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January 24, 2005

Client No.: zzz00.167

Total pages (including cover): 14

FAX TRANSMITTAL

NAME/COMPANY	TELEPHONE NUMBER	FACSIMILE NUMBER
Harry Szarpanski Assistant Commissioner New York City Department of Sanitation	917-237-5520	212-269-0788

Comments on the New Comprehensive Solid Waste Management Plan by the Environmental Law Committee of the Association of the Bar of the City of New York -- see attached letter.  
Thanks.

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January 24, 2005

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RE: COMMENTS ON PROPOSED SOLID WASTE MANAGEMENT PLAN AND THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

INTRODUCTION

The Committee on Environmental Law (Committee) of the Association of the Bar of the City of New York respectfully submits the following comments on the New Comprehensive Solid Waste Management Plan (SWMP) and its Draft Environmental Impact Statement (DEIS).<sup>1</sup> The scope of the 20-year Proposed Action, and therefore the potential impact of it, is great. For that reason, it is the Committee's belief that this is an opportunity to prepare a thoughtful, thorough and innovative response for dealing with the City's solid waste that can establish New York City as a model for the rest of the world. The Committee offers these comments in order to assist the Department of Sanitation of the City of New York (DSNY) with its development of a solid waste management plan that is consistent with the goals of the Solid Waste Management Act (SWMA), that properly identifies the significant environmental issues related to the Proposed Action, and considers appropriate alternatives to mitigate environmental impacts associated with the Proposed Action, consistent with the State Environmental Quality Review Act (SEQRA). As this Proposed Action will likely face significant public scrutiny, our comments are intended to identify existing legal vulnerabilities in both documents as well as to offer specific recommendations in areas where DSNY exercises policy discretion. For these reasons, we offer these comments with an appreciation that the SWMP provides an important and irreplaceable opportunity to create a plan that manages the City's enormous quantity of waste in a manner that is not only lawful, but also sustainable, effective and fair.

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<sup>1</sup> The Committee recognizes that, as a formal matter, it is the DEIS and not the SWMP that is open to public comment. The two sets of documents, however, cannot be separated due to their interrelated nature and the fact that the New York State Department of Environmental Conservation (DEC) and the City Council will have to approve the SWMP.

## EXECUTIVE SUMMARY

Overall, we commend DSNY for recognizing many of the problems with the current system and for taking significant steps to address several of its most troublesome aspects. We support the Proposed Action's long-term commitment to recycling, and its intent to develop infrastructure to allow a shift from truck transfer of solid waste to barge transfer. We are concerned, however, that the Proposed Action is inconsistent with the objectives of the SWMA in that it: (1) relies exclusively on long-term export of waste, while ignoring the Act's placement of higher priority on reducing and reusing waste; (2) fails to adequately provide a comparative economic analysis of the present plan, the Proposed Action and other alternative solid waste management approaches; and (3) does not provide adequate alternatives for the management of the City's commercial solid waste. For these reasons, we recommend that DSNY expand its consideration of these alternatives in a manner consistent with the broad scope and long-term nature of its Proposed Action.

These deficiencies regarding the consideration of alternatives to the Proposed Action are problematic not only in terms of compliance with the SWMA, but with the legal requirements of SEQRA, as they extend into the adequacy of the SWMP's DEIS. Accordingly, the DEIS should be modified and expanded to address the deficiencies highlighted above, as well as to include: (1) a project wide or cumulative analysis of the Proposed Action impacts on the environment, and specifically with regards to air pollution impacts (including ozone) from diesel truck and barge exhaust; (2) alternatives to the Proposed Action that reduce significant increases in air emissions; and (3) alternatives that would improve recycling rates, increase municipal composting, and adequately address emerging challenges, including the proper disposal of increasing amounts of toxic-laden home electronics. A full discussion of these issues is provided in the remainder of our comments.

### **A. EXISTING STATE SOLID WASTE AND ENVIRONMENTAL QUALITY REVIEW LAWS REQUIRE THAT THE SWMP AND ITS DEIS PROVIDE FULL CONSIDERATION OF ENVIRONMENTALLY-BENEFICIAL ALTERNATIVES TO SOLID WASTE MANAGEMENT AND DISPOSAL.**

#### **1. REDUCING AND REUSING SOLID WASTE ARE KEY POLICY PRIORITIES UNDER NEW YORK STATE'S SOLID WASTE MANAGEMENT ACT**

Consistent with the federal Solid Waste Management Act, New York State adopted the Solid Waste Management Act of 1988 (SWMA), a comprehensive overhaul of the initial State waste planning law.<sup>2</sup> The SWMA was based in part on findings that "[w]aste reduction is a key strategy in the state solid waste management policy" and that "the state must identify and encourage the implementation of effective waste reduction techniques."<sup>3</sup> Thus, the SWMA was designed in part to achieve sustainable waste practices by encouraging the reduction of the amount of waste for ultimate disposal. The SWMA formally adopted a Solid Waste Management Policy (state policy) and made it the central organizing principle of solid waste planning.

