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PUBLIC HEARING ON PROPOSED  
AMENDMENTS TO RULES GOVERNING  
THE DEPARTMENT OF SANITATION'S  
SITING OF TRANSFER STATIONS

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April 23, 2003  
9:15 a.m.  
  
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2 MR. ORLIN: Good morning and  
3 welcome. My name is Robert Orlin. I am  
4 Deputy Commissioner of Legal Affairs  
5 for the Department of Sanitation.  
6 Thank you for attending the  
7 Department's hearing this morning.

8 The Department is conducting this  
9 hearing in accordance with the  
10 requirements of the City Administrative  
11 Procedure Act. The purpose of this  
12 hearing is to receive comments from the  
13 public on the Department's proposed  
14 rule governing certain restrictions to  
15 the siting of solid waste transfer  
16 stations. The Department published the  
17 proposed rule in the City Record on  
18 March 21, 2003. It mailed copies of  
19 the rule to all New York City local,  
20 state and federal elected officials, 59  
21 community board managers, many civic  
22 and environmental organizations, and to  
23 numerous companies that operate  
24 transfer stations in the City.

25 Pursuant to Local Law 40 of 1990,

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2                   the Department regulates private  
3                   transfer stations operating in New York  
4                   City that handle putrescible and  
5                   non-putrescible solid waste.

6                   In October 1998, the Department  
7                   promulgated transfer station siting  
8                   rules. These rules were challenged in  
9                   New York State Supreme Court by a  
10                  coalition of community groups, and the  
11                  State Court has retained jurisdiction  
12                  of this lawsuit until the Department  
13                  promulgates final siting rules.

14                 Pursuant to Local Law 74 of 2000,  
15                 the Department is undertaking a  
16                 Comprehensive Commercial Waste  
17                 Management Study of the City's existing  
18                 system for managing commercial  
19                 putrescible and non-putrescible solid  
20                 waste. This study will examine, among  
21                 other things, the potential  
22                 environmental, economic and health  
23                 impacts on communities in which  
24                 transfer stations are located, and the  
25                 effectiveness of the Department's

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2 transfer station siting criteria,  
3 including the aggregate effect of  
4 having transfer stations located in  
5 geographic proximity to each other.  
6 The study is to be completed by March  
7 2004.

8 The purpose of the proposed  
9 rule -- the subject of today's  
10 hearing -- is to place temporary  
11 restrictions on the issuance of certain  
12 transfer station permits  
13 until July 31, 2004, which would be  
14 following the City's release of the  
15 Comprehensive Commercial Waste Study  
16 due in March 2004. Having the  
17 temporary restrictions in place until  
18 July 31, 2004 will give the Department  
19 sufficient opportunity to review and  
20 take into account the findings and  
21 analyses of the Commercial Waste Study  
22 prior to the promulgation of permanent  
23 siting rules.

24 As proposed for non-putrescible  
25 transfer stations, the temporary rule

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2 would:

3 A) Prohibit the issuance of a  
4 permit to any new transfer station,  
5 except if the transfer station will be  
6 located at or adjacent to a rail yard  
7 or barge facility, and the solid waste  
8 is received and stored there at all  
9 times in leak-proof containers and  
10 removed by train or barge;

11 B) Prohibit the issuance of a  
12 permit to any existing facility to  
13 increase its lawful capacity; and

14 C) Allow the issuance of a permit  
15 to an existing facility to convert some  
16 or all of its lawful permitted capacity  
17 to putrescible capacity.

18 As proposed for fill material  
19 transfer stations, the temporary rule  
20 would:

21 A) Prohibit the issuance of a  
22 permit to any new fill material  
23 transfer station; and

24 B) Prohibit the issuance of a  
25 permit to any existing facility to

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2 increase its lawful capacity.

3 Finally, as proposed for  
4 putrescible transfer stations, the  
5 temporary rule would:

6 A) Prohibit the issuance of a  
7 permit to any new transfer station,  
8 except if the transfer station will be  
9 located at or adjacent to a rail yard  
10 or barge facility and the solid waste  
11 is received and stored there at all  
12 times in leak-proof containers and  
13 removed by train or barge; and

14 B) Allow the issuance of a permit  
15 to a transfer station to increase its  
16 lawful capacity, so long as the  
17 facility is not located in Brooklyn CB  
18 1 or Bronx CB 2. However, an existing  
19 Brooklyn CB 1 or Bronx CB 2 transfer  
20 station operator could increase its  
21 lawful capacity if the facility reduces  
22 its capacity by an equal or greater  
23 amount at another one of it's transfer  
24 stations in the same community board  
25 district.

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2 A court reporter is present today  
3 and will record the hearing. You may  
4 present an oral statement or submit  
5 written comments concerning the  
6 proposed rule. Please sign in at the  
7 entrance of the room if you wish to  
8 present an oral statement today. We  
9 have been accepting written comments on  
10 the proposed rule since its  
11 publication. Today is the deadline for  
12 submission of written comments.

13 The Department will make  
14 available a copy of all written  
15 comments received through today,  
16 together with the hearing transcript,  
17 during normal business hours in the  
18 Office of Legal Affairs, in Room 708 of  
19 this building on May 8, 9 and 12, 2003.  
20 We will also try to post the transcript  
21 on the Sanitation website by May 8th.

22 The Department will carefully  
23 consider all comments it receives today  
24 and all written comments already  
25 received to determine whether the

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2 proposed rule should be revised.

3 Following that consideration, we will  
4 issue a proposed final rule. The New  
5 York City Council will then have 30  
6 days to review and comment on the  
7 proposed final rule before its  
8 publication in the City record.

9 I will begin calling those of you  
10 who wish to speak this morning in the  
11 order in which you have signed in.  
12 When you speak, please state your name  
13 and the affiliation, and speak slowly  
14 and clearly, so the court reporter can  
15 understand and accurately record your  
16 statement. We also ask that you try to  
17 limit your statement to five minutes.

18 We will first call upon the  
19 public officials who wish to speak. I  
20 will begin by calling Councilman David  
21 Yassky of Brooklyn.

22 MR. YASSKY: Thank you very  
23 much. Thank you very much, Deputy  
24 Commissioner.

25 I have a written statement which



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2 I would like to place into the record,  
3 but I will summarize it for you.

4 My name is David Yassky. I  
5 represent the 33rd City Council  
6 District in Brooklyn, which includes  
7 much of Community Board 1 in Brooklyn,  
8 and I want to start by saying I very  
9 much appreciate the focus in these  
10 proposed regulations on Brooklyn  
11 Community Board 1 and Bronx Community  
12 Board 2. As you know, those community  
13 districts include neighborhoods that  
14 have been very much disproportionately  
15 burdened by the flow of residential and  
16 commercial waste, but particularly  
17 commercial waste, and so I do believe  
18 that those deserve special  
19 consideration.

20 There are two concerns I have.  
21 While I applaud the focus in the  
22 proposed rules on the use of rail and  
23 barge to remove garbage from the  
24 City -- the more we can get the  
25 18-wheeler tractor trucks off the roads

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2 which are coming in and out of the  
3 transfer stations, which are so  
4 clustered in Brooklyn and the Bronx  
5 community, the better that will be, I  
6 think, in terms of great benefit to the  
7 respiratory health of those  
8 neighborhoods and the general quality  
9 of life in those neighborhoods.

10 But there are two places where I  
11 do believe your proposed regulations do  
12 need improvement.

13 One is that under your proposed  
14 regulations, additional transfer  
15 stations would be, or additional  
16 transfer station capacity would be,  
17 permitted in Brooklyn Community Board 1  
18 or Bronx Community Board 2 so long as  
19 the waste would be removed by rail or  
20 barge.

21 Again, I understand the focus on  
22 rail and barge, but given the  
23 tremendously disproportionate burden  
24 these neighborhoods already face, I  
25 believe and urge you to adopt in your

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2 rules a policy that no additional  
3 capacity would be permitted in those  
4 districts without a commensurate  
5 reduction in the capacity elsewhere  
6 within the district. So you propose  
7 that generally, but there's an  
8 exception to that rule, as I understand  
9 it, where the waste would be removed by  
10 barge or rail. I think even when  
11 removed by barge or rail, still the  
12 capacity should be reduced within that  
13 same district.

14 And I would just note that under  
15 the previous administration, the Deputy  
16 Mayor and the Sanitation Department  
17 signed a written moratorium on the  
18 increase of transfer stations' capacity  
19 in those two community districts. I  
20 believe that moratorium should still be  
21 considered to be in effect. I  
22 understand the Department takes a  
23 position that it is no longer in  
24 effect, but compared to that  
25 moratorium, these regulations actually

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2 then permit an increase in site  
3 capacity in the two very, very affected  
4 community districts compared to the  
5 previous rules.

6 So I don't think such an increase  
7 should be permitted. I don't think  
8 such a net increase should be  
9 permitted. So if there are going to be  
10 any increases, they should be offset by  
11 reductions elsewhere within the same  
12 district.

13 Secondly, if I understand it,  
14 your proposed rules do permit an  
15 existing transfer station within the  
16 two affected districts, Brooklyn  
17 Community Board 1 and Bronx Community  
18 Board 2 in the Bronx, to convert its  
19 capacity from construction and  
20 demolition debris to putrescible  
21 waste. I would oppose that.  
22 Putrescible waste proposes special  
23 burdens; the smell, the rodent problem  
24 they attract. I think those are  
25 particular burdens on the

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2 neighborhoods, and I think it is simply  
3 not fair to those very much affected  
4 districts to permit existing transfer  
5 stations to convert from C and D to  
6 putrescible waste.

7 Thank you very much for the  
8 opportunity to testify before you  
9 today.

10 MR. ORLIN: Thank you.

11 The next person to speak will be  
12 Carmen Cognaetta. Mr. Cognaetta is the  
13 Counsel to the New York City Committee  
14 on Sanitation and Solid Waste. He is  
15 here representing the Honorable Michael  
16 McMahan of Staten Island.

17 MR. COGNETTA: Thank you. Good  
18 morning.

19 As the Deputy Commissioner  
20 stated, I am Carmen Cognaetta, Counsel  
21 to the Committee on Sanitation and  
22 Solid Waste of the City Council. I'm  
23 representing Committee Chairman Council  
24 Member Michael McMahan, who is out of  
25 state and unable to testify today. He

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2 did prepare a statement that he asked  
3 me to read before you here today.

4 Much of what he has to say in his  
5 statement is similar to what Councilman  
6 Yassky had to say about the objection  
7 to certain parts of the proposal.

8 I am very happy to have this  
9 opportunity to speak to the Department  
10 of Sanitation's proposed amendments to  
11 the rules governing the siting of waste  
12 transfer stations.

13 Since I took office in January,  
14 2002, the problem of transfer stations  
15 located in our communities has been a  
16 top priority for both the Council's  
17 Sanitation Committee and myself. I  
18 have made at least two visits in the  
19 last year to observe firsthand the  
20 devastating effect waste transfer  
21 stations have on their neighborhoods,  
22 particularly in the Bronx and  
23 Brooklyn.

24 Since 1990, the Council has  
25 maintained oversight of the operation

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2                   of private waste transfer stations and  
3                   their regulation by the Department of  
4                   Sanitation. During the course of these  
5                   hearings, the council received  
6                   testimony indicating the following:  
7                   1) That certain areas of the City  
8                   contained a disproportionate number of  
9                   transfer stations;  
10                  2) the Department does not  
11                  expeditiously complete environmental  
12                  reviews of locations for permits for  
13                  new transfer stations or for changed or  
14                  expanded capacity and authorizes the  
15                  operation of transfer stations while  
16                  the environmental reviews are pending;  
17                  3) the Department allows transfer  
18                  stations to operate pursuant to consent  
19                  orders rather than pursuant to a  
20                  permit, and;  
21                  4) Continuing problems exist with  
22                  regard to odors from transfer stations,  
23                  inadequate enforcement and allowing  
24                  operators who violate relevant laws to  
25                  renew their permits.

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2 Based on the ongoing problems  
3 associated with the siting and  
4 enforcement of regulations concerning  
5 waste transfer stations, I am opposed  
6 to any new waste transfer stations  
7 being permitted, allowing existing  
8 stations to be expanded or allowing  
9 existing stations to convert from  
10 non-putrescible to putrescible waste  
11 until the Comprehensive Commercial  
12 Waste Study is completed and the new  
13 10-year plan is submitted.

