWIS: The only thing I would
21 add is... you know better than probably most anybody
22 there's, those, those communities that have their
23 hands full addressing a long legacy of toxic
24 challenges, cleanups, and, and, and continue, and
25 continued environmental issues. So... to have one

more thing come across from another, a completely different state is, is... one thing too many so I would, I, I, I would, I would refer to your, your knowledge of your constituents as to whether they're addressing at, at this. But I, I think it's, it's unfortunate.

KATHLEEN SFORZA: And Staten Island is trying to renovate the, rejuvenate the waterfront. I mean they're bringing in a Ferris wheel down there. They're bringing in outlets. They want to expand that along the whole waterfront there and if this contaminates...

CHAIRPERSON ROSE: And your concern now is the local development corporation about this project is...

KATHLEEN SFORZA: Excuse me... I'm deaf in one ear I can't...

CHAIRPERSON ROSE: Oh I'm sorry...

KATHLEEN SFORZA: ...hear what you said.

CHAIRPERSON ROSE: ...you're concerned about the impact of this project...

KATHLEEN SFORZA: Well we have contaminated areas where we are down there that they're trying to, we're going to, we're trying to

2 get developers to clean them up and everything. So
3 I mean this is, this is like a step backwards... I
4 don't know.

5 CHAIRPERSON ROSE: Council Member
6 Constantinides.

7 COUNCIL MEMBER CONSTANTINIDES: Thank
8 you Chairwoman Rose and Chairman Richards. And
9 Rolland always great to see you. You've always been
10 a, you always are a strong advocate for our, for
11 our harbors and our waterfronts. And I think I was
12 actually just going to piggyback. I was just going
13 to ask that same question is... Have you looked to
14 open the waterfront? We have a plan for waterfronts
15 throughout our city to, they're the next frontier
16 in our development and as we look... to be more
17 sustainable, more resilient how we develop our
18 waterfronts. And this is going to be something of
19 course that's going to harm that plan and set us
20 back right, as, as you said earlier correct?

21 ROLLAND LEWIS: Water, water quality is,
22 it's just key. It's, if we don't improve water
23 quality continually progress we've made, and we've
24 made good progress... have a lot more to do. And
25 again I'll repeat we cannot backslide.

2 COUNCIL MEMBER CONSTANTINIDES: And, and
3 you know just to... so the, the pragmatist right? I
4 mean we, and I'm a, an environmentalist as all of
5 our colleagues are and we talk about the reasons to
6 save our planet. But let's talk to those that are
7 dollars and cents oriented. That, the, the Scrooge
8 McDucks of the world. But you know this is like,
9 this is like real dollars and cents that are going
10 to be lost to development and opportunities to open
11 our waterfronts correct?

12 ROLLAND LEWIS: Absolutely it's, it,
13 your, your, you're not... I'm, I'm telling you penny
14 wise pound... millions of pounds full of... [crosstalk]

15 COUNCIL MEMBER CONSTANTINIDES: If the
16 money that they're, they're... and it's, it's, it's a
17 lack of oversight from the feds?

18 ROLLAND LEWIS: Correct.

19 COUNCIL MEMBER CONSTANTINIDES: And we
20 just need them to sort of step in here and, and be
21 a better referee?

22 ROLLAND LEWIS: The risk is not worth
23 it. The at risk is absolutely not worth it. What
24 you're potentially giving up is just some dollars
25 and cents in terms of redevelopment on the

shoreline of Staten Island or any other section of the city is not worth it. And what, what's to gain by cleaning the water is, is always worth it. And it's, it's an investment that you know it, there are serious dollars but there are... we, we spent tens and hundreds of millions dollars but got returned billions of dollars in, in tax revenue and an investment throughout the city in which we still do. That's, as we reinvent our waterfront. So you're point's exactly... [crosstalk]

COUNCIL MEMBER CONSTANTINIDES: And I mean that, that's a you know we talked about fracking. You know we always talked about the environmental challenges, then we talked about hey if, if we lost our water it would, it would be an environmental catastrophe. Let's talk dollars and cents. It would be 10 billion dollars, 20 billion dollars to build a billion dollars to, to run it every year. It's like we, we, the small gain that would be gained in the long term would cost us 20 times as much. And that's, that's really... I'm an environmentalist... but I always sort of try to talk to the Scrooge McDucks of the world and... [crosstalk] and say that you know here's the...

2 ROLLAND LEWIS: Exactly...

3 COUNCIL MEMBER CONSTANTINIDES: ...here's
4 how we talked about the dollars and cents..
5 [crosstalk] we thank you for your advocacy role.

