

West 59th Street Comments

| First Name | Last Name | On Behalf of | Type of Comment |
|-------------|-----------|-------------------------------|-----------------|
| Andrew | Albert | | Letter |
| Kent | Barwick | | Letter |
| Tam | Bertsch | | Comment Sheet |
| Michael | Bradley | Riverside South Planning Corp | Letter |
| Gale A. | Brewer | | Letter |
| D. | Chin-Oh | | Comment Sheet |
| Noreen | Doyle | | Letter |
| C. Virginia | Fields | | Testimony |
| Michael | Gerrard | Durst Development LLC | Statement |
| Michael B. | Gerrard | | Testimony |
| Batya | Lewton | | Comment Sheet |



Community Board 7/Manhattan Comments
on the
NYC Department of Sanitation
New Solid Waste Management Plan
Draft Scoping Document for the DEIS
June 21, 2004
West Side YMCA

My name is Andrew Albert, and I am the Chairperson of Manhattan Community Board 7's Transportation Committee. The following comments and questions represent the collaborative work of CB7's Transportation, Parks and Health Committees.

The question of what to do with waste has plagued the City of New York for years, culminating in the famous "garbarge" episode, when a barge laden with New York garbage cruised the east coast, trying to find a port in which to land! Since then, we have made strides in certain areas, culminating in the closure of the Fresh Kills landfill, a bane in Staten Islander's existence for many years. As many communities throughout the city have refused to allow the burning of trash in their neighborhoods, the question remains: what should we do with our trash, and where should it go?

Community Board 7, which sits astride one of the Marine Transfer Stations, has many questions and concerns about the proposed change in the usage of the West 59th Street MTS. Leading off our concerns is the fact that, in the description of the area surrounding the 59th St. MTS, no mention is made of the fact that it is in the Hudson River Park, and at the border of Riverside Park South. As the Hudson River has gotten cleaner in recent years, many recreational activities have begun to spring up, notably kayaking and swimming. Yet, no mention is made of this. Additionally, although the area is currently zoned industrial and manufacturing, many new residential developments are already planned, with more on the drawing boards. Virtually no mention is made of these plans either. So, the logical first questions we have are:

1. When was this document drawn up? Is it still current? Still relevant?
2. What will be the effect of this new usage on the water quality?
3. What effect will the presence of waste in large quantities (and the smell generated) have on the park and its usage by the public?
4. Sites adjacent to the 59th St. MTS are converting to public use (parkland) in approximately a year - what will be the effect on the conversion of these areas to parkland? Will the public want to visit a park with a terrible odor, and tons of trucks converging on a daily basis?
5. What kind of noise will be generated by all the trucks? By the compactors? Since this is to be a 24-hour facility, will any safeguards to noise be instituted?

6. What routes will the trucks be using coming to and from the facility? How will they impact the already saturated streets, such as West End Avenue and Amsterdam Avenue? What kind of additional wear & tear on these streets is expected?
7. Will the trucks make any effort to avoid residential areas?
8. How many trucks per day are expected?
9. The DOT studies showing traffic counts as a result of the closing of the 72nd Street off-ramp of the Henry Hudson Parkway do NOT take into account the additional truck traffic that will be generated by this facility. Will those studies be re-visited?
10. Have any studies been done on whether this kind of facility is an efficient way of disposing of waste vs. other methods of waste disposal? Additionally have any studies been done on the production of energy produced from waste disposal?
11. Is the energy expended in the compacting and shipping processes an efficient use of energy and materials?
12. What will be the impact on air quality surrounding the facility? Will testing be done, and if so, how frequently?
13. What effect will the frequent barges have on the developing wetlands along the river? Will there be discharges into the river, and if so, how frequently? Will the river be monitored for cleanliness and abundance of wildlife?
14. Will the facility be subject to the City's DEP codes for noise and pollution, or, as a City facility, will inspectors "look the other way" on violations?

We are also submitting a series of more detailed comments and questions that relate directly to the Scoping document, which follow here. Thank you for the opportunity to comment.

1.3 Proposed Action

- What is the projected growth in population and solid waste disposal needs for the West 59th Street MTS catchment area? For Manhattan? For NYC? How do these compare with projected capacity of the MTS plan?
- What data and analyses will be used to evaluate the alternatives of 1) export from existing or new in-City private Transfer Stations and 2) waste-to-energy disposal facilities, 3) EBUF?
- What data and analyses have been used to plan for the disposal of recycling, including glass, metal, and paper? For the use of existing and new DSNY MTS facilities?
- What data and analyses will be used to determine the impacts on waste disposal of conservation and waste stream reduction measures?
- What data and analyses will be used to plan for the disposal of commercial waste? How will the available capacity of West 59th Street to accept commercial waste be determined?
- What model will the DEIS use to analyze the data associated with the different waste streams, and to plan for efficient, cost-effective disposal strategies? What cost-benefit analyses will be used?

- What are the design specifications for each proposed MTS? Why is a tipping floor, which results in a larger foot print, included? How much smaller would be the West 59th Street MTS be without a tipping floor?

The Scope for the DEIS (Scope) should be developed in the context of the 20-year Comprehensive Solid Waste Plan, which has not been released, and should include the information outline above.

2.1.6 West 59th Street Converted MTS, Manhattan

Northeast of the site, there is a mix of commercial zoning districts (C2-5, C4-7, C4-6A), industrial zoning (M1-6) and residential zoning (R10 and R8). Other sections dominated by residential uses are located between 10th and 11th Avenues, north of West 63rd Street and south of West 56th Street. (Ital used for excerpts from the Draft Scope.)

The Scope should use current and proposed zoning and analyze all impacts using new residential development from West 59th Street to West 63rd Street, as follows.

- 2-11 West End Avenue (Block 1151: Lots 1, 61, 63) has been rezoned from M1-6 to C4-7, and will soon have 300 residential units and a 150-space garage.
- The mid-block area of West 59th-West 60th Streets, West End Avenue to Amsterdam Avenue, (Block 1151: Lots 5, 9, 12, 51, 53) has been rezoned from M 1-6 to C6-2, and can be developed into 216 residential units and 15,000 square feet of community facility and retail use.
- The mid-block area of West 60th-West 61st Streets, West End Avenue to Amsterdam Avenue, (Block 1152: Lots 5, 8, 11, 12, 13) will soon be rezoned from M1-6 to R8, and will be developed as a residential property.
- 223 West 60th Street, Tuoro College (Block 1152: Lot 17) has been rezoned from R8 to C4-7, will have 101 residential units and 4 floors of college facilities.
- 150 Amsterdam Avenue, Red Cross Building, (Block 1158: Lot 129) has been sold, and will be developed under its R8 zoning.

Land uses include a large surface parking lot located northeast of the site.

To the north of the site, north of West 59th Street, there is a large surface parking facility, which serves as a buffer to the large Trump Riverside South Development that extends north from West 61st Street to West 67th Street.

The parking area is slated for development by 2011, if not before. The Scope should analyze all impacts of the MTS using the projected Riverside South data, as follows.

- Parcel L and M, just north of the MTS site along the Hudson River, will have 338 residential units and garages for 160 cars.
- Parcel N, north of the MTS site along West End Avenue, has 1.8 million square feet that will be developed as commercial or residential space.
- From West 61st- West 66th Street, more than 2600 residential units and garages for 1400 cars will be built.

- From West 66th-West 70th Streets, 2700 residential units and garages for 1300 cars have been built or are being constructed.

Land uses to the west of West Side Highway are dominated by transportation and utility uses, which utilize the piers to the south of the West 59th Street MTS. Consolidated Edison utilizes the pier immediately south of the site for fuel transfer operations.

The Scope should include analysis of the data with and without the ConEd fuel pier since the lease for the pier expires in the near future, and of the impacts of the proposed MTS on a new open space use of the pier.

In addition, DSNY utilizes Pier 97 at the terminus of West 57th Street for vehicle parking and various storage operations.

The Scope should include analysis of data with and without DSNY use of Pier 97 since DSNY will be leaving the pier, and of the impacts of the MTS on a new open space use of the pier.