14 Local law 74 of 2000 was passed  
15 specifically to force a study on a  
16 number of issues surrounding land based  
17 waste transfer stations. Included  
18 among study requirements are the  
19 procedures and criteria for the  
20 issuance of permits, means and  
21 potential effects of limiting the  
22 number and capacity of transfer  
23 stations, how laws regarding transfer  
24 stations are enforced and who should  
25 enforce them and potential



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2 environmental, economic and public  
3 health impacts on communities. Waiting  
4 another year until this study is  
5 completed before making any increases  
6 to putrescible transfer stations is the  
7 more prudent course to take.

8 All types of transfer stations,  
9 fill, construction and demolition and  
10 putrescible solid waste have negative  
11 impacts on communities, none more so  
12 than putrescible transfer stations. In  
13 addition to the constant truck traffic  
14 in and out of all three types of  
15 stations, with the noise, dangerous  
16 fumes and the traffic problems they  
17 cause, putrescible transfer stations  
18 have the added problems of attracting  
19 rats and emitting terrible odors that  
20 contaminate and are dangerous to any  
21 neighborhood where they are located.

22 I am troubled by the new rules  
23 that appear to allow the creation of  
24 more putrescible transfer stations  
25 while stating up front that no new

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2 transfer stations will be approved.

3 Rule 4-36(b) would allow existing  
4 construction and demolition transfer  
5 stations to convert some or all of  
6 their permitted capacity to be used for  
7 putrescible solid waste. I am opposed  
8 to this rule change. It would allow  
9 the conversions even in Community  
10 District 1 in Brooklyn and Community  
11 District 2 in the Bronx, the two  
12 districts that accept the great  
13 majority of the City putrescible  
14 waste.

15 Rule 4-38(b) would allow existing  
16 putrescible waste stations to increase  
17 their capacity if they are located in  
18 any district other than Community  
19 District 1 in Brooklyn or Community  
20 District 2 in the Bronx. It also  
21 allows for the expansion of stations  
22 located in Brooklyn Community Board 1  
23 and Bronx Community Board 2 if the  
24 owner/operator decreases the lawful  
25 permitted capacity in another

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2 putrescible or non-putrescible waste  
3 station within the same community  
4 district. This would allow more  
5 putrescible waste to come into these  
6 already overburdened districts.

7 Rule 4-38(c) provides for the  
8 expansions of existing putrescible  
9 waste stations if they receive, store  
10 and ship solid waste in leak-proof  
11 containers and the containers are  
12 removed by barge or rail.

13 While this proposal fits in with  
14 the general plan of moving our solid  
15 waste by barge or rail, thereby  
16 eliminating excessive truck traffic  
17 through our neighborhoods, it still  
18 raises questions, particularly if the  
19 new stations are located in or near  
20 residential communities.

21 Does leak-proof mean odor proof?  
22 How long will the containers be stored  
23 at the transfer station? Who will  
24 ensure that the solid waste arrives in  
25 leak-proof containers as well as

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2 departs in them? Will there be enough  
3 enforcement agents to oversee the new  
4 facilities? Does just the expanded  
5 capacity have to be in sealed  
6 containers or the total capacity of the  
7 station? I therefore am against this  
8 proposal.

9 To summarize, I am against rule  
10 4-36(b) and 4-38(b) and (c). I am in  
11 favor of proposed rule 4-36(a) 4-36(c),  
12 4-37 and 4-38(a). I recommend that the  
13 proposed rules be amended to ensure  
14 that no new waste transfer stations of  
15 any type be permitted except for the  
16 provision in Rule 4-36(c) until the  
17 commercial waste study is completed, we  
18 owe it to our citizens to have the  
19 Comprehensive Commercial Waste Study  
20 completed examining the full effects of  
21 the transfer stations on their  
22 communities before we add additional  
23 stations or convert existing one to  
24 receive more putrescible waste.

25 Thank you for the opportunity to

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2 testify today. I supplied a copy to  
3 the stenographer.

4 MR. ORLIN: Thank you.

5 The next speaker is Gail Suchman.

6 MS. SUCHMAN: Good morning. My  
7 name is Gail Suchman. I am the Senior  
8 Environmental Counsel at New York  
9 Lawyers for Public Interest and I am  
10 testifying today on behalf of the New  
11 York lawyers and the Organization of  
12 Waterfront Neighborhoods or OWN.

13 OWN is very well-known to the  
14 Department, so I won't go into the  
15 details about describing the  
16 organization or its mission. I will  
17 just note for the record that OWN is  
18 the lead plaintiff in the lawsuit  
19 against the Department on the siting  
20 regulations.

21 I have submitted written  
22 testimony, and I won't be reading that  
23 into the record, it speaks for itself.  
24 But I want to make a few brief comments  
25 in supplement.

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2 It was in August 2002 when the  
3 Mayor announced a plan to utilize  
4 marine transfer stations for the  
5 containerization and direct export of  
6 garbage by barge. The design of that  
7 plan is underway. As Mr. Orlin  
8 mentioned, the Department is also in  
9 the middle of its commercial waste  
10 study to finally get a handle on waste  
11 stream in the City.

12 All of this effort is leading  
13 towards development of a 20-year solid  
14 waste management plan. If we make  
15 mistakes now, communities may suffer  
16 for two more decades, as they have for  
17 the last decade and a half.

18 OWN for some time has advocated a  
19 temporary moratorium on permitting of  
20 all solid waste transfer stations, so  
21 that the City could see if it actually  
22 needed more transfer station capacity.

23 These are awful facilities to  
24 live near. There is no dispute about  
25 that. If we don't need them, the City

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2 shouldn't allow them.

3 The City has broad power to  
4 regulate and protect public health and  
5 the environment including by imposing a  
6 moratorium on permits. But as is so  
7 often the case, what the Department of  
8 Sanitation has given with one hand it  
9 has taken away by the other.

10 The proposed regulations put a  
11 temporary halt to permits for C and D  
12 and fill material stations, and this is  
13 good. There is an enormous amount of  
14 excess capacity in the stations. There  
15 is some excess capacity for the  
16 putrescible stations, as well, and we  
17 have calculated that anywhere between  
18 10 and 20 percent. But we recognize  
19 that is based on a certain amount of  
20 garbage being trucked directly to New  
21 Jersey for handling. Certainly, a  
22 complete moratorium is reasonable and  
23 manageable, at least until October,  
24 2004 when the SWAB is due to be in  
25 place, and we would support Councilman

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2 McMahan on his position for a complete  
3 moratorium. And, remember, the marine  
4 transfer station system, while its  
5 looking first at the residential  
6 garbage, may also be directed at  
7 commercial putrescible waste. This  
8 would further reduce the need for  
9 truck-based transfer stations. So why  
10 now issue regulations that permit  
11 significant increases in the capacity  
12 of putrescible garbage in truck-based  
13 transfer stations? And much of this is  
14 in the same neighborhoods that already  
15 bear the burden of these stations.  
16 This is counter-intuitive. So if the  
17 Department determines and demonstrates  
18 a real need for some temporary  
19 putrescible capacity until the MTS plan  
20 is in place, then these proposed  
21 regulations should provide for it, but  
22 no more. There is no other way to  
23 assure that the truck-based transfer  
24 stations will be shut down over time.  
25 That is what the communities want.



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2 And, in fact, frankly, that's what the  
3 Mayor said he wanted.

4 Therefore, while we still are  
5 recommending a full moratorium until  
6 October, 2004, if these regulations go  
7 forward we would recommend the  
8 following changes:

9 Pending the implementation of the  
10 Mayor's plan, all increases granted,  
11 regardless of community district,  
12 should be temporary with a clear sunset  
13 date; stringent conditions in the  
14 permits should set clear sunset dates,  
15 meaning that there should be no  
16 expectation on the part of a solid  
17 waste transfer station operator or  
18 owner that they will be allowed to  
19 operate with this putrescible capacity  
20 beyond a certain date.

21 These are low-tech, low-budget,  
22 low-capital facilities, and if these  
23 operators get to operate for three  
24 years taking putrescible waste, they  
25 will make plenty of money.

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2 In Brooklyn Community District 1  
3 and Bronx Community District 2,  
4 required offsets for putrescible waste  
5 should be permanent, and traded at a  
6 ratio of 2:1, not 1:1, and for the  
7 capacity actually used, not just for  
8 the capacity that's on paper. In these  
9 communities the goal must be to reduce  
10 the amount of waste currently handled  
11 in those overburdened communities, not  
12 to increase the burdens.

13 Bronx Community District 1 must  
14 be included in the same category as  
15 Bronx Community District 2. The  
16 stations in those districts are in  
17 close proximity to one another and the  
18 negative impacts are indistinguishable  
19 from one district to another.

20 No variances of these interim  
21 siting restrictions or the current  
22 regulations should be granted. That  
23 would defeat the purpose of these  
24 restrictions. If the regulations do  
25 not allow an increase, then that's the

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2 end of the story.

3 With respect to conversions, my  
4 written testimony says that a straight  
5 conversion should be prohibited under  
6 all circumstances, because the impacts  
7 of handling putrescible waste are  
8 greater than the impacts of handling C  
9 and D material. That's because we are  
10 not just talking about the trucks,  
11 we're talking about odors, talking  
12 about rodents, and the socioeconomic  
13 impact of having putrescible waste in  
14 the middle of your neighborhood.

15 But if they are allowed, they  
16 should be at only facilities currently  
17 handling putrescible waste now. They  
18 should be temporary, and they should  
19 have a greater than 1:1 swap to try to  
20 make up for the increased impacts.

21 If a facility is a C and D --  
22 solely a C and D facility now, no  
23 conversion should be allowed. This is  
24 a brand-new permit. They should not be  
25 allowed under the regulations.

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2 With respect to Brooklyn 1 and  
3 Bronx 1 and 2, the conversions really  
4 should be treated exactly like  
5 increases in capacity, which should  
6 require 2:1 offsets, and should be  
7 calculated and based on the capacity  
8 actually used.

9 I view these proposed regulatory  
10 changes as a defining moment for the  
11 Department. They will demonstrate  
12 whether the Department really wants to  
13 get the 20-year SWAB right the first  
14 time, and wants to find a better way to  
15 handle our garbage, rather than truck  
16 it around the universe.

17 Thank you very much.

18 MR. ORLIN: Thank you.

19 Copies of Gail Suchman's  
20 testimony are available on the way  
21 out.

22 The next speaker is Gertrude  
23 Gonesh.

24 MS. GONESH: Good morning. My  
25 name is Gertrude S. Gonesh. I'm

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2                                   president of the Nashville Boulevard  
3                                   Block Association in Southeast Queens.  
4                                   My residence is a block over from a  
5                                   transfer station. Every month, reports  
6                                   go out to DEC, DSNY, and everybody  
7                                   involved with the transfer station with  
8                                   pictures stating the violations that  
9                                   are continuously being conducted or  
10                                  operated in this M-1 zone.

11                                 I am not going to take five  
12                                 minutes, because my vice president has  
13                                 something to show you.

14                                 We have tried to work with Cross  
15                                 Country, Inc. repeatedly about  
16                                 adherence to the rules and regulations  
17                                 cited in the Sanitation book about  
18                                 traffic and their codes. And we still  
19                                 have the same problems. Operating  
20                                 beyond the hours stated on the permit,  
21                                 operating with idling diesel truck  
22                                 engines in an M-1 zone, on a narrow  
23                                 street that might be able to hold two  
24                                 cars going in each direction.

25                                 And no matter how we try to get

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2 assistance or help or enforcement of  
3 these laws for Sanitation, health  
4 issues and everything, we are not  
5 getting any cooperation.

6 Now I am asking for the study as  
7 stated by the previous speakers to  
8 continue, and not to grant any extra  
9 hours of operation, or any extra amount  
10 of putrescible waste to come in. And I  
11 wish I had time enough to give you the  
12 pictures to show you about the tipping  
13 and to show you about the irregular  
14 hours of operations of this building.

15 According to the their  
16 guidelines -- I didn't make the  
17 guidelines. They did. But they are  
18 not being enforced.

19 And when you call to ask for  
20 help, they send someone maybe six,  
21 eight, ten, hours later or the next  
22 day, and they tell you they find  
23 nothing; even though they got the  
24 pictures.

25 So all I am asking for is not to

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2 grant any extra variance for this  
3 particular transfer station.

4 And you're going to see, when you  
5 try to work with the owners of the  
6 building, what happened to me, and what  
7 happened to another resident.