<sup>2</sup> L.1988, c.70, amending L. 1980, c.552 and L. 1980, c.560.

<sup>3</sup> L.1988, c.70, § 2 (reprinted in N.Y. Environmental Conservation Law ("ECL") § 27-0106, note (McKinney's 2004)).

The act prescribes a hierarchy of policy goals which, "after consideration of economic and technical feasibility, shall guide the solid waste management programs."<sup>4</sup> These goals, in order of priority, are:

1. Reduce the amount of solid waste generated,
2. Reuse materials for their original purpose, or recycle materials that cannot be reused,<sup>5</sup>
3. Recover, in an environmentally acceptable manner, energy from solid waste that can not be economically and technically reused or recycled and
4. Disposal of remaining solid waste in sanitary landfills or other approved facilities.<sup>6</sup>

The SWMA encourages local governments to adopt solid waste management plans for a period of ten years or more through grants and other incentives. Local plans must "take into account" the state policy and should reflect "sound principles of solid waste management, natural resources conservation, energy production and employment creating opportunities."<sup>7</sup> Specifically, the SWMA requires the local plans, among other things, to:

1. Characterize the solid waste stream to be managed,
2. Assess existing and alternate proposed solid waste management programs and facilities, and
3. Address comments by governmental, environmental, commercial and industrial interests and the public.<sup>8</sup>

Local plans must also select an "integrated system" for the management of each stream of waste from minimization at the point of generation through collection, treatment and disposal.<sup>9</sup> Integrated systems must "provide for or take in to account management of all solid waste within the planning unit."<sup>10</sup>

## 2. STATE AND CITY ENVIRONMENTAL QUALITY REVIEW LAWS

The State Environmental Quality Review Act (SEQRA) "insures that agency decision-makers — enlightened by public comment where appropriate — will identify and focus attention on any environmental impact of proposed action, that they will balance those consequences against other relevant social and economic considerations, minimize adverse environmental effects to the maximum extent practicable, and then articulate the bases for their choices. Moreover, unlike its Federal counterpart . . . SEQRA is not merely a disclosure

<sup>4</sup> N.Y. ECL § 27-0106(3). See also 6 NYCRR § 360-15.9(n) (requiring local plans to assess overall costs of the integrated management system and corresponding financing mechanisms for capital investments insurance, operation, maintenance, administration and financing).

<sup>5</sup> See also N.Y. General Municipal Law § 120-aa(2)(A) (requiring municipalities to adopt recycling and reuse laws for waste components "for which economic markets for alternative uses exist"); N.Y. Economic Development Law § 181(5)(j)-(l) (charging economic development agencies with evaluating the supply and demand for recovered material and developing and facilitating waste end markets).

<sup>6</sup> N.Y. ECL § 27-0106(1).

<sup>7</sup> Id. § 27-0107(c).

<sup>8</sup> Id. § 27-0107(b).

<sup>9</sup> 6 NYCRR § 360-15.9(1).

<sup>10</sup> N.Y. Environmental Conservation Law § 27-0701(1)(c).

statute; it imposes far more action-forcing or substantive requirements on state and local decision makers than NEPA imposes . . . .”<sup>11</sup> The act further requires that, these considerations be raised “[a]s early as possible” at “the inception of the planning process . . . .”<sup>12</sup> The cornerstone of SEQRA is its mandate that agencies “shall act and choose alternatives which, consistent with social economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects . . . .”<sup>13</sup> That mandate is enforced through the requirement that agencies prepare a “detailed” environmental impact statement that sets forth “the environmental impact of the proposed action including short-term and long-term effects,” “alternatives to the proposed action” and “irreversible and irretrievable commitments of resources . . . .”<sup>14</sup> SEQRA explicitly states that environmental impact statements should analyze “reasonably anticipated” environmental impacts and should contain a level of detail that is “appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.”<sup>15</sup> Finally, an environmental impact statement should identify and discuss “reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts.”<sup>16</sup> The City Environmental Quality Review laws (CEQR) impose similar restrictions, and for the purposes of these comments, all reference to SEQRA should be understood to incorporate CEQR.<sup>17</sup> Thus SEQRA, like SWMA, encourages good policy choices by providing “the basis for a decision whether or not to undertake or approve [the Proposed Action].”<sup>18</sup>