The West Side Highway creates a buffer between the heavy industrial uses associated with the Hudson River waterfront in this section of Manhattan.

Land west of the West Side Highway and Miller Highway has been, or is being, developed as parkland. The Scope should include the study the impacts of the proposed MTS on the new Riverside Park South to the north and on the Hudson River Park to the south.

Significant land uses to the east of the facility include the DSNY Manhattan CDs M1, M2, M3, M4 and M7 garage facility on 12th Avenue between 55th and 57th Streets.

Only CDs M4 and M7 and the Manhattan A broom depot are, or will be housed, at the DSNY Manhattan garage facility on 12th Avenue. The scope should include analysis of the data with and without the additional trucks from CDs M1, M2, and M3 traveling into the area.

The New SWMP DEIS will evaluate DSNY-managed waste being delivered to the West 59th Street MTS by a variety of waste collection vehicles, primarily consisting of packer and dual-purpose trucks, and including collection vehicles operated by DSNY and other City agencies (e.g., NYCDPR, NYCHA and non-profit institutions).

The DEIS should include an analysis of emissions, traveling and idling, from the various types of vehicles, city and commercial, that would use the MTS, as well as include data for new vehicles and fuels that would produce fewer pollutants.

The CEQR requirements for full open-space analyses are geared toward new residential or commercial projects in which significant numbers of additional residents or employees utilize open spaces.

The Scope should include the increase in residential population mentioned above in the new residential development and Riverside South sections above.

2.2 Site-Specific Technical Studies

Each section assumes that the MTS sites are in “isolated, inaccessible, non-sensitive manufacturing districts.” The West 59th Street site is at the ends of two major parks, adjacent to two piers that will become open space, and is on the waterfront where recreational activities have been increasing in recent years.

This assumption should be changed to acknowledge the existing condition of West 59th Street, and perhaps other sites as well.

2.2.11 Waterfront Revitalization Program.

The NYCDCP “Waterfront Revitalization Program” has ten primary policies and 32 sub-policies. Table 2.2-2 outlines the applicability to the proposed action.

How was it determined that some of the sub-policies are not applicable or are site specific. The Scope should be expanded to evaluate waterfront impacts using all 32 sub-policies.

2.213.1.2 Future Department Operations

- **What is the peak day DSNY collection vehicle allocation by CD that would use the West 59th Street MTS?**
- **What is the average number of trucks/hour for each of the three shifts. What would the impact be if the station did not operate from 12:00 am until 8:00 am?**
- **What is the tonnage associated with a load?**
- **What is the average time a truck needs to enter, off-load and exit the MTS? How many trucks will be in a queue waiting to enter the MTS?**
- **Are the Manhattan recycling trucks that now use West 59th Street included in the development of the peak hours?**
- **Why are relay loads included in any modeling since the purpose of the new plan is to end truck transport to New Jersey? What would the numbers be without the relay loads?**
- **How many tons of DSNY waste per day are exported to local commercial waste vendors in the CDs that would use the West 59th Street MTS?**
- **What data will be developed to analyze employee parking on site?**

2.213.4 Traffic Study Area

How many trucks per day would come from each CD using West 59th Street?

The Commercial Waste Management Study describes how DSNY and other collection trucks are allowed to use any roadways they choose to get to a transfer station.

The Scope should include studies of DSNY assigned routes and the most likely routes from the catchment area CDs to the West 59th Street MTS and back.

Riverside South mitigations on West End Avenue, which will begin in July 2004, will change the traffic flow and intersections from West 59th to West 70th Streets.

The Scope should include these changes.



July 9, 2004

Harry Szarpanski
Assistant Commissioner
Department of Sanitation
44 Beaver Street, 12th floor
New York, NY 10004

Re: Comments on Draft Scoping Plan New SWMP Draft EIS


Dear Assistant Commissioner Szarpanski:

The Municipal Art Society is a private, non-profit membership organization whose mission is to promote a more livable city. Since 1893, the Society has worked to enrich the culture, neighborhoods and physical design of New York City. Riverside South, the large-scale mixed use development approved by New York City in 1992 which consists of a 75-acre site between West 72nd and 59th Street, from roughly West End Avenue to and including part of the Hudson River has been of long-term interest to the Society and our concerns about the Department of Sanitation's proposed new Solid Waste Management Plan form the basis for this letter.

Riverside South directly abuts the proposed Converted West 59th Street Marine Transfer Station, which is a part of the Department of Sanitation's proposed New Solid Waste Management Plan, now beginning the SEQR/CEQR environmental review process. The Municipal Art Society has concerns about potential significant adverse impacts associated with West 59th Street MTS component of the New SWP.

The Draft Scoping Plan describes the neighborhood around the West 59th Street Converted MTS site as wholly industrial in use and character and implies that the facility is unlikely to create significant adverse impacts. The description is misleading in its description of the existing condition. This area, including the West 59th Street MTS and the water area around it, is part of Hudson River Park, one of the major public parks in New York State, as well as a critical estuarine sanctuary. In addition, it is our position that the proposed Converted West 59th Street MTS must not conflict with future relocation of Miller Highway.

We trust that you will take these concerns into account as you continue your work on the environmental review process.

Sincerely,

Kent Barwick
Executive Director
Municipal Art Society of New York



COMMENT SHEET

FOR THE PROPOSED WEST 59TH STREET CONVERTED MARINE TRANSFER STATION

Name (Please Print): TAM BEETSCH

Agency/Organization/Resident: CR4

Address: 400 W 58th ST 3B
NY, NY 10019

Email: _____

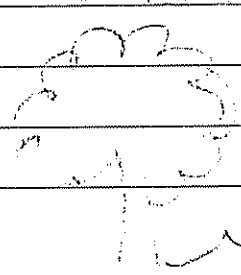
I would like to be added to your mailing list.

Please provide written comments on this sheet and drop into the comment box or mail to*:

New SWMP Comments
c/o Ecology and Environment, Inc.
90 Broad Street, Suite 1906
New York, NY 10004

***All mailed comments must be postmarked by July 9th, 2004 or delivered by 5:00pm on July 11th, 2004.**

COMMENTS: As A CR4 resident who remains in this
neighborhood chiefly for the close proximity to the
Hudson River PARK, please please please
do all you can to keep the PARK, pathways,
bikeways, air quality, view, foliage, etc.
in pristine condition. Please think of yourselves
using the park as much as local residents
when making decisions.

 Thank You!

Riverside South Planning Corporation

July 9, 2004

Harry Szarpanski
Assistant Commissioner
Department of Sanitation
44 Beaver Street, 12th floor
New York, NY 10004

Re: Comments on Draft Scoping Plan
New SWMP Draft EIS

Dear Assistant Commissioner Szarpanski:

The Riverside South Planning Corporation (RSPC) is a not-for-profit organization formed in 1991 to create and oversee the implementation of the master plan for Riverside South, the large-scale mixed use development approved by New York City in 1992 which consists of a 75-acre site between West 72nd and 59th Street, from roughly West End Avenue to and including part of the Hudson River. Riverside South directly abuts the proposed Converted West 59th Street Marine Transfer Station, which is a part of the Department of Sanitation's proposed New Solid Waste Management Plan, now beginning the SEQR/CEQR environmental review process. RSPC therefore has concerns about potential significant adverse impacts associated with West 59th Street MTS component of the New SWP and we offer our comments below. While we do not address the citywide aspects of the New SWMP here, we may also comment later on citywide issues when commenting on the New SWMP Draft EIS.