8 Thank you.

9 MR. ORLIN: The next speaker is  
10 Crystal Ervin.

11 MS. ERVIN: Good morning. My  
12 name is Crystal Ervin, and I'm speaking  
13 on behalf of the homeowners and  
14 residents of 103rd Road in Jamaica  
15 Queens. We live within one block of  
16 one of the larger transfer station in  
17 Southeast Queens, and within  
18 approximately a quarter of a mile we  
19 have a major cluster of waste transfer  
20 stations.

21 Now, I first would like to start  
22 off by saying we strongly we oppose  
23 anything that is going to assist these  
24 transfer stations, particularly those  
25 handling demolition waste and being

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2 allowed to convert it to putrescible  
3 waste. Because in a sense they're  
4 back-dooring those expansion requests  
5 that they had in for putrescible waste  
6 and were denied for or are still  
7 waiting for answers on, and there are  
8 supposed to be moratoriums pending on  
9 any increases.

10 We strongly object to or are  
11 opposed to yet another set of rules  
12 that allow the owners and operators of  
13 these types of business to literally  
14 take over a community.

15 If, in fact, New York City zoning  
16 regulations and siting regulations were  
17 enforced, we wouldn't be here today,  
18 because they wouldn't exist in M-1  
19 zones that buffer residential  
20 neighborhoods.

21 The waste transfer stations  
22 specifically in my area are in  
23 violation of one of these either zoning  
24 or siting laws on a daily basis. And  
25 as the previous speaker mentioned, when



1                   4/23/03 PUBLIC HEARING  
2                   calling for assistance, no one finds  
3                   anything wrong. It makes you feel like  
4                   you're dreaming up most of the  
5                   complaints you're handing over.

6                   We're asking that those governing  
7                   agencies, meaning New York State, DEC,  
8                   New York City Department of Sanitation,  
9                   the Department of Buildings -- those  
10                  agencies which are in control of  
11                  permitting these businesses, you know,  
12                  they are assisting, in a sense, to  
13                  these people or these businesses  
14                  breaking laws, because no one is  
15                  enforcing the laws that none of us  
16                  wrote; but since they're on the books,  
17                  we're asking that they be enforced.  
18                  And that's not happening.

19                  And that's what we ask be done.  
20                  Because if they are enforced, these  
21                  businesses, as I said once before,  
22                  would not be where they are located.

23                  To issue a variance is like  
24                  giving them a reward. "Hey, you  
25                  successfully broke the law. Here's a

1 4/23/03 PUBLIC HEARING  
2 reward. You did it well." And I can't  
3 emphasize that enough, how strongly we  
4 oppose it.

5 The reason we're here now are  
6 these siting regulations and these  
7 amendments. And even on a temporary  
8 basis, temporary is too long.

9 Thank you.

10 MR. ORLIN: The next speaker will  
11 be Bruce Jefferson.

12 MR. JEFFERSON: Good morning. My  
13 name is Bruce Jefferson. I'm the  
14 representative and vice president of  
15 Nelson Street/Montauk Street Block  
16 Association, which Ms. Gonesh is the  
17 president of.

18 We're here concerning, one, the  
19 number of transfer stations that are  
20 located in Southeast Queens. I notice  
21 that the gentleman who -- two gentlemen  
22 that were from Brooklyn and the Bronx  
23 mentioned there were a disproportionate  
24 number of transfer stations located in  
25 their areas. In a two-mile radius of

1                   4/23/03 PUBLIC HEARING  
2                   Southeast Queens, let me read to you  
3                   the number in our area. Cross County  
4                   Recycling, Regal Recycling, United  
5                   Sanitation Incorporated, Royal, Jamaica  
6                   Recycling, TNCC Recycling, Nationwide  
7                   Recycling, and G.I.O.V.E. Recycling.  
8                   In a two mile radius, that's nine  
9                   places. Now, you think that's not  
10                  disproportionate?

11                  Let me just go on. I'm angry.  
12                  Believe me. For the Sanitation  
13                  Department, DEC, to even consider  
14                  giving them a variance to expand or  
15                  make themself larger so they can hold  
16                  more capacity.

17                  I am a member of the above named  
18                  associations, and have been making  
19                  reports to Environmental Conservation  
20                  about the violations that Cross County  
21                  Recycling, Incorporated has committed.  
22                  Not long ago, in early April, I  
23                  contacted Mr. Conkle (phonetic) and Mr.  
24                  Brezner (phonetic) on three different  
25                  occasions about Cross County Recycling

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2 facility operating after hours. And  
3 the inspector was sent out at 10:00  
4 p.m. I called them at four. By that  
5 time, the facility was closed.

6 I requested of Mr. Brezner to  
7 have an inspector come out at around  
8 the time Cross County was about to  
9 close for business during a weekday.  
10 That has yet to happen.

11 Cross County Recycling, Inc.  
12 facility has in the past, and does also  
13 in present, have trucks in their base  
14 with the doors open, idling, while foul  
15 odors emanate from the building, along  
16 with the dust into the atmosphere; we,  
17 the residents of this neighborhood,  
18 have to live here and endure.

19 At the same time, unknown liquids  
20 are trailing out of the building into  
21 the street, so that one someone who  
22 passes by on foot or by car, these  
23 liquids are carried in their homes.

24 Cross County Recycling has been  
25 fined by the Department of

1                   4/23/03 PUBLIC HEARING  
2                   Environmental Conservation to the tune  
3                   of -- this is not an exact number --  
4                   \$60,000 or more.

5                   I understand that Cross County  
6                   Recycling, Incorporated has changed  
7                   ownership and has been allowed to  
8                   continue to operate within an expired  
9                   permit. It expired last year, if I'm  
10                  not mistaken. How is this allowed to  
11                  be going on? The new owners of Cross  
12                  County Recycling are no better than the  
13                  old owners of Cross County Recycling,  
14                  Incorporated, because they continue to  
15                  violate the law in the same way.

16                  They are even worse than the old  
17                  owners, because they openly threaten  
18                  community residents, and this video  
19                  right here, that is evidence to that  
20                  effect.

21                  And I would like -- that's why  
22                  the television is here; I would like to  
23                  put this in, so everyone in this room  
24                  can see how these companies, this  
25                  particular company, operates.

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2 Is it possible we can put this  
3 in?

4 (Whereupon, at that point in the  
5 proceedings, video-taped material was  
6 viewed.)

7 MR. JEFFERSON: See the garbage?  
8 The doors open? You can't even walk  
9 down the sidewalk.

10 (Video viewing continued.)

11 MR. JEFFERSON: That's enough.  
12 You understand. Some people might be  
13 upset by the language the gentleman is  
14 using, but I'd just like to -- as a  
15 matter of fact, I'll leave this with  
16 you, so you can have it as evidence,  
17 because we have a number of copies.

18 I don't believe that Ms. Gonesh  
19 made reference to the police report  
20 that was filed by this gentleman. I  
21 don't have a copy with me.

22 MS. GONESH: I was also  
23 threatened. He was telling me I don't  
24 know who I'm messing with and he has  
25 people to take care of people like me

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2 once and for all.

3 These are the type of candidates  
4 we have.

5 MR. JEFFERSON: Let me finish.  
6 I'll close up right now.

7 I understand that Cross County  
8 has had, as far as the Department of  
9 Sanitation is concerned, an extension  
10 to their hours of operation, which is  
11 24 hours. I was told that, but I'm not  
12 sure that's true, but for the life of  
13 me, I thought things were supposed to  
14 be brought to the public before they  
15 are done.

16 I recommend that none of the  
17 proposed amendments be accepted and  
18 none be considered until enforcement is  
19 upheld, so that they can take care of  
20 the things they are doing right now.  
21 Why give them extensions to do more of  
22 this, when they can't do the right  
23 thing now?

24 Thank you.

25 MR. ORLIN: The next speaker is

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2 Sandra Atwell.

3 MS. ATWELL: Hello. My name is  
4 Sandra Atwell, and I live in Hollis,  
5 Queens. That is Southeast Queens, the  
6 same area that was just spoken about.  
7 We have a waste site around the corner  
8 from our area. However, I feel that  
9 the worst thing about these waste  
10 stations is the fact that they are  
11 allowed to exist in an M-1 area, and  
12 according to the zoning laws they  
13 belong in an M-3 area. The Fresh Kill  
14 Landfill was closed because of a high  
15 rate of cancer in the people that  
16 started to develop communities around  
17 that waste site.

18 Why was it allowed to go into an  
19 M-1 area to contaminate the people? In  
20 not only Southeast Queens, but in  
21 minority areas and poor areas.

22 They do not belong there. And  
23 there is one simple way of alleviating  
24 this problem. Get them out of the M-1  
25 areas.



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2 We do have areas designed to take  
3 these. And that's where they belong.  
4 Why wait for so many other people to  
5 experience the high rate of cancer? To  
6 have the rate of asthma that we fined  
7 in Harlem?

8 This isn't something that could  
9 not be avoided. We knew what would  
10 happen if we allowed them to exist in  
11 residential areas.

12 And I'm asking you -- I don't  
13 care about the laws or whatever it is  
14 that you're stating at this time; they  
15 have no significance to me. The only  
16 thing we can do is take them out of  
17 residential areas.

18 Thank you.

19 MR. ORLIN: Stephen Bellino.

20 MR. BELLINO: I submitted written  
21 comments.

22 MR. ORLIN: Robert Lo Pinto.

23 MR. LO PINTO: Good morning. My  
24 name is Robert Lo Pinto, and I am a  
25 licensed professional engineer and

1                                   4/23/03 PUBLIC HEARING  
2                                   President of Shapiro Engineering, P.C.,  
3                                   where I represent a number of clients  
4                                   in the solid waste industry. I'm also  
5                                   Past President of the Queens Chapter,  
6                                   New York Society of Professional  
7                                   Engineers, and I am presently  
8                                   Vice-Chairperson of the Queens  
9                                   Community Board 7, and it's  
10                                  Environmental/Sanitary Committee  
11                                  Chairperson.

12                                  My comments today though are as  
13                                  Chairperson of the Queens Solid Waste  
14                                  Advisory Board. The Board had two  
15                                  comments.

16                                  First, the proposed rules are  
17                                  premature, and no new rules should be  
18                                  proposed until the ongoing Commercial  
19                                  Waste Study is completed, and the data  
20                                  evaluated.

21                                  The Preliminary Commercial Waste  
22                                  Study, as noted in the report itself,  
23                                  had, quote, "obvious inconsistencies,"  
24                                  and, quote, "some of the data is  
25                                  erroneous and inconsistent," end of

1 4/23/03 PUBLIC HEARING

2 quote.

3 The study lumped all commercial  
4 facilities together in determining  
5 total permitted capacity, and did not  
6 consider individual borough capacity,  
7 or actual daily capacity, or the market  
8 effect due to transfer station  
9 location.

10 As a result, Queens does not have  
11 sufficient putrescible transfer station  
12 capacity to process all of the  
13 residential solid waste generated in  
14 Queens. Therefore, a large portion of  
15 Queens's DOS collected putrescible  
16 waste is shipped through Queens in  
17 white sanitation packer trucks to  
18 transfer stations in Nassau County and  
19 New Jersey. This is resulting in  
20 extremely high disposal costs, which  
21 the City cannot afford, plus extra  
22 costs for equipment maintenance and  
23 personnel costs. The additional truck  
24 traffic is also creating additional  
25 emissions, pollution, and wear and tear

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2 on the road network.

3 Secondly, the proposed rules are  
4 directly in contravention of Section  
5 16-131c of the administrative code.  
6 That section states that: "The  
7 Commissioner shall issue permits."  
8 These proposed rules stop the issuance  
9 of permits, as required by 16-131c.  
10 While the Commissioner certainly must  
11 ensure any issued permit meets all  
12 relevant rules and regulations for such  
13 facilities, the Commissioner cannot  
14 outright stop issuing permits.