## B. RECOMMENDATIONS TO IMPROVE THE SWMP’S CONSISTENCY WITH THE SWMA

### 1. THE SWMP NEEDS TO BETTER MANAGE COMMERCIAL SOLID WASTE

As previously noted, state law requires that the local SMWP select an integrated system for the management of each stream of waste that manages all solid waste within the planning unit. The City SWMP, however, includes very few present commitments for improving commercial waste management. The SWMP recognizes that the current system for managing commercial waste, which is based on a network of private land-based transfer stations (PTSs), is problematic because: (1) the majority of PTSs are clustered in low income communities of color, thereby creating a grossly inequitable concentration of harms, and (2) the PTS system is dependent on the use of hundreds of long-haul trailer trucks – with their attendant contribution to air and water pollution, traffic congestion and infrastructure decay - to export the waste. Accordingly, the SWMP aspires to “accelerate the conversion of the City’s private transfer network towards a barge and/or rail-based system that will have long-term economic and environmental benefits for the City.” However, the plan falls short of this goal because, (1) it fails to create enough alternative capacity for managing the City’s commercial waste, (2) it

<sup>11</sup> (Citations omitted; internal quotation marks omitted.) *Jackson v. N.Y. Urban Dev. Corp.*, 67 N.Y.2d 400, 414-415, 503 N.Y.S.2d 298, 494 N.E.2d 429 (1986).

<sup>12</sup> N.Y. Environmental Conservation Law § 8-0109(4).

<sup>13</sup> N.Y. Environmental Conservation Law § 8-0109(1).

<sup>14</sup> N.Y. Environmental Conservation Law § 8-0109(2)(b), (d).

<sup>15</sup> N.Y. Environmental Conservation Law § 8-0109(2).

<sup>16</sup> 6 NYCRR 617.9(b)(5)(iii)(a).

<sup>17</sup> 43 RCNY § 6-01 et seq.; 62 RCNY § 5-01 et seq.

<sup>18</sup> N.Y. Environmental Conservation Law § 8-0109(2).

fails to ensure that the alternative capacity that is created will be used by private waste collectors and (3) it fails to discourage the use of, and prepare for the phasing out of, clustered and unnecessary PTSs.

First, the current plan does not create enough alternative capacity to relieve growth pressure on the existing PTS network or substitute municipal capacity. DSNY estimates that the daily throughput of commercial waste is approximately 18,600 tons per day (tpd). This figure includes roughly 9,900 tpd of putrescible solid waste (PSW) and 8,700 tpd of construction and demolition debris (C&D).<sup>19</sup> Under the most generous estimate, the plan would create approximately 9,261 tpd of "potentially available capacity" for commercial waste. This would come from three potential sources. First, the plan envisions retrofitting and reopening four of the City's eight marine transfer stations (MTS). After taking into account the DSNY managed waste that the MTSs would handle, they would have 3,915 tpd of capacity potentially available for commercial waste. Second, the plan envisions contracting with private companies to operate five private rail and/or barge transfer stations. This action would create approximately 3,231 tpd of capacity that would potentially be available for commercial waste. Finally, the plan promises to "assess the feasibility of providing the West 59<sup>th</sup> Street MTS site for commercial waste transfer through procurement or other means." That station would have the capacity to handle approximately 2,115 tpd of commercial waste. The total potential capacity from all sources would be approximately 9,261 tpd – less than half of the required 18,600 tpd.

Second, the plan fails to ensure that private waste collectors will use the alternative capacity that is created. Regarding the MTSs, the plan says that, "[t]he City intends to develop policies that will result in the processing of commercial waste at the four converted MTSs." Regarding the private rail/barge transfer stations and the West 59<sup>th</sup> Street MTS, the plan has no provision for requiring or encouraging private waste collectors to bring commercial waste to these facilities. Nor does it require or encourage that the commercial waste brought to these stations be redirected from neighborhoods that currently bear a disproportionate burden of the commercial waste flow. Finally, the plan does nothing to discourage the use of, and prepare for phasing out, clustered PTSs where that would be environmentally beneficial. The plan makes a vague promise to, "explore ways to reduce the daily permitted putrescible capacity in the two or three communities with the greatest concentration of transfer stations as new putrescible transfer station capacity becomes available . . ." This promise is further qualified by the caveat that, "DSNY may also work with the City Council, as necessary, to amend Section 16-131 of the Administrative Code to clarify that DSNY has the authority to reduce permitted capacity at transfer stations." There is no description of what methods the City intends to explore, how the City will determine the "two or three" most burdened communities, or why this reduction in capacity should not include C&D and fill material.