We have four principal general comments regarding the Environmental Assessment Statement and Draft Scoping Plan:

General Comment #1 – Study Area characterization is deficient

The description of the neighborhood around the West 59th Street Converted MTS site, found at Section 2.1.6 in the Draft Scoping Plan and incorporated into the EAS, is seriously flawed, and the area must be properly described so that potential adverse impacts can be properly assessed and appropriate alternatives or mitigation considered. The Draft Scoping Plan essentially describes the area as wholly industrial in use and character and implies broadly that the Converted West 59th Street MTS is therefore unlikely to create significant adverse impacts. However, nearly the entire description is either misleading or completely wrong, both in describing the existing condition and in ignoring land-use changes which are imminent (Draft Scoping Plan statements are in italics):

The site is located in an M2-3 manufacturing zone, which extends more than a half-mile north ... along the Hudson River Waterfront. The area north of the West 59th Street MTS

is mapped New York City parkland; parkland has no zone. This area is Riverside Park South, being constructed by the Riverside South developer in stages and deeded to the City as each stage is completed. Riverside Park South Phase III is under construction west of the Miller (West Side) Highway from West 65th to 62nd Street, including the Hudson River to the pierhead line; Phase IV, from West 62nd Street to the West 59th Street MTS property, also including all the land under water to the pierhead line, is expected to be completed in 2006. Nowhere in the Draft Scoping Plan is the existence of this mapped park acknowledged.

Land uses to the west of the West Side Highway are dominated by transportation and utility uses, which utilize the piers to the south of the West 59th Street MTS. This area, including the West 59th Street MTS and the water area around it, is part of Hudson River Park, one of the major public parks in New York State, as well as a critical estuarine sanctuary. There is no mention of the existence of Hudson River Park in the Draft Scoping Plan. The park area along the Hudson River between West 54th and 57th Street is known as "Clinton Cove" and is under construction, with completion in spring, 2005. The Hudson River Greenway bikeway/walkway, which connects the Battery to the George Washington Bridge along the Hudson River, passes along this area and directly in front on the West 59th Street MTS; this path is a major open space resource as well as a transportation facility.

In addition, DSNY utilizes Pier 97 at the terminus of West 57th Street for vehicle parking and various storage operations. Pier 97 is a public pier within Hudson River Park. The Hudson River Park Act of 1998 requires the Department of Sanitation to vacate the pier by December 31, 2003 to allow reconstruction of the pier for park use. The Department of Sanitation acknowledges that it is required to vacate the pier and has stated that it cannot do so until the new garage across the West Side Highway at West 55th-57th Street is completed. Describing this pier as a "transportation" or "industrial" use improperly characterizes this space and its underlying open space character.

To the north of the site, there is a large surface parking facility, which serves as a buffer to the large Trump Riverside South development that extends north from West 61st Street to West 67th Street. The large surface parking facility is part of Riverside South, which actually extends from West 72nd Street to West 59th Street, and therefore will not serve as a "buffer" when developed.

Residential uses are located further east of the site (east of 10th Avenue), between West 56th and West 63rd Streets. Outside of these residential sections, the blocks between 10th and 11th Avenues are institutional in nature There are numerous residential buildings in this area, and others under construction or imminent. City land-use policy has encouraged this redevelopment through rezonings, variances, special permits, and other actions. The majority of the New York City Housing Authority's Amsterdam Houses, a major low-income housing development, is located between West 61st and 63rd Street, from 10th (Amsterdam) to 11th (West End) Avenues. The Durst Organization is constructing The Helena, a multistory apartment building with winter 2004 occupancy, between West 57th and 58th Street, west of 11th Avenue. Two new apartment buildings

have been recently constructed between West 54th and 56th Street on the west side of 10th Avenue, and there are two large low-income NYCHA buildings between West 54th and 56th Street, east of 11th Avenue. Site clearance including demolition of a gas station is complete for a residential apartment tower being built at West 59th Street and West End Avenue, a project which required a rezoning from M1-6 to C4-7.

In addition, many of the “institutional” uses which are located in this area, including two universities, an elementary school, and a hospital, are more sensitive to increased truck traffic and associated adverse impacts than other uses which may more properly be characterized as “institutional” for purposes of an environmental assessment, such as a Department of Sanitation garage or a courthouse. Moreover, the Draft Scoping Document does not mention the Department of Parks & Recreation’s West 59th Street Recreation Center.

In conclusion, the Final Scoping Document and subsequent environmental review must reflect that the area potentially affected by the Converted West 59th Street MTS has a significant and growing residential population inland and enormously important and sensitive open spaces and natural resources along and in the Hudson River. As we will note below in specific comments regarding individual impact categories, the Draft EIS must analyze the proposed project as one which will be sited by and accessed through a large residential community (including a significant low-income community) and a waterfront park that Governor Pataki has called “the Central Park of the 21st Century”, and must consider alternatives which eliminate or minimize any significant adverse impacts to these residents and parks or propose appropriate mitigation.

General Comment #2 – Proposed Converted West 59th Street MTS must not conflict with future relocation of Miller Highway

The elevated Miller (West Side, Joe DiMaggio) Highway passes above Riverside Park South from West 72nd Street to West 59th Street, where it passes in front of the West 59th Street MTS, and comes to grade at West 57th Street. Relocation of the Miller Highway eastward into a tunnel under Riverside Park South and Riverside Boulevard and removal of the existing elevated roadway will benefit the park tremendously by creating a quiet, open greensward unsurpassed along the Manhattan waterfront. A Final EIS and Findings for the Miller Highway Project were published by the Empire State Development Corporation and the New York State Department of Transportation, and the Federal Highway Administration issued a Record of Decision, in 2001. The project is on the New York Transportation Improvement Plan for 2004-2006. The State and City have not proceeded with construction pending a commitment of funds for this work, but State DOT is continuing to fund design refinements and coordination with adjacent private construction, and City DOT has recently required that future blocks of Riverside Boulevard be built on top of a concrete structure in order to be compatible with a future relocated Miller Highway tunnel.

While the proposed Converted West 59th Street MTS facility itself will not conflict with a relocated highway, utility work in the right-of-way of the existing and future highway

alignments should be designed to avoid future construction, and the Draft EIS for the New SWMP must consider alternatives for truck access to the Converted West 59th Street MTS that complement the relocated highway and adjacent park.

General Comment #3 – 2006 Build Year is unrealistic and should be deferred

The EAS's determination that the New SWMP build year is 2006 is without a realistic basis because it does not allow adequate time for consideration of public comment and for completion of the necessary permitting processes.

The schedule for completion of the FEIS which was distributed by the Department of Sanitation at the Public Scoping Meetings, for example, allows comments on the Draft Scoping Plan to be faxed by July 11, 2004, and claims that the Final Scoping Document will be issued 4 days later, on July 14. The Draft EIS, based on that Final Scoping Document, is supposed to be issued August 6, 2004, or 3 weeks later. It seems impossible for the Draft EIS to take a "hard look" at issues raised during the scoping process, including what we believe to be significant oversights and errors in the Draft Scoping Document raised in our comments, in this short time.

The schedule announced by the Department of Sanitation for other public hearings also does not seem to reflect necessary required steps or reasonable review. The schedule for the NY State DEC Part 360 Permit hearing has it occurring concurrently with the Draft EIS hearing in September, 2004, but we believe that the DEC hearing follows publication of the Final EIS and Findings, which the schedule shows as occurring around December 9, 2004. Also following completion of the FEIS will be the permit process for the Army Corps of Engineers, including a public hearing after at least a 30-day public notice. It is not reasonable to suppose that the Army Corps process will take less than six months for a project of a size, complexity, and controversial nature as the New SWMP, and in fact is likely that it will take considerably longer. Major public projects in the Corps's New York Region consistently take longer than one year from the submission of an application to the Corps to obtain a permit.

If the Army Corps and DEC do issue the necessary permits, and there are no other delays, the Department of Sanitation may then bid the demolition and reconstruction work. The New York City contract bid and award process is complex and time-consuming. Once contracts have been awarded, certain marine work such as pile-driving is typically limited by the Army Corps and DEC to an approximately seven month period, or less, over warm weather months to protect the marine habitat. It is therefore highly unlikely that pile-driving following completion of demolition work could commence any earlier than April, 2006, and it would likely start much later. Completion of the Converted West 59th Street MTS and commencement of operations would therefore be extremely difficult to achieve by 2006.