15 To shed more light on these  
16 comments, I would like to note that the  
17 Commissioner of Sanitation, John  
18 Doherty, recently stated that there is  
19 not enough private transfer station  
20 capacity in New York City to process  
21 all the residential and commercial  
22 putrescible waste. In a presentation  
23 before the New York City Law Breakfast  
24 on March 14, 2003, held by the New York  
25 Law School, Commissioner Doherty stated

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the following. I'm quoting from a copy  
of the videotape quote:

"The commercial waste, the  
private trucks, the green, today  
they're all different colors, but the  
private trucks that collect from the  
businesses around this City, are  
picking up about 10,000 tons a day.  
So, if you see, between what Sanitation  
is picking up, the 12 - 5 and the  
10,000, we have got over 22,000 tons of  
putrescible waste in the City each  
day. And the fact of the matter is  
those 22 putrescible waste transfer  
stations can't handle all of that.  
They have a capacity of about, in  
total, about 18,000 tons per day.  
That's why, and some of them are so  
small and really not properly designed  
to handle the City's residential waste,  
we have to go outside of the City with  
the waste that we collect in the City."  
End of quote.

And then, when speaking

1 4/23/03 PUBLIC HEARING  
2 specifically of DOS Managed Waste in  
3 Queens, he said, quote:

4 "Queens is handled by the two  
5 that are in Queens, but some of their  
6 waste has to go to Jersey, we just  
7 don't have the capacity in Queens to  
8 handle it," end of quote.

9 Thus, I question why the  
10 Department is stopping the issuance of  
11 permits for needed key transfer  
12 stations.

13 Thank you.

14 MR. ORLIN: The next speaker is  
15 Dean Devoe. Not speaking? Okay.

16 The next speaker would then be  
17 Lawrence Goldberg.

18 MR. GOLDBERG: I come here today  
19 and get an amazing feeling of deja vu  
20 all over again because -- I'm  
21 remembering Yogi Bera -- but I have a  
22 couple of prepared remarks. I remember  
23 testifying at the City Council hearings  
24 on sanitation maybe some 12 years ago,  
25 14 years ago. I remember because I had

1                   4/23/03 PUBLIC HEARING  
2                   to get out quickly because my daughter  
3                   had a second grade play at that time.  
4                   She is in college now, so there must be  
5                   some time in there, some timing  
6                   difference. But at that time I  
7                   remember saying to the City Council,  
8                   and to the Department of Sanitation,  
9                   the powers that then be, I said it's  
10                  very important for the City to maintain  
11                  its M-3 zone structure. In Europe they  
12                  would call them forbidden zones. It's  
13                  very important to maintain that and  
14                  keep a distance from residents, so that  
15                  in those areas, that the commercial  
16                  infrastructure allows the City to go  
17                  forward, and it can go forward without  
18                  the political pressures caused by  
19                  having people who want to live there,  
20                  living on top of the industrial base.

21                         That was my testimony then. I  
22                         wish it had been listened to. Because  
23                         I think we would be facing many fewer  
24                         problems than we face right now.

25                         I remember testifying at another

1                   4/23/03 PUBLIC HEARING  
2                   time in the course of this City's solid  
3                   waste history.

4                   I should identify myself: My  
5                   name is Lawrence Goldberg, and over the  
6                   past dozen or so years I have been  
7                   involved in many different -- I'm an  
8                   attorney. I have had involved in many  
9                   different solid waste issues and I have  
10                  also had some experience on SWAB and  
11                  CRAB and various solid waste issues.

12                 I remember testifying at another  
13                 point, when the Brooklyn Navy Yard  
14                 cogeneration plan was up, and I  
15                 remember explaining that that took a  
16                 great deal of political will, but it  
17                 was very important as a long-term  
18                 answer to the City solid waste problem  
19                 to have some cogeneration capacity,  
20                 because solid waste in the City --  
21                 putrescible solid waste is primarily  
22                 paper, and I remember having an idea  
23                 then. I said why don't we give free  
24                 electricity to the neighborhood  
25                 residents close by, and see if there's



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2 some kind of benefit?

3 But anyway, life went on in the  
4 solid waste field. And what I have  
5 noticed is that each time the  
6 Department of Sanitation and the  
7 City -- I don't blame them, they have  
8 all kinds of pressures on them -- have  
9 taken it upon themselves to design a  
10 plan, the plan has had unintended  
11 consequences, and the consequences have  
12 not been good for the solid waste of  
13 the City.

14 Because everybody in this room  
15 has to understand, as our last speaker  
16 explained, solid waste has to go  
17 someplace. We generate it. It's part  
18 of the infrastructure. It must be  
19 disposed of. You can regulate it, you  
20 can say we don't want it here, but it's  
21 part of the economic viability of the  
22 City.

23 Transfer stations, which were  
24 frankly a creation of the Department of  
25 Sanitation when they raised the tipping

1                   4/23/03 PUBLIC HEARING  
2                   fees in Fresh Kill -- they wanted to  
3                   save space at Fresh Kill. Sanitation  
4                   created the transfer stations and they  
5                   created whatever went on with transfer  
6                   stations.

7                   Today, we clearly have an  
8                   under-capacity system for solid waste  
9                   in the City. Trucks have to run around  
10                  with it, probably causing more truck  
11                  traffic than we would have if we had  
12                  enough solid waste facilities. Trucks  
13                  have to find a place for it, a disposal  
14                  site.

15                 We have a problem. We no longer  
16                 have Fresh Kill. We have lost the  
17                 political will to have any  
18                 cogeneration. And now Sanitation is  
19                 saying -- illegally, I must tell you --  
20                 that we want to put the cart before the  
21                 horse and put a moratorium on all  
22                 siting and all new transfer stations,  
23                 and people who have honestly played the  
24                 game by the rules, they have engaged in  
25                 the permitting process, they have gone

1                   4/23/03 PUBLIC HEARING  
2                   through, put in their numbers, gone  
3                   through SEQRA, they are ready to say:  
4                   Here we are, doing it your way. We're  
5                   going to run good facilities, we are  
6                   high-tech, today, which is what they  
7                   are; we will recycle, because the  
8                   City's recycling numbers come in terms  
9                   of private transfer stations. But they  
10                  are the ones who do recycling. And  
11                  we're saying you have held this up, and  
12                  you have held this up because you have  
13                  been in a kind of political paralysis.

14                  And now you come up with another  
15                  plan, to put a moratorium on everything  
16                  while the process is ongoing.

17                  Well, you know something? You're  
18                  putting the cart before the horse. You  
19                  have got to get through with a solid  
20                  waste plan, and you have got to know  
21                  what you're mandated to do. And I'll  
22                  give you one example, it makes good  
23                  sense. Because if you end up throwing  
24                  the privates down and restricting the  
25                  private sector, once again you're going

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2 to get a whole bunch of unintended  
3 consequences. You don't know what they  
4 are. They are not going to be good for  
5 the solid waste future of New York  
6 City. They haven't been good every  
7 other time the Department of Sanitation  
8 has tried it. They have been negative  
9 each time. Each time they have gotten  
10 spin-off that hasn't been what was  
11 anticipated.

12 Also, a whole bunch of transfer  
13 stations and facilities that had in  
14 applications were held up for a very,  
15 very long time, and then they received  
16 letters, and they said their process  
17 was over, it was terminated.

18 I respectfully say to you that  
19 that was illegal. It was in violation  
20 of the City Administrative Procedure  
21 Act. You can't do it. You can't make  
22 rules without rule making. It isn't  
23 fair to the industry. I dare say, it  
24 was unfair to the City. It was another  
25 error; certainly unfair to the

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2 industry. Those people that had  
3 permits in the process, it was  
4 illegal. I think very, very seriously,  
5 I think these rules that you're trying  
6 to promulgate run contrary to 16.131c,  
7 because that language says the  
8 Commissioner must issue permits, and I  
9 don't think you can set up something  
10 which says the Commissioner can't issue  
11 permits. I don't believe that that is  
12 a discretionary act under our  
13 legal set-up.

14 I have a great deal of other  
15 specific comments that I have sent to  
16 the City in my letter of April 15,  
17 2003, but it's very -- and I'm going to  
18 let those comments stand as submitted.  
19 I'm not going to take another five  
20 minutes and read my letter. But that  
21 letter has been submitted and the  
22 letter relates specifically to the  
23 siting rules, transfer station  
24 capacity.

25 But there are one of or two

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2 things I do want to comment on also.

3 When you make a dislocation of  
4 solid waste, you're also making a  
5 dislocation of the economy. And that  
6 is creating various subsets of  
7 monopolies, and it's changing the  
8 economic structure, and it's causing  
9 economic pressures, and it causes those  
10 pressure on our existing businesses.  
11 The existing businesses -- and an  
12 existing business does have a right to  
13 work under contract, and work in an  
14 economically free environment. By  
15 changing that environment, you create  
16 an economic dis-allocation.

17 It is not good. It certainly has  
18 not been good to create it to date, in  
19 the putrescible industry. It's caused  
20 higher prices. They eventually get  
21 passed on to consumers.

22 At this point in time, my  
23 suggestion is those applications that  
24 are pending should go forward. Those  
25 neighborhoods that think -- and I'm

1                   4/23/03 PUBLIC HEARING  
2                   very, very sensitive to them -- that  
3                   stopping the transfer station stops the  
4                   amount of solid waste, it doesn't. It  
5                   doesn't stop a single truck that goes  
6                   into your neighborhood.  
7                   And, actually, probably having  
8                   more transfer stations in the  
9                   neighborhood doesn't increase the  
10                  amount of trucks in your neighborhood.  
11                  It is the same amount of solid waste.  
12                  It has to go someplace. Facilities  
13                  that work at full capacity -- which,  
14                  truthfully, they are only designed to  
15                  do once in a while. That's how it's  
16                  done. Because they are set up for  
17                  emergencies. For facilities that work  
18                  at full capacity will have more  
19                  breakdowns. There will be more trucks,  
20                  more problems. You need to have the  
21                  natural flow. You need to have enough  
22                  facilities, monitored, regulated, in  
23                  appropriate areas; hopefully, as far  
24                  away from residents as humanly can be  
25                  done.

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2 My recommendation is the City  
3 really should in effect do something  
4 they have always avoided; to have some  
5 kind of public-private community  
6 partnership, so that everybody's  
7 input -- it's not to do meetings like  
8 this, where we have to kind of implore  
9 you, or to do it the way I have done  
10 it, going into litigation and court,  
11 and have a judge make a decision.

12 But really -- in terms of having  
13 the three elements sit down and say  
14 what will be good for the City's future  
15 and what will give us a solid waste  
16 plan that incorporates lots of  
17 different elements, so that nobody is  
18 stuck in one way or in one path.

19 Thank you.

20 MR. ORLIN: The next speaker will  
21 be Fred Levine.

22 MR. LEVINE: Good morning,  
23 everyone. My name is Fred Levine. I  
24 am a licensed engineer as well as an  
25 attorney, and I represent Todino



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2 Brothers Recycling, who currently has  
3 two applications for transfer fill  
4 stations in the Bronx pending in the  
5 Department of Sanitation.

6 I am aware that there may be  
7 other representatives of other  
8 applicants for transfer fill stations  
9 that may be present here, and it's very  
10 possible that what I speak on behalf of  
11 my client may be applicable to these  
12 people as well. If you get the benefit  
13 of my presentation, you're welcome.

14 At any rate, in your proposal you  
15 speak very clearly about rule changes  
16 scheduled for March 21, 2003. My  
17 client has played by your rules; has  
18 had these applications in since the  
19 year 2000. Based upon his reliance on  
20 your rules, he's made significant  
21 investment in property, has hired  
22 numerous environmentalists, has applied  
23 for consideration in the Empire Zone in  
24 the Bronx, has engaged with the South  
25 Bronx Overall Economic Development

1                   4/23/03 PUBLIC HEARING  
2                   Corporation to hire local residents in  
3                   an economically disadvantaged zone.  
4                   That, in itself, is a benefit that the  
5                   City derives; that, in itself, in  
6                   today's economy, is a benefit that the  
7                   City derives.

8                   Included in this is the fact that  
9                   his facilities reside in M-3 locations;  
10                  away from residents, away from any  
11                  interplay with community residents.  
12                  Commercial zones. Commercial zones.

13                  He has done everything right, and  
14                  he currently sits in a devastated  
15                  situation because of these rules that  
16                  have not been properly interpreted,  
17                  which they should be properly  
18                  interpreted.

19                  We live by the rules. The  
20                  hearing today is a function of the  
21                  rules. We all live by the rules.

22                  We should not be adversely  
23                  affected by the rules. With all due  
24                  respect to those people who are near  
25                  the transfer stations which are

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2 bringing in terrible odors and things  
3 like that, my client does not produce  
4 odors. It's a recycling operation.  
5 It's a recycling operation. He's a  
6 general contractor who does work for  
7 the City of New York, under competitive  
8 bid. He does sewer work, he does water  
9 main work and handles emergency  
10 operations.