6 ROLLAND LEWIS: My pleasure.

7 COUNCIL MEMBER CONSTANTINIDES: Thank
8 you Madam Chairwoman.

9 CHAIRPERSON ROSE: Thank you. Thank you
10 both.

11 ROLLAND LEWIS: Okay, take care.

12 CHAIRPERSON ROSE: The next panel and
13 last panel is Lonnie Baron from Assemblyman Mathew
14 Titone's Office and Judy England McCarthy. And for
15 the record state your name and the organization
16 you're representing. And Cullen will swear you in.

17 JUDY MCCARTHY: Hi, I'm Judy England
18 McCarthy and I'm a resident. I'm sort of the face
19 of a real person who's affected directly by this
20 plan. And so I came so I could tell you what this
21 means to me. And I'll... oh, sorry.

22 LONNIE BARON: Hi, I'm Lonnie Baron,
23 Coordinator of Legislative and Community Affairs
24 for Assemblyman Mathew Titone and as it so happens
25

2 I'm also a South shore resident who lives very
3 close to the Arthur Kill.

4 CULLEN HOWELL: Great. Can you both
5 raise your right hand? Do you swear or affirm to
6 tell the truth, the whole truth, and nothing but
7 the truth?

8 JUDY MCCARTHY: I do.

9 LONNIE BARON: I do.

10 CULLEN HOWELL: Great. Thanks.

11 JUDY MCCARTHY: Do you want go first.

12 LONNIE BARON: No thanks. Ladies first.

13 JUDY MCCARTHY: Oh, okay. Everything
14 that's been said is really... I mean common sense
15 should come in here okay. One of the things with
16 this air permit that is still being processed is
17 that they're not actually looking at the, the fact
18 that all these trucks which is a 24/7 facility is
19 going to be taking this route through neighborhoods
20 to get there from one state to another and the air
21 quality. I live in Linden which is directly across
22 from where they plan to do this. I was hit by
23 Sandy. I lived there 20 years I had never been hit
24 before. I know what it is to have pollutants come
25 through okay. I understand that. But how common

sense isn't in play here where they're saying well we don't really have to assess what that will do to the neighborhood when you have trucks 24/7 when you're assessing the air permit doesn't make sense to me as these are supposed to be not company representatives, these are supposed to be my representatives. And I already have a town that the quality of the air of Linden is already not meeting state requirements okay. So to me this doesn't make any kind of sense. It doesn't make sense when you have a pollutant and you're concerned about the pollutant but then you turn around and say well we're going to bring another pollutant in and cap it because it's less of a pollutant than the one you had. Well when I add one and one of these, these pollutants and then I put more pollutants I have a problem with that. I also have a problem with the facts that the pollutants that they're bring in we, this is the first recycling plant that I've ever heard of that isn't taking the, the stuff that it's brining in and shipping it out after it's recycled. It's going to keep it right there for where, like that's not a recycling plant. That's a dump off place. Okay, that's exactly what it is.

2 These people aren't putting any kind of bonding up.
3 They're financially insoluble right now. They have
4 all these issues where they've had violations and
5 they're not being forced to put a bond up that says
6 if 50 years from now there's a problem because you
7 mis-assessed this containment that you said was in
8 this concrete that would hold this petroleum is now
9 leaking. You have the funds set aside. There's
10 nothing like that in there. What I have noticed
11 though is the DEP is streamlining, that there are
12 government officials higher up that are changing
13 policy that was put into place to keep me safe
14 which was the two to three feet. They've changed it
15 not to four feet, five feet, 29 feet. I mean why do
16 you think they put it at two to three feet.

17 Somebody at some point realized after a lot of
18 assessment that that's what's really important. So
19 the fact that we're arbitrarily on our end I'm
20 hoping that on your end it sounds like you're
21 really getting what Sandy did. You're trying to
22 make your waterways clean. You're trying to help
23 your citizens have a better quality of life. After
24 all they are the tax payers. We might not have the,
25 the huge amount of money that these corporations

2 that are looking. As a third party they're looking
3 for a short term fix with no responsibility. They
4 come in, reach, get the money, a few pockets get
5 filled and then what ends up happening? They're out
6 of the picture and who foots the bill? I foot the
7 bill, you foot the bill, citizens foot the bill. So
8 I have this little poem I made that I wanted to go
9 on the record because I want to question this. What
10 if, what if you lived in a community for 20 years
11 and then you got flooded out by Superstore Sandy?
12 What if then after you rebuilt a project was
13 coming? What if that company who was doing that
14 project had environmental violations? What if the
15 safeguards were being removed, limitations changed?
16 What if we were transporting tons and tons of
17 contaminated material through your neighborhoods?
18 What if all those trucks and tracks pollute,
19 pollute, pollute. Who's air is being contaminated?
20 What if they were filling the flood plane with 29
21 feet of material? What if the company is wrong and
22 20, 30, 100 years from now the contained petroleum
23 leaks? What wildlife is destroyed, water being
24 polluted? Who will pay? Where's the bond of Good
25 Faith? Just in case. We are the asthma studies just

in case? What if it were your home? What would you do?