Based on the above, the Department of Sanitation must reexamine its assumptions and determine a viable later Build Year, and demonstrate in the Draft EIS its rationale for that determination.

General Comment #4 – New SWMP DEIS must analyze impacts of Converted West 59th Street MTS used at full designed capacity

The Draft Scoping Document at Section 1.3.4 states that the proposed activity to be analyzed in the Draft EIS is use of the Converted West 59th Street MTS for Sanitation vehicles with residential waste, a proposed 1,068 tons per day with an estimated 124 Sanitation vehicles per peak day, less than half of the planned design capacity for this facility. Separately but concurrently, in April 2004 the Department of Sanitation completed a Commercial Waste Management Study analyzing whether Converting MTS's should be used for processing commercial solid waste; the Draft Scoping Document states that "if that Alternative is recommended, containerizing commercial waste at the Converted MTS's will be included in the Converted MTS Proposed Action." In addition, the Department of Sanitation has not definitively stated whether the Converted West 59th MTS would be used for processing recyclables, and if so, how great the volume of waste would be processed, and if not, where recyclables would otherwise be processed.

Whether or not the Department of Sanitation decides to add commercial waste processing and/or retain recyclable processing to the operation of the Converted West 59th Street MTS, the New SWMP Draft EIS must analyze the impacts of operation of that facility at its proposed design capacity. Unused capacity will inevitably be used, and to delay analysis of the potential impacts of using this capacity to accommodate commercial solid waste or other waste until after the Converted West 59th Street MTS is built and in operation would be improper segmentation of the environmental review for the project. The Draft EIS must therefore analyze potential impacts from average peak day truck traffic with the facility used at capacity in both the 8 a.m. to 8 p.m. and 8 p.m. to 8 a.m. periods.

Specific Comments to Draft Scoping Plan

Section 1.6.2 – Required Actions, Permits , and Approvals – New York State

The proposed Converted West 59th Street Marine Transfer Station is located within Hudson River Park and subject to the authorizing legislation, the Hudson River Park Act, Chapter 592 of the Laws of 1998. The HRP Act establishes the water area as an estuarine sanctuary and restricts the construction of new or rebuilt piers and other structures in the Hudson River. In particular, Section 8.3(b,c) of the Act prohibits the expansion of existing piers within the park beyond their existing footprints. Since the proposed activity at the West 59th Street MTS consists of demolishing the existing pier structure and constructing a new pier structure which, according to the plans on the Public Notice for the Public Scoping Meeting, appears to occupy a footprint approximately one-third larger than the existing footprint, that activity may not be allowed without state legislation amending the HRP Act to authorize it. The Department of Sanitation must therefore request that the Hudson River Park Trust review the plans for the Converted

West 59th Street MTS and determine whether or not they are consistent with the HRP Act.

Section 1.7 – Environmental Justice

As noted above in General Comment #1, the Draft Scoping Plan must include the NY City Housing Authority Amsterdam Houses, which begin approximately 1,200 feet from the site of the proposed Converted West 59th Street MTS, for Environmental Justice outreach and impact assessment purposes. If adequate outreach to residents of Amsterdam Houses has not already been undertaken, then an additional Public Scoping Meeting must be scheduled and the date by which comments must be received rescheduled to an appropriate later date.

Section 2.1.6 – West 59th Street Converted MTS, Manhattan

Errors and omissions in the site description are noted above in General Comment #1.

Section 2.2.1 – Land Use, Zoning, and Public Policy

As noted above in General Comment #1, the description of land use, zoning, and public policy in the draft coping plan is grossly inaccurate. Major public parks have been omitted and/or mischaracterized, and areas described as “industrial” or “institutional” are largely open space and residential. Zoning changes and other public policy initiatives, such as the creation of Hudson River Park, Mayor Bloomberg’s Manhattan Greenway initiative, mapping Riverside Park South as parkland, approval of the Riverside South large-scale development, the rezoning of a M1-6 zone to C4-7 to allow the Cambridge residential development at 2-10 West End Avenue, the Board of Standards and Appeals variance granted to Touro College for its planned facility and residence at 227 West 60th Street, and the pending ULURP action by John Jay College for its new expansion at West End Avenue 59th Street must be considered

Section 2.2.4 – Open Space

The Draft EIS must intensively assess the project for potential significant adverse impacts to the enormously important waterfront parks in which the Converted West 59th Street MTS would be sited or directly adjacent to. Potential impacts to be studied must include:

- Construction impacts on the open spaces and park use
- Visual and shadow impacts of the larger, taller facility on adjacent park areas
- Impacts on recreational users of the Manhattan Greenway bicycle and pedestrian path of truck traffic crossing the path to enter and leave the facility
- Visual, noise, odor and other impacts on adjacent park areas of truck traffic and queuing outside the facility and adjacent to park areas. Impacts should be studied both for the “Interim” and “Final” Riverside Park South designs and locations, as

approved by the New York City Planning Commission on August 20, 2001. Similarly, truck traffic impacts to open space must also be analyzed for truck routes if West 59th Street is closed to through traffic as part of the relocation of the Miller Highway, requiring trucks to access the facility via West 61st Street, then south on Riverside Boulevard adjacent to Riverside Park South.

- Traffic impacts of truck traffic to and from the facility on access to the planned boat trailer ramp into the Hudson River in Riverside Park South immediately north of West 59th Street
- Impacts on park areas of increased vermin at the facility due to the processing of organic waste

Phase IV of Riverside Park South, from West 62nd to West 59th Street, west of the Miller Highway to the Hudson River Pierhead line, directly abuts the proposed Converted West 59th Street MTS; the entire water area north of the existing facility is park. Phase IV is planned to be completed in 2006 and may include a passive lawn area, a small boat and kayak launch, and a small sailboat mooring area. The temporary bikeway/walkway in this area will be replaced with a pedestrian esplanade along the water and a bikeway under the highway which connects at West 59th Street to the Hudson River Park bikeway/walkway.

Since the water area along the north side of the Converted West 59th Street MTS is mapped parkland, it may not be used for any Department of Sanitation operations, including barge tieup, unless state legislation alienating that area from park use is approved. Because we anticipate that the Converted West 59th Street MTS may have significant adverse impacts to Hudson River Park and Riverside Park South, the Draft EIS should study possible mitigation measures, which should include use of the north side of the Converted West 59th Street MTS for public park uses including a public walkway and boat docking and access. In addition, while the design of the entire Converted West 59th Street MTS must be attractive and compatible with the parks, the north façade in particular must be designed to be attractive to park users looking at it from the north and must not be a blank wall.

Section 2.2.5 – Cultural Resources

The EAS does not identify and the Draft EIS must consider the visual and other impacts of truck traffic on the New York City landmark power station on the lot (believed to be Block 1106, Lot 1) directly across 12th Avenue from the proposed Converted West 59th Street MTS.

Section 2.2.6 – Urban Design, Visual Resources, and Shadows

The north side of West 59th Street between West End (11th) and 12th Avenues, directly east of the proposed Converted West 59th Street MTS, consists of a portion of Riverside Park South and of Riverside South Parcel M, an approved 18-story apartment building with 175 apartments, and Riverside South Parcel N, a 250,000 square foot site planned for a 1.8 million square foot commercial project for which the final proposal must receive

a special permit from the City Planning Commission. Parcel N is probably the largest privately-owned vacant parcel in midtown Manhattan, and therefore represents an unparalleled opportunity for the creation of a great urban space on the order of Rockefeller or Lincoln Centers. The Draft EIS must assess the visual, noise, odor, and other impacts of truck traffic and truck queuing to and from the Converted West 59th Street MTS on this future development, study alternative truck routes which do not use West 59th Street, and consider other mitigation for these impacts.

Section 2.2.7 – Neighborhood Character

As noted above in General Comment #1 and elsewhere in this letter, the neighborhood affected by the Converted West 59th Street MTS and its truck traffic is already more residential and community-facility based in nature than was described in the Draft Scoping Plan, and is rapidly becoming more so. The Draft EIS must analyze the impacts of truck traffic on residents and students in this area, and the impacts of truck traffic on planned and future residential development in this area.