11 Recycling is the good for the  
12 environment. Recycling is good for  
13 transportation flow. Recycling is good  
14 because it will keep the prices on  
15 government infrastructure projects  
16 low. The cost of trucking, the cost of  
17 shlepping will be kept lower. That  
18 will be reflected in the prices bid to  
19 the City, and that would be reflective  
20 of less burden on the taxpayers.

21 Everything that I am saying  
22 regarding the impact on infrastructure  
23 is beneficial to the City. Anything  
24 regarding local employment in  
25 disadvantaged zones is only good for

1 4/23/03 PUBLIC HEARING

2 the City.

3 We urge the Department of  
4 Sanitation to reconsider the improper  
5 moratorium placed September 25th.

6 We urge the Department of  
7 Sanitation to permit all applicants who  
8 have relied upon the representations in  
9 the SEQRA manual and according to the  
10 Administrative Code of the City of New  
11 York for their applications to go  
12 forth.

13 We do not inhibit, we do not  
14 deny, the Department of Sanitation the  
15 right to implement a reevaluation of  
16 their procedures, but not to the  
17 detriment of those applicants who have  
18 relied upon your rules, have invested  
19 significant sums of money and capital  
20 and dedication and have complied with  
21 rules of law and are not being  
22 treated fairly, in violation of every  
23 procedure.

24 I want to thank you all very  
25 much.

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2 MR. ORLIN: The next speaker will  
3 be Chris Todino.

4 MR. TODINO: Good morning,  
5 everybody. I'm Chris Todino. I'm  
6 President of Todino Brothers Recycling,  
7 also president of Todino Sewer and  
8 Water. I have just a couple of brief  
9 statements I would like to make.

10 And before I do, I would like to  
11 refer to -- I'm here only to speak on  
12 fill transfer stations. I would like  
13 to refer to that as "fill recycling  
14 stations."

15 I think it's a shame and almost a  
16 crime that we are dragged into the  
17 category of transfer stations. We  
18 don't transfer material out of the  
19 city. We do not transfer to  
20 landfills. We take material in, we  
21 recycle it, and we re-use it. And as  
22 I'm sure everybody in this room knows,  
23 that's part of what our future is  
24 about.

25 And if this moratorium is put on

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2 and kept in place, specifically,  
3 especially for people like myself, who  
4 have been ongoing in the process for  
5 three years, my checks with SEQRA would  
6 cash back to 2001; there would be an  
7 absolute economic hardship that each  
8 and every one in this room is already  
9 feeling.

10 And what I mean by that is one of  
11 the biggest costs in my company with  
12 Todino Sewer and Water in excavation  
13 work over 20 years is -- second only to  
14 my rise in insurance has been a rise in  
15 the cost of getting rid of materials.  
16 And what I mean by that is that because  
17 of the restrictions that the Department  
18 of Sanitation has brought on, it's  
19 become one of the biggest hardships of  
20 all -- to myself and other companies --  
21 in doing city projects, of getting rid  
22 of excavated material. It has become  
23 an absolutely disaster.

24 I can tell you this, I do  
25 emergency work in Brooklyn. I have the

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2 emergency contract in Queens and I have  
3 the emergency contract in the Bronx, of  
4 which -- I also do a massive amount of  
5 other DDC and DEC, DEP work, and all --  
6 in all the boroughs. And I can say  
7 this: There is, and there probably  
8 never will be, enough fill recycling  
9 facilities in the City.

10 And I stress "fill recycling."  
11 Because again we're not a transfer  
12 station. We don't take in garbage. We  
13 don't take in construction debris. We  
14 take in excavated material. We recycle  
15 and re-use it for roadway base, for  
16 backfill material, and in roadways;  
17 re-use use it for sidewalk base. All  
18 of our material is re-used, on every  
19 sidewalk you walk on, every street that  
20 you drive on, and so on and so forth.

21 And could I just tell you that I  
22 do understand fully -- I live in the  
23 Bronx myself, and I do understand the  
24 impact that these transfer stations do  
25 bring.

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2 But, again, we're talking about  
3 what I like to refer to as a fill  
4 recycling and not -- it's not a  
5 transfer station.

6 And I went in myself, purchased  
7 two M-3 zones. M-3 is all industrial.  
8 I have no residential near me. I would  
9 like to almost agree -- even though I'd  
10 like to see each and every person  
11 looking to open up a fill recycling  
12 station to get their permit, I would  
13 have to almost agree that having a  
14 transfer station in an M-1 zone is  
15 probably a hardship to the residents.

16 But in no shape, sense, or  
17 form -- an M-3 is specifically designed  
18 to take each and every kind of  
19 application, because it's an industrial  
20 area, it's away from residential.

21 And, lastly, and probably  
22 repeating, just to say that we all have  
23 gotten hit in our pockets by the  
24 economic downturn arriving in taxes,  
25 our property taxes having -- I



1                   4/23/03 PUBLIC HEARING  
2                   purchased an M-3 three years ago, just  
3                   to open up this fill transfer station,  
4                   and my real estate taxes, on one of my  
5                   properties, went up in the last year  
6                   \$30,000. Okay. So, in essence, if  
7                   these transfer stations or fill  
8                   recycling stations are stopped from  
9                   opening up, we're going continue to see  
10                  that trend. Because not just myself,  
11                  but each and every contractor in the  
12                  industry is going to through the same  
13                  thing.

14                  So what's going to happen? In  
15                  essence, the costs are going to be  
16                  turned over to the City. And, of  
17                  course, we know where that's going to  
18                  get turned over to: our own pockets.

19                  Thank you.

20                  MR. ORLIN: The next speaker is  
21                  Allison Cordero.

22                  MS. CORDERO: I am Alison  
23                  Cordero. I am here on behalf of  
24                  OUTRAGE. I am the Deputy Director for  
25                  Community Preservation at St. Nicholas

1                   4/23/03 PUBLIC HEARING  
2                   Neighborhood Preservation Corporation,  
3                   which is one of over two dozen  
4                   organizations which makes up OUTRAGE.  
5                   As you have heard, Community Board 1 in  
6                   Brooklyn, Greenpoint and Williamsburg,  
7                   is one the most heavily impacted  
8                   neighborhoods with the truck based  
9                   waste transfer stations.

10                   We are also members of OWN. You  
11                   heard Gail Suchman's testimony on  
12                   behalf of OWN. We want to say that we  
13                   fully support that testimony, as well.  
14                   I am not going to repeat that in its  
15                   entirety, although I have incorporated  
16                   it into my written testimony.

17                   While we appreciate the fact the  
18                   Department has finally begun to  
19                   recognize that our community, along  
20                   with the South Bronx, is bearing an  
21                   unfair and inequitable burden in  
22                   processing most of the city's garbage,  
23                   it seems like you still have a way to  
24                   go to really understand and address the  
25                   needs of our community and others like

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2 it.

3 In particular, the proposed  
4 regulations fail to take into account  
5 the fact that putrescible waste has a  
6 significantly different impact on the  
7 community adjoining the transfer  
8 station from other types of waste.

9 And I actually had an idea this  
10 morning, just I had an idea, I was  
11 going to bring in two yogurt  
12 containers, one with fill and one with  
13 garbage, smelly garbage, just so I  
14 could demonstrate the point. I didn't  
15 know what the security was going to be  
16 like. But I think most of the people  
17 here can recognize, just from a  
18 description, or from the video that we  
19 saw, it's a different thing. And the  
20 regulations really don't take that into  
21 account.

22 And I'll speak a bit about what  
23 we think should be done. City policy  
24 needs to begin reducing the amount of  
25 trash in heavily burdened communities

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2 like ours, now.

3 We have 16 waste transfer  
4 stations, we process 15 percent of  
5 Manhattan's commercial waste. We need  
6 to make changes. We need reduction.

7 I wish more of our members could  
8 have taken time from their jobs, family  
9 life and other concerns to be here  
10 today at 9:00 a.m. in lower Manhattan  
11 in the middle of a school holiday. It  
12 is not the best time for most of them  
13 to come. And that's why we are  
14 particularly grateful for the effective  
15 representation by our city Councilman,  
16 David Yassky, who testified and  
17 submitted written testimony. That's  
18 also why we continue to demand, as part  
19 of the Commercial Waste Study, the  
20 Department needs -- and I find myself  
21 on this point agreeing with Mr.  
22 Goldberg -- to engage in speaking  
23 directly to the communities, in  
24 communities, as well as the businesses  
25 in those communities. The fact is

1                   4/23/03 PUBLIC HEARING  
2                   that some of the members are also  
3                   businesses, in East Williamsburg  
4                   industrial park, who are negatively  
5                   affected by the transfer stations who  
6                   have taken over their sidewalks and  
7                   their streets.

8                   But we need to have the  
9                   Department come out, hold public  
10                  hearings and meetings, to engage in the  
11                  process with the community groups; not  
12                  just have hearings when they have  
13                  already written the regulations and/or  
14                  have a hearing at the Department of  
15                  Sanitation in Manhattan. It was nice  
16                  of them to invite us, but the  
17                  Department still seems to have a lot of  
18                  trouble understanding the concept of  
19                  equity. Well, I think they need to  
20                  come out to Brooklyn. I think they  
21                  need to go to the South Bronx. I think  
22                  they need to not just see a video. I  
23                  think they need to go to Southeast  
24                  Queens and see what's going on.

25                  We can suggest a few sites.

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2 These are some of the things our  
3 members said to me as I told them this  
4 hearing was happening and polled them  
5 on the regulation.

6 The community room of  
7 Metropolitan Houses, where the senior  
8 citizens tell me they can't open their  
9 windows. Metropolitan Houses is on  
10 Metropolitan Avenue, a major truck  
11 route. The smell and noise from the  
12 thousands of trucks passing directly in  
13 front of their building -- it's one a  
14 minute. They know that because they  
15 actually participated in the OUTRAGE  
16 truck study. They sat out in folding  
17 chairs and counted trucks three  
18 consecutive weeks because the  
19 Department still hasn't actually  
20 produced a truck study or commercial  
21 waste study.

22 St. Francis auditorium directly  
23 overlooks Metropolitan Avenue, a major  
24 truck route. And the auditorium of  
25 P.S. 132. The school is so large, it's

1 4/23/03 PUBLIC HEARING

2 operating from temporary facilities in  
3 the playground, which are right up  
4 against the Metropolitan Avenue street,  
5 where half the children have to cross  
6 that street in the middle of traffic,  
7 in that. There are more than one trash  
8 truck a minute; that's just the trash  
9 trucks, that those kids are crossing  
10 the streets with those fumes. Not to  
11 mention if the trucks are stopped, they  
12 can't cross the street at all. You  
13 very often find it blocked in the  
14 morning. I travel down on that street  
15 to work every day.

16 The gym or our Lady of Pompeii,  
17 where residents of Siegel and Kibben  
18 Streets -- who I think Mr. Gonzalez was  
19 here today, and he is just one of the  
20 residents of that homeowner  
21 community -- find refuge from the  
22 idling and dripping trucks, smells and  
23 rats, as described by the folks from  
24 Southeast Queens. They have thousands  
25 of tons of putrescible waste processed

1                   4/23/03 PUBLIC HEARING  
2                   at two of the biggest transfer stations  
3                   in the City just three blocks from  
4                   their homes. And one of the reasons  
5                   they are not here today is that on  
6                   Monday they had to take time off from  
7                   work to go to a court hearing about the  
8                   Parkville Avenue Shelter, another city  
9                   facility that was dumped in their  
10                  neighborhood without process.

11                  This has got to stop. We need to  
12                  have people come out to the communities  
13                  and to consult them, to be in a process  
14                  with the communities as they promulgate  
15                  these studies and regulations about  
16                  commercial waste. It has got to be  
17                  done that way otherwise, as some people  
18                  said, we will come up with another bad  
19                  result.

20                  Another thing is the Community  
21                  Center in Cooper Park. Residents have  
22                  a great view of trucks coming down  
23                  Vandervoort on one side, there's heavy  
24                  truck traffic on Meeker Avenue on the  
25                  other side, and they get all the smells



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2 coming up from the transfer stations.

3 I hope you get the idea.

4 The rest of my testimony is  
5 supporting the testimony already  
6 presented by Gail Suchman.

7 I want to highlight some of the  
8 points. Pending the implementation of  
9 the plan, increases in granted permits,  
10 regardless of community, should be  
11 temporary. Within Brooklyn CD 1 and  
12 Bronx CD 2, required offset should be  
13 permanent, and the trade should be at a  
14 ratio of 2:1. We need some reduction  
15 in the capacity now.