LONNIE BARON: Once again my name is Lonnie. And on behalf of Assemblyman Mathew Titone I would like to thank the City Councilmembers for holding this hearing. I'd like to thank everyone who could make the time to be here today. Just three months ago Assemblyman Mathew Titone who sits on the Assembly's Environmental Conservation Committee signed onto a letter calling on the federal EPA and the State DEC to properly assess this proposed soil recycling project. As New Jersey News 12's Kane In Your Corner has found the so called independent remediation professional proposing this environmental atrocity has falsely claimed that Soil Safe will be using an EPA reviewed and approved method. Indeed the EPA has stated unequivocally in documentation and I quote EPA does not endorse the Soil Safe product. This should serve as reason enough to hit the pause button on this terribly misguided idea. Therefore we are asking that the EPA, DEC, and Army Corp of Engineers use the authority granted by the clean water act to require a thorough permit review of

this disaster in the making. Frankly the idea of covering a cyanide filled wetland with two million tons of contaminated soil towering at 29 feet high sounds like a way of effectively establishing a chemical waste repository along the Rahway River. As the property is in a federally designated flood zone under water during Superstore Sandy it's highly probable that a similar storm could wash this soil into both the Raritan Bay and the Arthur Kill leaving a toxic mess along Staten Island's shoreline. Though big money has seemingly guided this project so far we are here today to ask that historical fact, scientific evidence, and compassionate ethical common sense take the reins from here. Thank you.

CHAIRPERSON ROSE: Thank you. And thank Assemblyman Titone for his statement. And Ms. McCarthy you actually experience the ravages of Hurricane Sandy.

JUDY MCCARTHY: Yes.

CHAIRPERSON ROSE: And so you're aware that that's a flood plain and that...

JUDY MCCARTHY: And, and I want you to know that our mayor and two other mayors, I know

2 the Springfield mayor people... and I believe it was
3 the Cranford Mayor...

4 CHAIRPERSON ROSE: Mm-hmm.

5 JUDY MCCARTHY: ...all wrote letters to
6 the, because you were asking who, what did they do...

7 CHAIRPERSON ROSE: Right.

8 JUDY MCCARTHY: ...all wrote letters to
9 Governor Christie asking him to you know like this
10 is not advisable, we just have all these flood
11 concerns and now you're going to allow this amount
12 to be filled in a flood plain. I mean I, I'm not an
13 engineer but if you have a basin that's supposed to
14 absorb the water and you fill up that basin where
15 is the water going to go? And there is a huge
16 extensive flooding that goes on there already that
17 they're trying to remediate. So you don't add to
18 the problem. And I think that the way you're
19 looking at it is, is making it a way that the
20 waters can be used in a recreational sense and look
21 at the dollars that are going to be made that way.
22 And that that kind of income is helpful to not just
23 this generation but generations to come rather than
24 end up creating this, this filler that ends up
25 years from now being a bigger problem that we will

2 end up having to pay. Because the company won't. We
3 haven't set up anything to make the company pay.
4 And if, you know the, so they go bankrupt. Okay,
5 there was no fund, they, they just... I mean it's,
6 it's really easy to say you know let me in there I
7 believe this is going to work. Well, where are the
8 facts you know. Other than morally but where is the
9 scientific facts. I mean Debbie mentioned the fact
10 that there really hasn't been any studies to say
11 that it's truly leaking to the extent that they're
12 saying. When she described that toothpaste thing
13 that was really for me as a... person very
14 descriptive. I mean you put enough pressure on it's
15 going to ooze and it's going to ooze in the wrong
16 places.

17 CHAIRPERSON ROSE: Mm-hmm.

18 JUDY MCCARTHY: I mean not that it's
19 great that it's there now under these conditions
20 but why make it worse? That's the part that I don't
21 understand except if you consider the money. If you
22 consider the money it makes a lot of sense to those
23 people that are putting it in their pockets. But
24 not as me as a person who's just had to rebuild my
25 house you know. I, the whole thought was that I'm

2 rebuilding because it had only, I've lived there 20
3 years never had a problem. Had I known that this
4 was something we're, they were proposing I don't
5 know that I would have. And there's a community
6 that, that's being lost. How many communities have
7 to be lost in order for them to get what they're
8 doing to the people.