Section 2.2.8 – Natural Resources

The Draft EIS must assess the impact to the aquatic habitat in the area of the Hudson River to be affected by the Converted West 59th Street MTS. In particular, the impact of additional shadowing of the river caused by the proposed larger pier footprint must be assessed. Aquatic species to be studied for potential impacts should include the endangered shortnose sturgeon:

Section 2.2.11 – Waterfront Revitalization Program

A major Waterfront Revitalization Program policy is public access to the waterfront. We anticipate that the Converted West 59th Street MTS will have a significant adverse impact on north-south access along the Hudson River, a major city and state initiative, due to trucks crossing the Hudson River Greenway path to enter and leave the facility. The Draft EIS must assess impacts to public access and propose mitigation (see “Pedestrians and Transit”, below).

Section 2.2.13 – Traffic and Transportation

The Draft EIS must properly analyze traffic impacts at the intersections of Riverside Boulevard (which are separate northbound and southbound streets in this area) and West 59th Street. Although Riverside Boulevard is not yet built in this area, it is a mapped street which is part of the mapping agreement and restrictive declaration for the Riverside South project. Although Riverside Boulevard in the area between West 62nd and West 59th Streets will have a different alignment after the Miller Highway is relocated, the intersections at West 59th Street are in the same locations. Riverside Boulevard when completed at West 59th Street will become a major north-south arterial street, connected to Riverside Drive at West 72nd street and serving as a collector street for all traffic to and from Riverside South.

Riverside Boulevard northbound at West 59th Street is a geometric continuation of 12th Avenue. Riverside Boulevard southbound, however, intersects with West 59th Street east of the Route 9A southbound service road (the entrance to the Converted West 59th Street MTS), requiring southbound traffic on Riverside Boulevard to turn right on West 59th Street, then immediate left onto the southbound service road. We therefore anticipate that there may be significant adverse impacts to traffic at these intersections caused by truck traffic and queuing for the Converted West 59th Street MTS. Mitigation alternatives for any such impacts should include separation of truck traffic via a flyover or tunnel (see “Transit and Pedestrians” below).

Section 2.2.14 – Air Quality

The Draft EIS must properly consider air quality impacts to park users on the waterfront, both along and in the Hudson River (boating and swimming) and study an alternative for Sanitation and other vehicle access to the Converted West 59th Street MTS using only zero or ultralow emission vehicles.

Section 2.2.16 – Noise

The Draft EIS must properly consider noise impacts to park users on the waterfront. Noise impacts should be assessed for both the existing condition with the elevated Miller Highway in place, and with the relocated Miller Highway. The Draft EIS should study an alternative analyzing the use of ultraquiet, such as electrically powered, Sanitation vehicles at the Converted West 59th Street MTS.

Section 2.2.17 – Construction Impacts

The Draft EIS must assess construction impacts to park users. It must also determine whether Converted West 59th Street construction may interfere with Riverside Park South Phase IV construction immediately adjacent. Use of mapped parkland immediately north of the existing facility, including the water area, may not be permitted for construction of a non-park-related facility on an adjacent parcel. In addition, the land under water directly adjacent to the northern edge of the existing facility from the shoreline westward 740 feet, about ¾ of the length of the existing pier, is not owned by the City of New York but is instead currently owned by the Riverside South developer, Hudson Waterfront Associates, and will not be deeded to the City until Riverside Park South Phase IV is completed and accepted by the Department of Parks. The Draft EIS must therefore analyze how demolition of the existing MTS and construction of the Converted MTS can be carried out using only the Department of Sanitation property.

Pedestrians and Transit

This impact category, while detailed in the EAS, is not listed in the Draft Scoping Plan. We anticipate that there will be a significant adverse impact to commuter and park users walking, biking, and skating on the Hudson River Greenway path directly in front of the

Converted West 59th Street MTS from truck traffic crossing the path to enter and leave the facility. The Department of Sanitation Commercial Waste Management Study of April, 2004 environmental assessment has already identified this as a likely significant adverse impact of having commercial waste trucks crossing this path.

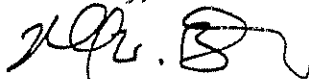
The Commercial Waste Management Study stated that "coordination with the Department of Parks and Recreation" would be sufficient to mitigate this impact. We consider this to be unworkable and unrealistic. At peak periods during warm weather the Greenway path is used by large numbers, and usage will increase as adjacent sections of Hudson River Park and Riverside Park South are completed and residential development along the path continues to grow. The Draft EIS must therefore consider alternatives for truck access which avoid a conflict between Greenway users and trucks as mitigation for this impact by separating the two uses. These alternatives include:

- A flyover bridge to carry trucks from West 59th Street east of the Miller Highway into an upper level of the Converted West 59th Street MTS. This should be studied for both the existing highway condition and for the relocated Miller Highway. The Miller Highway Final EIS studied a flyover option; the subsequent completion of the Hudson River Greenway makes this option more significant.
- A tunnel under West 59th Street or under the area south of West 59th Street, connecting either West 58th or West 59th Street east of the Miller Highway with the Converted West 59th Street MTS. This tunnel alternative should be analyzed for both the existing highway condition and with the relocated Miller Highway. The tunnel could be for vehicles, for rail, or for a conveyor system.
- In conjunction with both the flyover alternative and the tunnel alternative, the Draft EIS should study an alternative in which truck queuing, tipping, and waste compaction is performed off-site, possibly at a below-ground facility east of the Miller Highway located within the Riverside South project area.

Regarding transit, the Draft EIS must study impacts of truck traffic to and from the Converted West 59th Street MTS on New York City Transit's ability to offer bus service from the Upper West Side along Riverside Boulevard and then Route 9A/West Side Highway to midtown or downtown destinations. This route would intersect with trucks at West 59th Street and Riverside Boulevard/12th Avenue.

Thank you for your consideration of these comments. We would be happy to meet with the Department of Sanitation and its design and environmental consultants at any time to discuss these issues.

Sincerely,



Michael W. Bradley
Executive Director

cc: Manhattan Borough President C. Virginia Fields
Councilmember Gale Brewer
Thomas Kunkel, NYS DEC
Connie Fishman, Hudson River Park Trust
Commissioner Adrian Benepe, DPR
Chair Amanda Burden, DCP
Community Board 7
Community Board 4
Al Butzel, Friends of Hudson River Park

cc: Manhattan Borough President C. Virginia Fields
Councilmember Gale Brewer
Thomas Kunkel, NYS DEC
Connie Fishman, Hudson River Park Trust
Commissioner Adrian Benepe, DPR
Chair Amanda Burden, DCP
Al Butzel, Friends of Hudson River Park

From the office of *Council Member*
Gale A. Brewer

SANITATION WASTE TRANSFER HEARING

June 21, 2004

As you all know, the issue of an expanded marine waste transfer station at 59th Street is an extremely important issue our community and Council Member Brewer is very concerned about it. Unfortunately, The City Council and the Mayor are at the critical point in budget negotiations, and the Council Member is going to be at City Hall this evening. She will be preparing comments to respond by the July 9th 2004 deadline to the scoping document as proposed by the Department of Sanitation.

•Transportation

We are concerned that the scoping document doesn't fully consider all of the other future transportation impacts in the immediate vicinity. Already, a major residential development, the Durst site, at 57th and Eleventh Avenue is being built. Additionally, many other residents already live in the community. While it is our hope that the West Side Highway/Henry Hudson Parkway exit ramp at 72nd St not close anytime soon, the impact of any closure must be considered in the overall traffic scoping.

•Future Residential Development

There are many other residential developments planned for the immediate area in addition to the Durst site. By the time this project is finished in four years, there will be several other apartment houses nearby. We must defend interests of the future residents of our neighborhood.

•Park

As a community, many people worked for the Henry Hudson Park. It would be a tragedy that, after so many years of hard work and waiting, the full use of the Park would be jeopardized by this proposed transfer station expansion. The use of the Park must be fully addressed by the EIS.