16 When are going to see some  
17 results, some relief? We're not seeing  
18 it.

19 We're seeing devastating results  
20 in our communities and lack of planning  
21 on the part of the City of New York.

22 I understand it wasn't on the  
23 part of this administration, but it was  
24 certainly on the part of most of the  
25 people who are in the Department of

1 4/23/03 PUBLIC HEARING

2 Sanitation at this time. You need to  
3 take some responsibility. You need to  
4 take some action that's going to deal  
5 with these effects on the communities.

6 Thank you.

7 MR. ORLIN: The next speaker will  
8 be Timothy Logan.

9 MR. LOGAN: Let me begin by  
10 saying I concur with Ms. Suchman's  
11 testimony in its entirety as  
12 submitted.

13 I want to just kind of round up  
14 the testimony here today. We have  
15 community residents who are impacted by  
16 these waste transfer stations that I  
17 have seen in the South Bronx, in North  
18 Brooklyn, from Redhook, Sunset Park,  
19 East New York; neighborhoods all of  
20 which have participated on an ongoing  
21 basis through the Organization of  
22 Waterfront Neighborhoods in trying to  
23 address these issues.

24 While I understand that  
25 applicants who now are facing a

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2 moratorium may have had their  
3 applications in as early as 2000 or  
4 perhaps even earlier, these communities  
5 were protesting these waste transfer  
6 stations and not being heard at least a  
7 decade ago.

8 If you're asking about how long  
9 it takes to find some kind of justice,  
10 some kind of acceptance of your words,  
11 well, who came first? The communities  
12 were out there first.

13 The City did, in fact, create  
14 this problem with the tipping fee  
15 increases at the Fresh Kill Landfill in  
16 the late '80s.

17 The City is now in the process of  
18 fulfilling a commercial waste study.  
19 This is something that should have been  
20 done as part of the 1992 solid waste  
21 management plan. It is time for this  
22 moratorium -- until we have completed  
23 the commercial waste study and until a  
24 solid waste management plan that  
25 incorporates the various concerns of

1                   4/23/03 PUBLIC HEARING  
2                   the City, which certainly involves the  
3                   people of the City of New York and the  
4                   communities who have been  
5                   diproportionately impacted and have not  
6                   had their concerns fully taken into  
7                   account.

8                   Our enemy in this is certainly  
9                   not the carters. We understand that  
10                  carters are necessary. They deal with  
11                  the waste, whether they be recyclables  
12                  or waste materials that somehow must  
13                  end up at a landfill.

14                  However, the waste transfer  
15                  stations are only necessary as an  
16                  interim measure, caused by the City  
17                  with the increase in tipping fees at  
18                  Fresh Kill, and until the City is able  
19                  to move forward with the long-term  
20                  export plan.

21                  We need to deal with the plan in  
22                  process through the solid waste  
23                  management plan, and until such time we  
24                  understand that these waste transfer  
25                  stations may need to be in operation;

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2 but at that point in time we may find  
3 that many of these waste transfer  
4 stations are no longer necessary,  
5 particularly putrescible waste transfer  
6 stations, as opposed to fill material,  
7 which has never been considered to go  
8 through these marine transfer  
9 stations.

10 These are the concerns that must  
11 be put forward.

12 For one more historical note,  
13 people continue to talk about zoning.  
14 Well, the zoning laws -- guess what?  
15 Communities were there before zoning  
16 was in this city. Zoning was put upon  
17 these communities even at the time that  
18 it was first implemented.

19 If you go to some of these  
20 neighborhoods -- in the South Bronx, I  
21 have seen a beach-front community that  
22 is an M-3 zone, and continues to have  
23 beach bungalows. You can see, it looks  
24 like a bungalow community, like  
25 something from an Annette Funicello

1                   4/23/03 PUBLIC HEARING  
2                   movie that's sitting there in the midst  
3                   of these waste transfer stations.  
4                   Those homes were there before these  
5                   businesses were there.

6                   The City did not move those  
7                   residents out. In fact, their property  
8                   value has gone down rather than up.  
9                   They couldn't possibly sell those  
10                  buildings.

11                  So when we consider what is most  
12                  important for the City, we must  
13                  understand that it's the people of the  
14                  City of New York who make up the City,  
15                  and that waste must be handled by City  
16                  planning for a long-term plan. They  
17                  have to process the solid waste. It  
18                  needs to be taken into account.

19                  We should have a moratorium on  
20                  increases of capacity and new  
21                  permitting of waste transfer stations,  
22                  until such time as we get through that  
23                  process.

24                  That's all. Thank you.

25                  MR. ORLIN: The next speaker will

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2 be Omar Freilla.

3 MR. FREILLA: Good morning. My  
4 name Omar Freilla. I'm with an  
5 organization in the South Bronx called  
6 Sustainable South Bronx, and I live and  
7 work in the South Bronx, and I'm here  
8 as a member of the Organization of  
9 Waterfront Neighborhoods, and the New  
10 York City Environmental Justice  
11 Alliance, and I would just like to add  
12 to some of the things already said.

13 I support the words of all the  
14 other members of Organization of  
15 Waterfront Neighborhoods that have come  
16 up here and basically addressed  
17 issues. One of the other folks spoke  
18 earlier about, I believe it was a  
19 gentleman who came and spoke about an  
20 economic dis-allocation, and basically  
21 meaning to support the efforts of the  
22 transfer stations throughout the City  
23 in order to increase capacity, because  
24 we don't have enough capacity. And for  
25 us, the communities and organizations

1                   4/23/03 PUBLIC HEARING  
2                   that are living with these transfer  
3                   stations, the putrescible transfer  
4                   stations, construction and demolition  
5                   facilities, what we have been living  
6                   with all these years is the  
7                   dis-allocation of justice, a  
8                   dis-allocation of equity.

9                   And for us, these are issues that  
10                  need to be addressed today. We have  
11                  been forgotten in past years. So these  
12                  issues, particularly with respect to  
13                  the siting regulations, especially in  
14                  438 section B and in 436 section B, we  
15                  have got issues with what the  
16                  Department of Sanitation is saying when  
17                  you create the structure of allowing  
18                  putrescible facilities to expand in any  
19                  capacity. What we have been calling  
20                  for is a complete moratorium on the  
21                  expansion of putrescible waste  
22                  facilities. And there's a specific  
23                  exception that's made for Community  
24                  District 1 in Brooklyn and Community  
25                  District 2 in the Bronx. And I would



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2 say, living in Community Board 2 in the  
3 neighborhood of Hunt's Point, I would  
4 say no thank you to that.

5 However, I also recognize that  
6 Community District 1 in the Bronx also  
7 lives with a heavy burden of waste  
8 facilities, and that in fact, just to  
9 correct the record from what was said  
10 previously, most of the Bronx's  
11 putrescible waste is actually handled  
12 in Community District 1, not 2.

13 But what we have is an  
14 overabundance of construction and  
15 demolition facilities. With respect to  
16 that, and in solidarity with Queens an  
17 Brooklyn and other parts of the City  
18 that are dealing with waste facilities,  
19 we want an across-the-board  
20 moratorium.

21 And we don't have to consider it  
22 to be putting the cart before the  
23 horse, as was said. It's putting the  
24 cart before the horse when you continue  
25 to give solid waste permits with no

1                   4/23/03 PUBLIC HEARING  
2                   consideration for the fact that there's  
3                   a plan being discussed and it needs to  
4                   be worked out.

5                   It's putting the cart before the  
6                   horse when you continue to allow  
7                   facilities that accept waste from other  
8                   parts of the City, not just the  
9                   Bronx -- facilities in the Bronx accept  
10                  waste from Manhattan or waste from  
11                  Queens -- to continue to expand.  
12                  That's allowing the cart to be put --  
13                  the cart is already before the horse.  
14                  We're trying to get things back to the  
15                  way they should be. So we don't feel  
16                  that it's appropriate to just continue  
17                  to allow facilities to expand and be  
18                  given variances and allowed to expand  
19                  their operations.

20                  Whether it's the hours of  
21                  operations that some others have talked  
22                  about, or the capacity issues, it's  
23                  something we need: An across the  
24                  board moratorium on putrescible waste  
25                  facilities.

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2 With respect to the putrescible  
3 waste facilities in and of themselves,  
4 we feel it's completely inappropriate  
5 to allow conversions of the facilities  
6 that are handling construction and  
7 demolition waste, to allow them to be  
8 used for putrescible waste. Just to  
9 give one example, Hunt's Point is an  
10 area in the South Bronx that has an  
11 overabundance of construction and  
12 demolition transfer stations. If any  
13 of these are allowed under these rules  
14 to expand their operations by basically  
15 switching from construction and  
16 demolition waste, in order to accept  
17 putrescible waste, then that means for  
18 all of us who are living in the  
19 neighborhoods, we previously had been  
20 dealing with facilities that may have  
21 been actually using their capacity, but  
22 some of them actually don't, and we  
23 have got a number of facilities under  
24 their capacity of C and D, but they are  
25 permitted for that. And actually what

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2 we would find happening, you  
3 understand, what would wind up  
4 happening, you would have facilities  
5 that are currently handling under their  
6 permitted capacity of construction  
7 demolition waste, and they would be  
8 allowed to have an increase in  
9 capacity -- in effect that's what it  
10 turns out to be -- of putrescible  
11 waste.

12 And for us, it's about odors and  
13 rats. And you're talking about  
14 increasing the capacity, from what's  
15 actually happening, you're talking  
16 about increasing truck traffic.

17 We don't want to see that  
18 happen. We take issue with those two  
19 particular sections in this document.  
20 And that's really all I have to say.

21 I would like to say again that  
22 we're out here as part of the coalition  
23 in partnership with other community  
24 organizations and other technical  
25 assistance that have been working with

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2 us. We feel that what has been put  
3 before us, before our community  
4 organizations, before all of us --  
5 what's in the document really doesn't  
6 address the fundamental issues. The  
7 issues we're talking about really deal  
8 with the extent of truck traffic in the  
9 neighborhoods, the hours of operation.  
10 We're talking about the fact that you  
11 got facilities clustered in  
12 neighborhoods. That's really not being  
13 addressed by this particular document.

14 Thank you.

15 MR. ORLIN: Our next speaker will  
16 be Robert Morris.

17 MR. MORRIS: How are you. My  
18 name is Bob Morris. I'm the Operations  
19 Manager for Bronx County recycling.

20 We're a fill material transfer  
21 station; as Mr. Todino said, a  
22 recycler. While I can understand there  
23 may be problems with C and D and  
24 putrescible waste, none of those  
25 problems are relevant to fill material

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2 stations.

3 When you review the report that  
4 this moratorium is based on, it has  
5 obvious flaws. At no point is fill  
6 material being considered for transfer  
7 outside of New York City by rail, by  
8 barge, by air plane, it's just not a  
9 feasible means of doing that. All of  
10 our material that we take in -- and  
11 probably 85 percent of this material we  
12 take in comes from Con Edison work,  
13 Cable Vision, Verizon, what-have-you.  
14 We actually minimize truck traffic. A  
15 truck comes into our facility, deposits  
16 his material -- we have invested well  
17 over a million and a half dollars in  
18 equipment to separate by size, and  
19 produce sellable product. This  
20 material is not given away. It's not  
21 dumped in the woods someplace. We sell  
22 everything that we take in. We take it  
23 in, we process it, and we resell it as  
24 usable material, as usable viable  
25 product.

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2 The truck traffic that comes into  
3 our facility, that same truck that  
4 delivers the material goes out with the  
5 same load of material in a different  
6 form. You don't have the same issues  
7 that you would with putrescible and C  
8 and D, of the various trucks bringing  
9 in materials, they leave the facility,  
10 other trucks come in, take it out.  
11 That's not the case with fill  
12 material.

13 Unfortunately, Sanitation has  
14 lumped everything together. And by no  
15 stretch of the imagination can they  
16 make a logical argument where fill  
17 material should be in the same realm as  
18 C and D or putrescible materials.