9 CHAIRPERSON ROSE: Did anyone do or say
10 anything to you about the need to remediate your
11 property as a result of some of this outwash from..

12 JUDY MCCARTHY: Well they said, because
13 I'm in the Tremley Point area...

14 CHAIRPERSON ROSE: Uh-huh.

15 JUDY MCCARTHY: ...I know that my
16 neighbors farther, like in my neighborhood, but
17 farther to the east and a little further south I
18 know that they wanted to get soil studies and all
19 sorts of stuff and there was not anything done. So,
20 and they had fish in their basement. You know what
21 I mean this, it was,

22 CHAIRPERSON ROSE: Wow.

23 JUDY MCCARTHY: It's the kind of
24 experience you never forget and yes I do believe
25

2 that our soil had whatever came from Phillips 66 or
3 wherever all that oil but...

4 CHAIRPERSON ROSE: Right.

5 JUDY MCCARTHY: ...what I see is they're
6 making them raise up. They're making them set up
7 situations that this on our end of it were to come
8 through again we're not getting the contaminants
9 coming in. You can't change the, the one in place
10 because in logic it hadn't happened before. But
11 once something happens for you to disregard that
12 it's happened and not take action then shame on
13 you. I mean that's the way I look at it. The first
14 time I couldn't possibly know. But now we know and
15 they're making those, you know the companies raise
16 up. So why would you fill in areas that put us more
17 at risk again. You know it's like the left hand
18 doesn't know what the right hand's doing or doesn't
19 want to know. I think that because the federal
20 government can get involved if there's enough of an
21 outcry that you... because our particular state right
22 now from what I can see from how everything's being
23 streamlined...

24 CHAIRPERSON ROSE: Mm-hmm.
25

2 JUDY MCCARTHY: ...they're not interested
3 in what we feel as citizens. They're not interested
4 in what it might cost as long term. I think they're
5 looking at immediate you know... immediate
6 gratification I guess...

7 CHAIRPERSON ROSE: Right. Mm-hmm.

8 JUDY MCCARTHY: But, but you know the,
9 the money's there for them now and morally that's
10 terrible. I mean it's just, it, it amazes me that
11 in this day and age when we know what we know, when
12 the Siamid [phonetic] company was in there we
13 didn't know to the extent that we're aware now. So
14 yes, we don't want to step back. We really do want
15 to make those steps because we are conscious enough
16 to do so.

17 CHAIRPERSON ROSE: Thank you. And are
18 they currently monitoring the, the air quality?

19 JUDY MCCARTHY: Well no that's, that's
20 the whole thing with the permit. We tried to get a
21 hearing so that we could say you know what you need
22 to, we're already at our below standard. You need
23 to do some kind of study that, because there are
24 asthma issues. There's, you know all sorts of stuff
25 that is going on in our little community. And you

2 think about the truck route. You're going from New
3 York to New Jersey.

4 CHAIRPERSON ROSE: Mm-hmm.

5 JUDY MCCARTHY: That's a lot of
6 neighborhoods that it's going, those trucks, and if
7 it's 24/7 how many trucks and yet they said to us
8 when we looked into it that it's not relevant. Well
9 how is not relevant if you're having to be
10 subjected to all these trucks and there are all
11 this diesel that's going out into the air. How can
12 it not be relevant? It's not relevant because
13 they're not looking at it from the standpoint of if
14 you have a little child. Do you want your child to
15 grow up in this? You know I, I love my community.
16 It's been there a long time you know. And I've,
17 I've fought off and on through the years to stop
18 them from putting certain things in. But this, this
19 is not just one community. This is so numerous that
20 I can't believe that it's gotten to this point.
21 Like how, when so many people are involved how can
22 it not be heard? You know when it's a small
23 community okay you can sort of say well my voice...
24 But there's so many people that are involved in
25 this saying wait and they're just like oh, no you

2 don't understand. Yeah we do you're just not
3 listening to us. And that's the part that I just
4 find a little disconcerting in this day and age
5 especially because I pay my taxes you know. And,
6 and every year I pay my taxes so where's the money
7 going if not to represent me and all the other
8 individuals in my neighborhood, and your
9 neighborhoods?