•Context of the Overall Plan

We are concerned that this location will bear the brunt for the transfer of residential waste for entire borough of Manhattan. This can't happen—as is, 124 trucks per hour is a lot—the traffic impacts of the entire borough would be 476 trucks.

•Opens the Door for Commercial Waste Transfer

Three Million people work in Manhattan. One of the reasons why Council Member Brewer is extremely concerned about this site is that if this site starts operation, it could open the door for commercial waste transfer. That would be a disaster for the area. If we are saddled with the waste of three million people, this would be an extremely unfair burden for our neighborhood and is something else that we cannot allow to happen.

•Comments on the EIS

This is an important issue that affects not only our neighborhood but also the entire City and as I said earlier, the Council Member will be working with other officials in Manhattan to develop other substantive comments. Finally, the Council Member would like to thank Council Member Michael McMahon and Counsel to the Committee Carmen Cogna for their work on this issue.



COMMENT SHEET

FOR THE PROPOSED WEST 59TH STREET CONVERTED MARINE TRANSFER STATION

Name (Please Print): D. Chin-On

Agency/Organization/Resident: Resident

Address: 685 Sackman St.
Brooklyn, NY 11212

Email: _____

I would like to be added to your mailing list.

Please provide written comments on this sheet and drop into the comment box or mail to*:

New SWMP Comments
c/o Ecology and Environment, Inc.
90 Broad Street, Suite 1906
New York, NY 10004

***All mailed comments must be postmarked by July 9th, 2004 or delivered by 5:00pm on July 11th, 2004.**

COMMENTS: _____

Although hard data

was lacking in general terms, the statement

adequately delineates the proposal,



Hudson River Park Trust

May 24, 2004

Assistant Commissioner Harry Szarpanski
NYC Department of Sanitation
44 Beaver Street
New York, NY 10004

**Re: Draft Scoping Document for the New Comprehensive Solid Waste Management Plan
Draft Environmental Impact Statement (DEIS)**

Dear Assistant Commissioner Szarpanski:

The Hudson River Park Trust has reviewed the Draft Scoping Document for the New Comprehensive Solid Waste Management Plan Draft Environmental Impact Statement (DEIS) and has the following comments with respect to the West 59th Street Converted Marine Transfer Station (MTS) in Manhattan (Block 1109, Lot 99). This MTS is also known as Pier 99.

The Draft Scoping Document is deficient in that it needs to acknowledge the fact that Pier 99 is located within the boundaries of Hudson River Park. As you may know, Hudson River Park was created by New York State legislation (the "Hudson River Park Act," Chapter 592 of the Laws of 1998), and includes the area generally bounded by Battery Place at the south and the northern boundary of 59th Street and 59th Street extended at the north. The western boundary is the United States Pierhead Line and the eastern boundary is generally the westernmost point of Route 9A.

The Hudson River Park Act defines Pier 99 as a "compatible governmental use." Compatible governmental uses are defined as "a use within the park that is compatible with park use in accordance with the purposes of [the] act, such as ... the city of New York department of sanitation water-dependent marine transfer station on Pier 99." Under the terms of the Act, the existing marine transfer station is permitted to be located within the park, and the Trust has no objections to its continued operation. However, your department should be aware that the Act imposes many restrictions on activities within the park, including the over 400 acres of water that are located within it. For example, the Act prohibits construction beyond the historic footprints of the existing piers, and designates the entire water area as an estuarine sanctuary. We advise

the Department to familiarize itself with the terms of the Act; it is available on our web site at www.hudsonriverpark.org. We are available to answer any questions you may have regarding it.

The Trust requests that the description of the 59th Street Converted MTS be amended within the scoping document to include mention that this pier is located within the Hudson River Park area, and to acknowledge the ongoing construction of Hudson River Park in the surrounding area. The scoping document should also mention the existence of the Route 9A bikeway which runs parallel to the Hudson River Park area and is heavily used for recreation.

The DEIS should include an analysis of any potential expansion of the existing operations at the 59th Street Converted MTS, including a description of any increase in traffic or expansion of use in either the surrounding water or the upland area located to the east of the pier. Any new service or access road configurations should be assessed with respect to their possible effects on recreational users of Hudson River Park. The natural resources assessment should analyze any potential changes to the Hudson River habitat resulting from any expansion of operations or construction at the pier.

The Department should also know that the entire bulkhead within Hudson River Park is eligible for the State and National Registers of Historic Places, and that any construction on it is subject to the terms of a Programmatic Agreement executed by the U.S. Army Corps of Engineers, the Advisory Council on Historic Preservation, the New York State Historic Preservation Officer and the Hudson River Park Trust.

Finally, we request that the Hudson River Park Trust be added to your distribution list as an interested agency. Depending on the extent of work you propose at this facility, we may even need to be an involved agency, as the Act requires the Trust to hold hearings and perform many other functions with respect to the property in our jurisdiction.

Please contact me if you need further information. My number is 917-661-8756.

Sincerely,



Noreen Doyle
Executive Vice President

cc: Connie Fishman, President, Hudson River Park Trust
Laurie Silberfeld, General Counsel
New SWMP Comments c/o Ecology and Environment, Inc.



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

C. VIRGINIA FIELDS
BOROUGH PRESIDENT

COMMENTS OF MANHATTAN BOROUGH PRESIDENT
C. VIRGINIA FIELDS

on the
Draft Scope of the
City of New York Comprehensive Solid Waste Management Plan Draft Environmental Impact
Statement

West Side YMCA, 5 West 63rd Street, New York, NY

Monday, June 21, 2004

Good afternoon officials of the Department of Sanitation, ladies and gentlemen. I am C. Virginia Fields, President of the Borough of Manhattan. I will make some brief comments today and may submit further written comments on the Draft Scoping Document of the City's new, twenty-year Comprehensive Solid Waste Management Plan.

The focus of this meeting is the proposed demolition and rebuilding of a new, expanded marine transfer station (MTS) at 59th Street on the Hudson River. While I have supported the use of barge and rail as environmentally responsible ways of transporting our city's solid waste, I expressed concern when the administration released its plan for rebuilding the existing MTSs for containerization. This plan requires the expansion of the MTS in order to accommodate a large tipping floor and the extra space for containerization. An alternative to this plan would be the identification of a site for an enclosed barge unloading facility (EBUF) where solid waste dumped directly into barges is taken to be put into containers. Another alternative would be to identify other sites on the waterfront that would not violate DSNY's own siting guidelines, such as not locating the entrance to a facility within 400 feet of a park, school or residence.

When this plan was announced, I opposed the expansion of this facility and I was concerned about the localized truck impacts re-opening this MTS would bring. This MTS is adjacent to two parks and will be in close proximity to residential units being constructed as part of the Riverside South Development. In addition to expansion and truck impacts, a third issue is the proposed processing of commercial waste through the converted MTSs.

I recommend the following areas for inclusion in the scope of the environmental impact analysis:

**Statement of Michael B. Gerrard
Arnold & Porter LLP
On Behalf of
The Durst Organization**

**Concerning Scope of Environmental Impact Statement
New York City Department of Sanitation
New Comprehensive Solid Waste Management Plan**

June 21, 2004

My name is Michael Gerrard. I am an environmental lawyer with Arnold & Porter. I am appearing on behalf of The Durst Organization, which is currently building an apartment house known as the Helena on the block bounded by 57th and 58th Streets and 11th and 12th Avenues. The Helena will have approximately 500 units and will open in early 2005. This block was formerly zoned for manufacturing but a rezoning in 2001 allowed residential uses. Thus The Durst Organization has a great interest in the proposed Marine Transfer Station at West 59th Street.