19 We're also caught in a catch-22.  
20 The report says that these stations are  
21 operating under capacity. I find that  
22 hard to believe. I speak to a number  
23 of fill material operators in the area,  
24 and there's not a one of us that  
25 probably hasn't paid forty, fifty

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2 thousand dollars in fines for being  
3 over-volume. For a facility that is  
4 under capacity, we get an awful lot of  
5 summonses for being over volume. We  
6 submitted to SEQRA, as Mr. Todino did.  
7 We submitted a permit over two years  
8 ago and it's been in the process of  
9 being reviewed and so on and so forth.  
10 This moratorium was put into place with  
11 no regard for the money that we have  
12 spent, the time and effort, engineers,  
13 SEQRA -- the entire package. This was  
14 just a decision on the part of  
15 Sanitation, and this hearing just  
16 became an issue to make something  
17 justified. That's all it is.

18 The other issue is I'm finding it  
19 hard to understand that a city that is  
20 facing -- how many billion-dollars  
21 short, that we're not allowed to charge  
22 tax on the material that comes in.  
23 That may be an idea the City should  
24 look into: Make it a taxable item.

25 But we certainly charge tax on



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2                   the material we produce and re-sell.  
3                   Under the restrictions that we are  
4                   going under, we are being forced to  
5                   curtail those new sales, because we  
6                   cannot stockpile enough material to  
7                   sell. We may get a contract for 10,000  
8                   yards of road base, but because of the  
9                   volume restriction we're facing, we  
10                  can't sell that contract.

11                  So, consequently, there's only a  
12                  few places that produce that item.  
13                  Companies are going outside of the City  
14                  to the various quarries and buying the  
15                  material outside, paying large fees,  
16                  more than they would. The City sales  
17                  tax revenue is lost by the City, and  
18                  you're not accomplishing anything  
19                  towards helping the solid waste problem  
20                  in the City.

21                  Thank you.

22                  MR. ORLIN: The next speaker will  
23                  be Ed Tempesta.

24                  MR. TEMPESTA: My name is Ed  
25                  Tempesta. I represent East Bay

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2 Recycling. We applied for a license in  
3 1994 for a putrescible transfer station  
4 in the South Bronx. We went through  
5 the entire SEQRA process as it was laid  
6 out to us by the Department of  
7 Sanitation. They were the lead agency  
8 for this particular application. We  
9 received a negative declaration and  
10 then it went through the DEC. For the  
11 next 18 months we didn't receive not  
12 one comment. They supposedly were  
13 reviewing our application. We asked  
14 for comments on many, many, many  
15 occasions. We had our attorney write a  
16 number of letters to the Department of  
17 Environmental Conservation, and we  
18 still received no comments.

19 Then, after being denied when we  
20 requested a permit after 18 months,  
21 after being denied, and in the process  
22 of a court proceeding, we understood  
23 that there was a secret memo sent to  
24 the Department of Sanitation and the  
25 Department of Sanitation kept this not

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for FOIL review. In other words, I don't know for what reason, it wasn't accessible to the general public.

In that same process, prior to our being denied, we had our attorney ask if there were any comments, and we were told no. So why this was kept secret, I don't know.

Be that as it may, I'm here to address M-3. The City forces us into M-3. They say this is the only zone acceptable to your particular operation. Believe me, I would much rather have a transfer station on the West Side of Manhattan, perhaps a whole square city block. I could take a large amount of debris from the Borough of Manhattan and I probably would be well on my way to doing the things I thought I would be doing at my age. Unfortunately, the state says M-3 is the classification you need for a putrescible transfer station. Okay. Why would you want to limit competition

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2                   in an M-3 zone? Here we have basically  
3                   a little club of operators that they  
4                   can increase their capacity, and they  
5                   will not permit other people that have  
6                   passed the SEQRA process and should be  
7                   permitted.

8                   How would we benefit by that?  
9                   First we spread the load. Rather than  
10                  having 100 trucks -- Let's say I lived  
11                  on the block. Rather than have 100  
12                  trucks go past my house, I would rather  
13                  have 40 trucks go by. Instead of  
14                  having a 100 trucks lined up, you could  
15                  have 30 on one block, 20 on another, 15  
16                  on another. It's called a diffusion.

17                  Secondly, there would be less  
18                  odor, and better control with smaller  
19                  facilities. You're dealing with a  
20                  smaller group of people, not a large  
21                  organization. You would be able to  
22                  handle the problems that currently  
23                  exist in a much better way by  
24                  permitting facilities that are in the  
25                  proper zone, have passed the SEQRA

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2 process, and should be permitted.

3 Secondly, why have the lack of  
4 competition? What do you hope to  
5 achieve by the lack of competition?

6 My next thing, I don't feel that  
7 we should be limited when we make an  
8 application to the City, to the state  
9 or the federal government.

10 My corporation is taxed as a  
11 corporation. Waste Management is taxed  
12 as a corporation. Waste Management  
13 makes their application, they should be  
14 treated just the same as Ed Tempesta  
15 and his company when he makes the  
16 application. There should be  
17 no "Well, we know them, they are in  
18 the particular group", et cetera, et  
19 cetera.

20 Secondly, you're increasing these  
21 particular facilities and they have  
22 questionable business practices. I  
23 don't understand it. Open up to the  
24 people here, living here, the people  
25 that are employed, paying taxes here.

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2 We're not from Texas, not from  
3 Illinois.

4 Give us a fair shot. Rules and  
5 regulations? We want to abide by  
6 them. If you guys say this is the way  
7 it's supposed to be done, we want to do  
8 it that way.

9 And if we don't do it that way,  
10 fine us. And if we don't pay the fines  
11 or do it the proper way, shut us down.

12 But as has been said, if in the  
13 M-1 zones they are not doing what  
14 they're supposed to do, do something  
15 about it. Don't say: Now we'll create  
16 a number of transfers stations, because  
17 we got all these guys operating  
18 illegally. Make a move. Either have  
19 regulations enforced -- put people out  
20 of business that are not doing it the  
21 right way. Just open it up to the  
22 general public. That's it.

23 MR. ORLIN: The next speaker will  
24 be Kenneth Reiss.

25 MR. REISS: Good morning,

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2 everybody. Can you hear me? Everybody  
3 want to stand up and stretch?

4 Something was said here earlier,  
5 that it's like a deja vu all over  
6 again. I represent a fill recycling  
7 company called Locco Recycling, and I  
8 was happy to receive this morning a  
9 notice I got. I guess you all received  
10 the same thing. All right?

11 If you can let me put it in  
12 perspective, I have so much to say, but  
13 nothing to say, because I have gone  
14 through this, because since 1965 I have  
15 been representing recycling  
16 organizations; ever since then.

17 Just quickly, one point, the  
18 inconsistencies that exist between the  
19 rules set by the Department of  
20 Sanitation here in the City of New York  
21 and the state is mind boggling. It's  
22 already set in stone, but I'll tell you  
23 anyway, to show the inconsistency in  
24 the lack of approach and the lack of  
25 common sense.

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2 The state says that if any one of  
3 you people who spent all your money  
4 putting up fill stations accomplish the  
5 recycling of the product that comes to  
6 you -- one gentleman said that trucks  
7 come in, the stuff is taken off the  
8 truck, it's recycled; and if the truck  
9 leaves, he leaves with the same  
10 product, but recycled, now usable.

11 It comes to my mind that in  
12 Boston, Massachusetts they had to  
13 demolish an old subway station. And  
14 they hired a fill recycling firm to do  
15 it. He saved Boston thousands and  
16 thousands of dollars. He was given a  
17 medal for having accomplished recycling  
18 that resulted in the re-using of  
19 products. It's marvellous.

20 However, the same thing in New  
21 York City, just the reverse happens.  
22 Try to increase your capacity beyond  
23 what you bonded for, and bingo, you get  
24 violations. Forty, fifty  
25 thousand-dollars over a year's time.



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In the State of New York, you take a product, paper, cardboard, anything other than putrescible waste, and recycle it, and then you say you want to buy it, buy it much cheaper than if you would to buy it raw, new from another state -- the contractor coming into the establishment here would in fact purchase this material at much less cost, and then go out and use it in the construction business. A lot of which is for the City. And the contractor can charge less of the City. Et cetera. But for the state law, which makes sense, because we all want to recycle, it's contradicted by the City laws, which says no. No; the minute I bring stuff into a premises and it's recyclable, you're still a transfer station, because that product's going to go somewhere.

I used to say, where is it going? It's not going to a dump site. It's going to be used again, recycled,

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2 to make roadways, to make buildings, et  
3 cetera.

4 But it didn't work. So here I  
5 am. I will say this, we're invested  
6 here with a quagmire. The Sanitation  
7 Department has got a big problem.

8 There's a commonality of interest  
9 among all of us here. You know what  
10 that is? You; you; you; The  
11 Commissioner; myself; we're all going  
12 to die. That's a commonality.

13 The second commonality is we make  
14 garbage. We make more garbage in the  
15 City of New York than anywhere else on  
16 the globe.

17 And we have to face that  
18 problem. So how do you face it? You  
19 get people from Sanitation to set up a  
20 moratorium to see how best to handle  
21 it, and they have been discussing the  
22 same thing, as I know personally, since  
23 1965.

24 Somebody mentioned energy  
25 conversion establishments. They have

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2 one out on Meadow Brook Parkway. I  
3 think the re-fueling industry, they're  
4 recycling. There's a company, if you  
5 will -- just for a moment, to show you  
6 the stupidity of things, Parsons  
7 Midowmoor (phonetic), a firm from  
8 Boston, put that up 25 years ago at a  
9 cost of \$240 million dollars. It never  
10 went operational. Until recently.  
11 Because they are having problems with  
12 the environment, and the conditions  
13 that existed. In any event, it's  
14 working now.

15 I have been to Japan, where they  
16 have 29 conversion plants on line.  
17 That's what should have been done  
18 here. It hasn't been. They have got a  
19 problem. You got to understand it.

20 In my particular instance, I  
21 concur with one of the other gentlemen  
22 here. Locca Recycling operates a fill  
23 recycling establish in Maspeth, right  
24 in front of Newton Creek. They are in  
25 an industrial area. There isn't a

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2 house to be seen as far as your eye can  
3 see.

4 They are asking two things. They  
5 want to increase the capacity that they  
6 take in for recycling of fill material,  
7 which had been approved before they  
8 filed their application. But,  
9 unfortunately, now they have had this  
10 problem, so we're in the same  
11 moratorium with everyone else.

12 And, secondly, adjacent to the  
13 property, in order to help the City, in  
14 order to increase the amount of  
15 recycling and disposal of waste in a  
16 sensible way, I have a building. And  
17 the building is in conformity with what  
18 I just read today, according to this  
19 article here. But you say that you're  
20 going to put a moratorium on it until  
21 you do the investigation -- fine, I'll  
22 make it fast. But you also say that  
23 the Department may issue a permit for  
24 new construction and demolition  
25 transfer stations, provided that such

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2 new transfer station is located at or  
3 adjacent to a railroad or a barge  
4 facility. My facility is adjacent to a  
5 rail yard and barge facilities. It's  
6 on Newton Creek. We have barges lined  
7 up.

8 We're presently under contract  
9 with a private contracting firm doing  
10 the National Park in Flatlands, and  
11 under that contract all the material  
12 that they are putting in that park is  
13 being barged. There's no trucking,  
14 there's no nothing, it's perfect for  
15 what you want.

16 I could have just spoken to that  
17 issue and walked out of here, and I was  
18 sorely constrained to do that. Just  
19 that, I think, conforms within the  
20 confines of what you're talking about.

21 I won't belabor the point, but  
22 just indicate to you that on April 15th  
23 we submitted a letter to the Department  
24 of Legal Affairs in which we enumerated  
25 exactly this. We are tailor made in

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2 conformity with what you're asking.  
3 And the reason that we should be  
4 modified is specifically delineated in  
5 there. It's exactly what you are  
6 saying. We have barge facilities, deep  
7 water port facilities. We go right out  
8 to Jamaica Bay. You don't even know  
9 we're there. And we're smack in the  
10 middle of an industrial park, next door  
11 to your sewer treatment plant you're  
12 putting up now.

13 But the reason I even spend my  
14 time, a few extra minutes, is because I  
15 feel sorry for everybody, because your  
16 problem is everyone says "Not in my  
17 backyard." I can understand that. But  
18 now you're talking about a putrescible  
19 waste station, talking about C and D  
20 stations that want to go into areas  
21 where they are over-saturated. I know  
22 it's a problem. I appreciate the fact  
23 that individuals here don't want it in  
24 their backwards.