10 CHAIRPERSON ROSE: Thank you. Lonnie do
11 you have anything else you would like to say?

12 LONNIE BARON: I would have to defer to
13 the Assemblyman on any further statements.

14 CHAIRPERSON ROSE: Okay.

15 [background comment, laughter]

16 CHAIRPERSON ROSE: Well thank you both
17 for, for testifying. So that, that was the last
18 panel.

19 JUDY MCCARTHY: Thank you very much. I
20 really appreciate you giving me an opportunity to
21 voice my concerns.

22 CHAIRPERSON ROSE: No, thank you and..
23 Thank you for the poem which humanizes the, the
24 entire experience and, and that's what this hearing
25 is about is the fact that people will be impacted

2 in addition to our natural areas and our fish and
3 our waterways will be impacted by this project. And
4 I just truly believe, I can't believe how cavalier
5 the Jersey government officials and the regulatory
6 agencies are looking at this project. It doesn't
7 take a rocket scientist to see that two million
8 point five tons of contaminated petroleum filled
9 fill on top of cyanide laced ground in a flood
10 plane is, is responsible, is responsible
11 remediation. And, and they need to call this what
12 it is. It is about... It's, it's just about money.
13 And, and the way of circumventing regulations that
14 have been put in place to ensure that projects like
15 this did not happen because of their, their long
16 term consequences. So I, I thank you so much for
17 you know putting a human face to this issue. And,
18 and Lonnie please express to the Assemblyman my
19 gratitude for sending his statement and for being
20 vigilant about this issue. I want to thank my Chair
21 of the EPA, the Environmental Protection Committee
22 for, for giving us the time to air this issue.
23 Often times issues that affect Staten Island aren't
24 given the same type of gravity but we're talking
25 about an issue that not only affects Staten Island.

2 We're talking about New Jersey and the fact that
3 these pollutants will enter our waterways which
4 goes along the Arthur Kill into the Kill Van Kull
5 into Newark Harbor has a much larger impact and the
6 ramifications are huge. And so I, I thank you for
7 allowing us to hear this issue. I want to ensure
8 you that this is not the end of it for, for us, for
9 my committee. We will be looking at Ms. Manns'
10 suggestions along with speaking to the repertory
11 organizations trying to get the Army Corp and the
12 EPA to reevaluate their jurisdictional issues. We
13 want them to look at the clean water... you know more
14 that's a part of the interstate environmental
15 permissions, EDIC so we're going to be doing more
16 about this.

17 JUDY MCCARTHY: And make the company if
18 they're so sure that this Petroleum contained
19 procedure that they have is so great that they have
20 to put up a bond that says 30 years from now we're
21 not going to be footing the bill. So if they, if,
22 it's like if I really believe in something I put
23 the money aside for it. And the fact that they
24 haven't put any money means that it's just
25 something they're saying. You know put your money

2 up, what it... put up or shut up I think that's the
3 phrase, so I'm being very basic but I mean it's
4 that, that whole principle that if they're so sure
5 why is there no money being you know held in trust
6 for this if there is long term ramifications that
7 could happen?

8 CHAIRPERSON ROSE: I agree. Thank you so
9 much.

10 JUDY MCCARTHY: Thank you.

11 CHAIRPERSON RICHARDS: Guess I will just
12 say some last things. First I want to thank Council
13 Member Debbie Rose whose leadership on this issue
14 has been un-paramount. And, and she's made it very
15 clear that this council has to take this issue up
16 for residents of Staten Island. And as a
17 representative of the Rockaways which I consider
18 the Staten Island of Queens you know I certainly am
19 sensitive to your particular issues and plights
20 and, and how you know many times our boroughs are
21 treated like the sixth borough and seventh borough
22 of New York City. But we stand with you whole
23 heartedly in your fight to ensure that we protect
24 not only your air quality but your water quality as
25 well. And that New Jersey treats New York City the

way New York City deserves to be treated. And I know they're still not over us taking the Brooklyn that's in New Jersey forming New Jersey Mets and have now come over to Brooklyn, they're becoming the Brooklyn Mets. So I think this is part of the battle we see ourselves in now. But on a serious note we have to ensure that we are protecting all communities, all waterfronts. And that responsible development is happening around our waterfronts and that we're protecting the environment. And, and obviously as a community both our communities were hit hardest on Hurricane Sandy I can't understand what New Jersey's logic is but I do understand politics and I do understand that campaign contributions and other things and jobs for friends and family members certainly probably paying a part in this discussion on that, on that part of the Earth. So with that being said thank you Council Member Rose. Thank you Samara for all your hard work and research on this issue and Jeff and, and the rest of, and everyone else. Thank you.

CHAIRPERSON ROSE:

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date June 15, 2014