We will be submitting detailed written comments before the July 11 deadline. I am appearing today just to make these points in the short time available:

1. The review process for the new solid waste management plan should not be separated from that for the Department of Sanitation's proposed siting requirements for transfer stations, which will undergo a public hearing one week from today. They are too intertwined to be segmented in this fashion.
2. The EIS should consider all feasible measures to reduce the environmental impact of the proposed transfer stations, and Sanitation should adopt all that are practicable, as required by SEQRA. Much recent work has focused on identifying such measures. In particular:

- a. The Environmental Performance Commitments and the Sustainable Design Guidelines that have been developed for the reconstruction of the World Trade Center site should be adopted for use on this project.
 - b. The recommendations in the U.S. EPA's book, *Waste Transfer Stations: A Manual for Decision-Making* (June 2002) should be considered.
 - c. The recommendations of the National Environmental Justice Advisory Council in its March 2000 report, *A Regulatory Strategy for Siting and Operating Waste Transfer Stations*, should also be considered.
3. For the proposed 59th Street MTS, particular attention should be paid to the truck traffic circulation and queuing patterns, to make sure that they do not adversely affect the local streets. The City should pay close attention to the Final Environmental Impact Statement for West 57th Street Rezoning that was accepted by the New York City Planning Commission, as lead agency, on March 16, 2001.
 4. The EIS should include an up-to-date discussion of the status of waste minimization and recycling efforts, and the extent to which the quantity of solid waste that requires transfer can be reduced.
 5. The EIS should carefully study the ecological effects of the shadows over the Hudson River that will be created by the construction and operation of the marine transfer station, and the effects of waste dropping or blowing into the River.

6. The hazardous constituents of the New York City municipal solid waste stream should be fully characterized, and their effects at and around the transfer stations should be analyzed.

We look forward to continuing to participate actively as this review process proceeds.

THE CITY OF NEW YORK DEPARTMENT OF SANITATION

DRAFT SCOPING DOCUMENT FOR THE CITY OF NEW YORK
COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN
DRAFT ENVIRONMENTAL IMPACT STATEMENT

COMMENTS ON BEHALF OF
DURST DEVELOPMENT LLC

MICHAEL B. GERRARD
Arnold & Porter LLP
399 Park Avenue
New York, NY 10022

July 9, 2004

STATEMENT OF MICHAEL B. GERRARD
ON BEHALF OF DURST DEVELOPMENT LLC CONCERNING THE
DRAFT SCOPING DOCUMENT FOR THE CITY OF NEW YORK
COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN
DRAFT ENVIRONMENTAL IMPACT STATEMENT

This statement is submitted on behalf of Durst Development LLC concerning the Draft Scoping Document for the City of New York Comprehensive Solid Waste Management Plan Draft Environmental Impact Statement (the "Scoping Document"), prepared by the New York City Department of Sanitation ("DSNY"). Durst Development has an interest in this matter because it is currently building a 500-unit apartment house, The Helena, between 57th and 58th Streets and 11th and 12th Avenues, not far from the 59th Street Marine Transfer Station. This building was the subject of a full environmental impact statement in 2001 and will open in early 2005. As described in that EIS and as approved through the same review process, Durst Development also plans to build a large commercial building on the western portion of the same block.

As New York City Local Law 74 for the year 2000 ("Local Law 74") emphasized, "[s]olid waste transfer stations and the trucks transporting waste to and from those facilities may generate such problems as dust, debris, noise, odors, air pollutants, vermin and traffic congestion."¹ DSNY should carefully consider the following to assure that the draft environmental impact statement ("DEIS") for New York City's new solid waste management plan ("new SWMP") effectively addresses all such impacts and accurately describes the Durst Development project.

¹ Local Law 74 § 1 (2000).

1. DSNY should integrate its review of the new SWMP with its review of its proposed WTS siting regulations.

The environmental review process for the new SWMP should not be separated from that for the DSNY's proposed siting requirements for transfer stations, which underwent a public hearing on June 28, 2004. The SEQRA regulations clarify that "[a]ctions commonly consist of a set of activities or steps," and "[t]he entire set of activities or steps must be considered the action."² The stated purposes of the new SWMP and the WTS siting rule amendments and their relationship to New York City Local Law 74 of 2000 ("Local Law 74") illuminate how both are part of *one* overarching action responding to the closure of the Fresh Kills Landfill.

The City Council enacted Local Law 74, requiring a comprehensive study of the City's commercial solid waste management system "to enable the City to assess and plan for management of both the residential and commercial waste streams in the most efficient manner, *to minimize the potential adverse impacts to the City's residential and business communities and the environment, and to assist in developing [the new SWMP].*"³ In addition to relying on the comprehensive study to develop the SWMP, DSNY "considered the results of the [comprehensive study] in proposing the new rules concerning the siting of private solid waste transfer stations."⁴

² 6 NYCRR § 617.3(g).

³ Local Law 74 § 1 (2000) (emphasis added).

⁴ DSNY's Notice of Public Hearing and Opportunity to Comment on Proposed Amendments to Rules Governing the Department of Sanitation's Siting Requirements Regarding Transfer Stations ("Notice") at 13.

Not only are the new SWMP and the proposed siting regulations informed by the same study mandated by Local Law 74, but also their stated purposes both concern potential impacts from converting the City's existing marine transfer stations (including the 59th Street WTS) listed in Table 1.3-1 of the Scoping Document into new marine transfer stations. The new SWMP relies heavily on the export of solid waste through marine transfer stations, and its purpose is "to set forth a plan for the long-term management of the City's solid waste in a cost-effective and environmentally responsible manner."⁵ The proposed siting regulations' purpose is "to reduce the potential for negative impacts from transfer stations on neighboring uses by imposing additional siting restrictions on transfer stations."⁶

Moreover, as SEQRA regulations emphasize:

Considering only a part or segment of an action is contrary to the intent of SEQRA. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment.⁷

Therefore, if DSNY (wrongly) segments its review of the proposed siting regulations from the new SWMP, DSNY must include its reasons why segmenting its consideration of the siting regulations from the EIS for the new SWMP is no less protective of the environment than including them within its scope. And this would be difficult; there is so much overlap between the regulations and the new SWMP that their review is inseparable.

⁵ Scoping Document § 1.2.

⁶ Notice at 13.

⁷ 6 NYCRR § 617.3(g)(1).

2. DSNY should minimize the new SWMP's environmental impacts to the maximum extent possible

SEQRA requires each agency that has gone through the EIS process for a proposed action to make a written findings statement that must:

certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.⁸

Much recent work has focused on identifying such measures, and DSNY should carefully consider it. In particular:

- The Environmental Performance Commitments and the Sustainable Design Guidelines that have been developed for the reconstruction of the World Trade Center site should be adopted for use on this project;
- The recommendations in the U.S. Environmental Protection Agency's ("EPA's") book, Waste Transfer Stations: A Manual for Decision-Making (June 2002) should be considered; and
- The recommendations of the National Environmental Justice Advisory Council in its March 2000 report, A Regulatory Strategy for Siting and Operating Waste Transfer Stations, should also be considered.

Of particular concern regarding SEQRA compliance is the possibility that the new SWMP would not require all City WTSs to be enclosed. DSNY's proposed amendments to the WTS siting rules require WTSs to be entirely enclosed only in community districts where at least 15% of the current WTSs are located. This does not avoid adverse environmental effects to the maximum extent practicable. For example, EPA has recently recommended that WTSs "[confine] noisy activities within specified buildings or other

⁸ 6 NYCRR § 617.11(d)(5).

enclosures.”⁹ To comply with SEQRA’s mandate to minimize environmental impacts, the new SWMP (and the WTS siting rules) should make the enclosure requirement apply to all WTSs. For similar reasons, variances from other WTS requirements that protect public health and the environment should not be allowed.

3. DSNY should provide adequate time between the issuance of the Final Scoping Statement and the issuance of the draft EIS.

The current timeline for public involvement in the new SWMP SEQRA process indicates that DSNY will issue the final Scoping Document for the DEIS on July 14, 2004 and the DEIS itself on August 6, 2004. A period of just three weeks between the final scoping statement and the DEIS is insufficient. The lead agency is to use “the final written scope . . . to determine whether to accept the draft EIS as adequate with respect to its scope and content for the purpose of commencing public review.”¹⁰ But if not even one month passes before the DEIS is issued, the final scoping statement cannot properly play that role.