25 But, you know, let me clue you

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2                   all in. You, me, and everybody else in  
3                   the room is going to have to confront  
4                   this problem. Until such time you can  
5                   think of a perfect solution, we're  
6                   going to have to be pragmatic and help  
7                   the people in the industry.

8                   But whether you know it or not,  
9                   they are there to help you. Because  
10                  without these transfer stations, which  
11                  we're so under-utilized with what we  
12                  have to do in terms of the amount of  
13                  work that we have got to complete,  
14                  every single day, 22 -- I think  
15                  somebody's fibbing. It's not just  
16                  22-thousand tons. It's more, every  
17                  day. And they have their problem to  
18                  get rid of it.

19                  You have the same problem.  
20                  You're creating it to begin with,  
21                  myself included.

22                  Thank you.

23                  MR. ORLIN: The next speaker will  
24                  be New York State Assemblyman William  
25                  Scarborough.

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2 MR. SCARBOROUGH: Good morning,  
3 Commissioner, ladies and gentlemen. My  
4 name is William Scarborough. I the  
5 Assemblyman for the 29th Assembly  
6 District in Queens. My district  
7 includes the communities of Jamaica,  
8 St. Albans, and Springfield Gardens,  
9 among others. We have a number of  
10 transfers station in our area, so the  
11 issues that are being considered here  
12 today are of extreme importance to me  
13 and my constituents. Therefore, I  
14 thank you for giving the public this  
15 opportunity to discuss your proposals.

16 However, I am must tell you that  
17 I strongly oppose the interim proposals  
18 that you have publicized. The people  
19 in my district who live in proximity to  
20 existing transfer stations are very  
21 unhappy with those stations already; in  
22 each instance they are located in M-1  
23 zones, which under current law is  
24 supposed to be for light manufacturing,  
25 and under current law they would not be



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2 permitted to be located there.

3 However, these facilities were  
4 operating as construction/demolition or  
5 other transfer facilities prior to the  
6 adoption of current zoning law, and  
7 they were grandfathered in, even though  
8 they are next to residential zones, and  
9 create serious problems for homeowners  
10 that must co-exist with them.

11 One major thoroughfare in my  
12 district, Liberty Avenue, has homes on  
13 one side and putrescible waste transfer  
14 stations on the other side. During the  
15 summer, the stench is so bad that both  
16 residents and cars must close their  
17 windows to avoid the smell.

18 Our hope has been that the  
19 commercial waste transfer study that  
20 you are currently conducting would  
21 provide us with some relief from these  
22 conditions. However, your interim  
23 rules would make these conditions  
24 worse. You would allow existing  
25 transfer stations to expand during the

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2                   interim period and you would allow for  
3                   new stations under certain conditions.

4                   These provisions, especially in  
5                   regard to putrescible transfer  
6                   stations, would be an unfair added  
7                   burden to my constituents. We already  
8                   have more than our share of these sites  
9                   in comparison to the rest of Queens and  
10                  many areas in the City. These rules  
11                  would simply allow existing sites to  
12                  increase the amount of disruption and  
13                  discomfort they are already causing,  
14                  and may be health hazards.

15                  Your proposal prohibits new sites  
16                  in two areas, Community Board 1 in  
17                  Brooklyn and Community Board 2 in the  
18                  Bronx, under most circumstances. Bronx  
19                  2, for example, has ten transfer sites  
20                  according to your Department's  
21                  records. Community Board 12 Queens has  
22                  seven sites, and each one is in an M-1  
23                  zone, which is supposed to allow only  
24                  light manufacturing that co-exists  
25                  alongside of residences.

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2 These stations most assuredly do  
3 not co-exist well with residents, and  
4 in fact they are smelly nuisances that  
5 bring huge trucks, violate traffic laws  
6 and may well be health hazards.

7 I would urge you not to allow any  
8 expansion or new sites at all until  
9 your study is completed and rules that  
10 are fair to each community can be put  
11 in place.

12 Should you choose not to follow  
13 this suggestion, I would ask for an  
14 exemption for Community Board 12  
15 Queens, similar to the exemption you  
16 proposed for Community Board 1 in  
17 Brooklyn and 2 in the Bronx.

18 Thank you again for this  
19 opportunity to testify, and I thank you  
20 for your consideration. Thank you very  
21 much.

22 MR. ORLIN: The next speaker will  
23 be Ken Diamondstone.

24 MR. DIAMONDSTONE: Good morning,  
25 Commissioner, ladies and gentlemen. My

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2 name is Ken Diamondstone. Once again  
3 the Brooklyn SWAB is asked to address  
4 the issue of siting regulations --  
5 pardon me, I have laryngitis -- siting  
6 regulations which for Brooklyn can have  
7 enormous consequences. According to  
8 these proposed siting regulations,  
9 because CD 1 has so many transfer  
10 stations currently, we would probably  
11 get more under these regulations. On  
12 the one hand the Department appears to  
13 strictly limit new C and D capacity, on  
14 the other hand it creates a series of  
15 loopholes that set the stage for  
16 possible rampant expansion in the C and  
17 D permitted capacity.

18 While we appreciate the intention  
19 to that solid waste for new or expanded  
20 C and D and putrescible sites should to  
21 be contained in, quote, closed  
22 leak-proof containers at all times,  
23 including during receipt, storage and  
24 removal, we would remind the Department  
25 that regulations without enforcement

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2                   capacity or, worse, no will to enforce,  
3                   are meaningless and create the illusion  
4                   of protection, when in reality there is  
5                   none.

6                   CD 1 in Brooklyn and CD 2 in the  
7                   Bronx need a moratorium with teeth, not  
8                   loopholes. If I were a large private  
9                   transfer station owner in Williamsburg  
10                  or Redhook or Sunset Park, I would use  
11                  these regulations to convert my CD site  
12                  to putrescible, and then open a new CD  
13                  site elsewhere. For CD 1 in Brooklyn  
14                  or Bronx CD 2, regardless of 4-38(B)  
15                  which expressly prohibits expanding  
16                  putrescible transfer stations in highly  
17                  impacted areas, in fact those areas  
18                  become the real targets for expansion  
19                  of putrescible capacity because they  
20                  already have considerable C and D sites  
21                  which could be converted. That could  
22                  be a boon to the super large owners,  
23                  Waste Management, et cetera, who have  
24                  many sites, while it is restricting the  
25                  smaller guys.

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2 If the DOS statement of basis of  
3 purposes is to be believed regarding  
4 these regulations, they are promulgated  
5 to restrict the permitting of and  
6 siting of putrescible and  
7 non-putrescible solid waste transfer  
8 stations until the results of the  
9 commercial waste study could be  
10 examined. Yet the caveats and  
11 exclusions within these new regulations  
12 undermine that goal.

13 The new regulations would allow  
14 consolidation of putrescible facilities  
15 from two smaller sites, for instance,  
16 to one big one. What about the  
17 consolidating into a facility that has  
18 grandfathered zoning, in which the  
19 adjacent zone is now M-1 or  
20 residential? Would that be allowed,  
21 assuming there is still available space  
22 for expansion? We believe it would.  
23 Would you allow sites to operate on  
24 consent orders? We believe the answer  
25 to that is also yes.

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2 What would be the unthinkable  
3 consequence of these regulations?  
4 Attempting to second guess conclusions  
5 of the commercial waste study, due in  
6 less than one year, or to promulgate  
7 regulations without considerable input  
8 and consultation from heavily affected  
9 communities, should not go forward at  
10 this time. When the City is proposing  
11 reconstruction of its marine transfer  
12 stations, with the potential to  
13 actually reduce the City's appetite and  
14 need for privately owned transfer  
15 stations, new regulations that allow  
16 for shuffling in larger capacities and  
17 creating new transfer sites seems  
18 illogical.

19 Thank you.

20 MR. ORLIN: The next speaker will  
21 be Ronald Dillon.

22 MR. DILLON: My name is Ronald  
23 Dillon, the President of Concerned  
24 Homeowners' Association.

25 I have heard many comments which

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2                   address a number of issues on these  
3                   proposed regulations, but I would like  
4                   to raise a couple of other issues.

5                   Number one is -- which hasn't  
6                   been addressed -- the absolute amount  
7                   of fraud, out-and-out fraud in the  
8                   Department of Sanitation. It  
9                   interferes with government regulations,  
10                  which hasn't been addressed. These  
11                  hearings are being held in the morning  
12                  hour, in Manhattan, when the transfer  
13                  stations are in the communities of  
14                  Queens, the Bronx, Brooklyn. The  
15                  Department of Sanitation doesn't hold  
16                  the hearings where the impacts are  
17                  being felt.

18                  In the same sort of vein, it's  
19                  always frustrating to me that the  
20                  Department allows transfer stations to  
21                  operate 24 hours a day, and the  
22                  Department operates eight hours a day.  
23                  So when you have all these odors from  
24                  the transfer station and you want to  
25                  complain at 12:00 at night, you can't.



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2                   I thought that 3-1-1 would help us, but  
3                   that's not one of the issues that 3-1-1  
4                   records. They send you to the  
5                   Department of Sanitation's action  
6                   center. You have to explain for 20  
7                   minutes that there's nobody home, in  
8                   all essenses of that meaning.

9                   Apart from the issue with fraud  
10                  that has to be addressed, there is the  
11                  issue of what a transfer station is.  
12                  People are trying to make the  
13                  distinction between the type of waste,  
14                  and a transfer station is a transfer  
15                  station. It's just that something  
16                  comes in, it is processed, it goes  
17                  out. And at that level it doesn't  
18                  matter whether it's clean fill, whether  
19                  it's bottles, whether it's cans,  
20                  whether it's putrescible waste, whether  
21                  it's anything -- you have certain  
22                  impacts about that. It's a transfer  
23                  station. It's a transfer station. And  
24                  it needs to be addressed as such,  
25                  whether it's clean fill, recycling,

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2 whatever, that's my issue.

3           Apparently some people have  
4 addressed about M-3s. It's simple.  
5 These facilities only belong in M-3  
6 districts. Because there are  
7 performance standards that -- and going  
8 back to this issue of fraud, fraud --  
9 the zoning resolution does not allow  
10 the Department of Sanitation to enforce  
11 zoning. Yet it does -- somebody talked  
12 about a secret memorandum. We have  
13 been trying to get secret memoranda  
14 that we cannot get. The issue that we  
15 really have with this, the whole  
16 recycling, is it is this bifurcation of  
17 interests. You have the people in the  
18 industry that were there before, like  
19 1990, 1980, who got permits illegally,  
20 and they continue to have their permits  
21 recycled. And then you have new people  
22 coming in, who, again, you have new  
23 people who want to go in M-3 districts  
24 and they don't get a permit only  
25 because they weren't in the cycle

1                   4/23/03 PUBLIC HEARING  
2                   before 1980, 1985. That is unfair. If  
3                   a transfer station should not have  
4                   gotten the permit initially, it should  
5                   not be in business.

6                   We have an issue, it was  
7                   addressed a little before, about this  
8                   question of what is legal as of March  
9                   21, 2003. And the definition I suspect  
10                  DOS is going to use is if we gave them  
11                  a permit, they are legal. This is like  
12                  the Department saying they saved  
13                  \$40 million in recycling. How?  
14                  Because they said it. They can't  
15                  support it. They didn't study it. But  
16                  they said it. It's the same issue.

17                  The question is, what is legal as  
18                  of March 21, 2003? If they are under  
19                  an order of consent, they are not  
20                  legal.

21                  A Sanitation permit does not make  
22                  a transfer station legal. I want to  
23                  reiterate: These facilities cannot  
24                  operate in an M-1 district. It's there  
25                  in the law. And you can't just say you

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don't like it, so that therefore you're going to ignore it.

Thank you.

MR. ORLIN: Mr. Dillon is the last speaker who signed up. That concludes our hearing.

I want to thank you all for attending and participating in this morning's hearing. All the comments received today that were oral or written will be seriously considered.

If you would like to review the transcript of this hearing, and the written comments, you are welcome to come to the Department of Sanitation on May 8, May 9 or May 12, Room 708 in this building, and we will try to post the transcript on the Department website.

Thank you.

(TIME NOTED: 11:27 p.m.)

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C E R T I F I C A T E

I, Robin Dann, a Stenotype reporter and Notary Public of the State of New York, do hereby certify that the within transcript is a true record of the proceedings held.

IN WITNESS WHEREOF, I hereunto place my hand this 30th day of April, 2003.

ROBIN DANN