The scoping process “must include an opportunity for public participation.”¹¹ In order for the input of interested parties to be meaningful, it is not enough that there be adequate time to amend the draft scoping statement to reflect that input. There must also be enough time for DSNY to meaningfully determine whether the DEIS is adequate in light of the final scoping statement. The very short time span between issuing the final

⁹ *Waste Transfer Stations: A Manual for Decision-Making* at 40 (Environmental Protection Agency, June 2002), available at <http://www.epa.gov/epaoswer/non-hw/muncpl/pubs/r02002.pdf>.

¹⁰ 6 NYCRR § 617.9(a)(2).

¹¹ 6 NYCRR § 617.8(e).

scoping statement and issuing the DEIS suggests that the scoping process is not really being used to shape the DEIS.

4. The DEIS should pay particular attention to traffic issues near the proposed 59th Street waste transfer station.

For the proposed upgraded 59th Street waste transfer station, particular attention should be paid to the truck traffic circulation and queuing patterns, to make sure that they do not adversely affect the local streets and the residential and commercial uses along them. EPA has recently emphasized that “[t]raffic causes the most significant offsite environmental impacts associated with larger waste transfer stations.”¹²

A PowerPoint slide distributed by DSNY at the June 21, 2004 public meeting on the Scoping Document indicates that no truck queuing will take place on the streets around the 59th Street WTS. The slide makes the following observations:

- Access Ramps are Longer
- Ramps are Designed to Support Queuing Trucks
- 10 Collection Vehicles can Queue on Site at West 59th Street
- Tipping Bay Space for 6 Trucks inside the Building

Ideally, there would be no off-site queuing. But the DEIS should consider where trucks would line up should the ten-truck queuing limit be exceeded. It should also carefully consider the traffic patterns that trucks would follow to arrive at and depart from the 59th Street WTS. Specifically, the DEIS should not countenance routing either truck queuing overflow or incoming and outgoing traffic along 57th or 58th streets. These streets border The Helena, a 500-unit apartment building, so routing trucks along

¹² Waste Transfer Stations: A Manual for Decision-Making at 38.

either of them would greatly exacerbate the adverse impacts of the 59th Street WTS on nearby residences. Instead, the DEIS should consider routing truck traffic and overflow along 59th Street. Near the WTS, west of 11th Avenue, 59th Street passes only a power plant to the south and a vacant lot to the north. Thus, 59th Street is a much less problematic choice for the line of entry and exit for trucks delivering waste to the 59th Street WTS. Durst Development intends to provide further information to DSNY about local truck travel patterns as the SEQRA process proceeds.

5. **The DEIS should include an up-to-date discussion of the status of waste minimization and recycling efforts and the extent to which the quantity of solid waste that requires transfer can be reduced.**

The Scoping Document does contain a section entitled “DSNY Recycling program – Proposed Action and Alternative.”¹³ In it DSNY indicates that it “intends to explore the use of existing and new DSNY MTS facilities in Manhattan for the acceptance and barge transport of recyclables in connection with [a] new long-term processing contract.”¹⁴ The EIS should fully discuss how DSNY intends to reduce the amounts of solid waste requiring transfer from the City to begin with. Particularly in light of *Natural Resources Defense Council v. New York City Dep’t of Sanitation*, the longstanding litigation surrounding DSNY’s failure to fully implement Local Law 19 of 1989, DSNY should extensively explore and discuss any waste minimization efforts it plans to implement as part of the new SWMP.

¹³ See Scoping Document § 1.3.3.

¹⁴ Scoping Document § 1.3.3.

6. The hazardous constituents of the New York City municipal solid waste stream should be fully characterized, and their effects at and around WTSs should be analyzed.

The Scoping Document appropriately says the DEIS “will include a hazardous materials assessment that determines (among other things) if . . . [t]he Proposed Action and Alternatives could lead to the increased exposure of people or the environment to hazardous materials” and if “[t]here is any presence of existing hazardous materials on project sites.”¹⁵ One of the major factors that will determine whether and what kinds of hazardous materials are or will be present at the WTSs is the character of the waste stream that has flowed and will flow through the WTSs.

Volume II of the comprehensive study of New York City commercial waste management, mandated by Local Rule 74, extensively determines “the *quantities* of putrescible, non-putrescible and fill material waste generated within the City that is managed by the private sector,”¹⁶ not the *character* of that waste. Volume II does descriptively categorize general types of City municipal waste. For example, Volume II distinguishes putrescible waste, non-putrescible waste, and fill material. But Volume II does not appear to provide an analysis of the hazardous constituents that can be present in these waste streams. Much hazardous waste enters the municipal solid waste stream as household hazardous waste and small quantity generator waste—not to mention any illegal disposal of non-exempt waste. DSNY should consider a full analysis to properly complete its hazardous materials assessment, for it is fundamental that the identities of

¹⁵ Scoping Document at 50.

¹⁶ Commercial Waste Management Study Consolidated Executive Summaries Volumes I Through IV at 5 (March 2004) (emphasis added).

the constituents entering a facility largely determine the nature of any substances leaving the facility's management control and entering the environment.

7. The DEIS should not misdescribe the area around the 59th Street WTS.

Chapter 2 of the Environmental Evaluation of the MTS Conversion Program ("MTS Environmental Evaluation") describes sites around WTSs that are to become upgraded marine transfer stations under the new SWMP. Section 2.8 includes a description of the site surrounding the 59th Street WTS. The MTS Environmental Evaluation describes significant land uses to the east of the 59th Street WTS as:

includ[ing] the DSNY Manhattan District M1, M2, M3, M4, and M7 garage facility on 12th Avenue between 55th and 57th Streets and commercial warehouses located along 12th Avenue and on adjacent cross streets. In addition, a Consolidated Edison generating facility is located to the east of the site, at 59th Street and 12th Avenue. Small-scale commercial enterprises such as grocery stores and automotive sales establishments are located along 11th Avenue to the east of the site. Residential uses are located further east of the site (east of 10th Avenue), between West 56th and West 63rd Streets. Outside of these residential sections, the blocks between 10th and 11th Avenues are institutional in nature, featuring significant uses on both sides of 10th Avenue north of West 58th Street.¹⁷

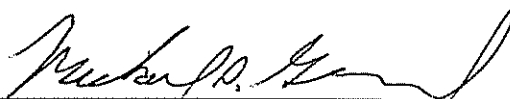
Absent from this description is the Durst project, which includes a 500-unit apartment building and, for future development, a large commercial building. The description of the 59th Street WTS site should be expanded to explicitly account for the significant uses the Durst property will support between 57th and 58th Streets and 11th and 12th Avenues. The Final Environmental Impact Statement for West 57th Street Rezoning that was accepted by the New York City Planning Commission, as lead agency, on March 16, 2001, provides a useful description of that property.

¹⁷ MTS Environmental Evaluation § 2.8.1.

Finally, although § 2.8 concerns the 59th Street WTS, its figures depict a converted WTS on East 91st Street. This could be confusing. For example, at § 2.8.2, the MTS Environmental Evaluation refers to Figure 2.8-2 as the 59th Street WTS's "Facility Footprint," but Figure 2.8-2 depicts the 91st Street WTS, along the East River.

Respectfully submitted,

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By: 
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COMMENT SHEET

FOR THE PROPOSED WEST 59TH STREET CONVERTED MARINE TRANSFER STATION

Name (Please Print): BATYA LEWIS

Agency/Organization/Resident: CLL

Address: 315 W. 86 St (2F)
NY NY 10024

Email: lvabl@newyork@earthlink.com

I would like to be added to your mailing list.

Please provide written comments on this sheet and drop into the comment box or mail to*:

New SWMP Comments
c/o Ecology and Environment, Inc.
90 Broad Street, Suite 1906
New York, NY 10004

***All mailed comments must be postmarked by July 9th, 2004 or delivered by 5:00pm on July 11th, 2004.**

COMMENTS:

Concerned that a need traffic study
of the impact of the planned new water "plant"
will be circumvented in the DEIS.