The plan also relies on the recently promulgated transfer station siting regulations and the forthcoming transfer station operating regulations to minimize the concentration and impacts of the PTSs. Local Law 40 specifically mandated that DSNY, "adopt rules establishing . . . requirements appropriate for protection of public health and environment concerning siting of dumps, non-putrescible solid waste transfer stations, putrescible solid waste transfer stations and/or fill material operations in relation to other such facilities and

<sup>19</sup> Also included in the overall estimate of commercial waste is fill material. However, fill capacity is measured in storage capacity, not throughput capacity. Therefore, the estimated 19,000 tons of fill represents the maximum amount stored amount on any given day, not the amount that is moved on any given day. Furthermore, most fill is reused within the City, and thus does not present the same management problems as PSW and C&D.

residential premises.”<sup>20</sup> However, the siting regulations not only fail to remedy clustering, but actually permit the siting of new PTSs and the expansion of existing ones in already burdened neighborhoods.<sup>21</sup> At best, the new regulations will slow the expansion of commercial waste capacity at PTSs. More likely, they will create an unintended incentive for existing stations to increase capacity instead of encouraging improvements or relocation.

As the SWMP is intended to be a comprehensive 20-year solid waste management plan, it should address these solid waste management issues by including and examining alternative approaches to (1) create adequate capacity for the City’s commercial waste; (2) increase the use of alternative capacity by private waste collectors; and (3) address the problems identified with the present PTS system. Along with these specified goals, the SWMP should set out at the outset specific measures to achieve the overall goal and milestones to assess the progress of the SWMP in achieving its overall goals. Such milestones will ensure that DSNY places appropriate resources toward achieving the plan’s specific goals during the implementation of the SWMP over the next twenty years.

## 2. THE SWMP INVERTS, RATHER THAN IMPLEMENTS, THE STATE’S SOLID WASTE MANAGEMENT PLANNING PRIORITIES

A major shortcoming of the Proposed SWMP is that it predominantly relies on the last priority of the state policy – land-based disposal – for managing the City’s waste, and includes no specific plans to achieve the state policy’s top priority – waste prevention. Also, the Proposed SWMP does not contain essential details on how it promotes the state policy’s second and third priorities – reuse and recycling. Other than its commitment to a 20-year contract with Hugo Neu to handle the City’s recycling materials, the SWMP leaves many of the details regarding improving residential and commercial reuse and recycling rates to be worked out in the future.

Regarding the first tier of the State policy hierarchy - reduction before waste is generated - the SWMP contains little discussion of proposals to reduce waste, despite the State Plan’s recognition that “pay-as-you-throw or pay-per-bag programs are becoming much more popular and are a very effective waste reduction initiative . . . .”<sup>22</sup> Also, the SWMP contains few concrete plans to reduce the increasing toxic component of municipal waste, such as increasing the frequency of collection of household hazardous waste and the increased use of “special waste” drop-off sites for common, yet toxic household items. In light of the SWMP’s reliance on continued incineration of its solid waste in nearby Newark, every reasonable effort should be made to divert toxic materials from the solid waste stream prior to disposal.

Regarding the second tier of the State policy hierarchy - reuse or recycling - the SWMP includes a very limited consideration of potential future projects to improve reuse and recycling rates, including public

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<sup>20</sup> See also *Neighbors Against Garbage v. Doherty*, 245 A.D.2d 81, 665 N.Y.S.2d 640 (1<sup>st</sup> Dept. 1997) (ruling that DSNY had not met their obligation under Local Law 40 because the siting regulations they had promulgated failed to remedy clustering); *OWN v. Carpinello*, Index No. 103661/99 (Sup. Ct. N.Y. Co., Oct. 18, 2001) (new siting regulations must remedy the, “infirmities of the challenged [1998] regulations,” including the failure to address the clustering of transfer stations).

<sup>21</sup> 16 RCNY §§ 4-31 through 4-35.

<sup>22</sup> State Plan, p. 13. For example, Seattle, Washington and Bloomington, Indiana require residents to dispose of waste in special bags for which there is a graduated, increasing fee scale.  
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education and outreach initiatives. Similarly, while the plan does recognize the potential of municipal composting to significantly reduce the amount of noxious, or putrescible waste, the SWMP contains no commitment to continue or expand municipal solid waste composting pilot projects, despite an earlier DSNY report recommending such action. The only significant action for "Waste Prevention and Recycling" is the proposal to enter a twenty-year contract with the Hugo Neu Corporation to construct a metal, glass and plastic recycling facility at the 30th Street Pier in Brooklyn. While this measure ensures that the City will continue to recycle, absent complimentary efforts directed toward increasing recycling rates, the overall SWMP fails to ensure improvements in the City's recycling rate in the future.

Future improvements in the City's recycling rate are also put into question by the City's plan to significantly modify the City's central recycling law, Local Law 19, by replacing tonnage-based diversion mandates with percentage-based diversion goals. Such a change to Local Law 19 is a major undertaking and can have profound and unforeseeable consequences on recycling efforts in the City. Unfortunately, the rationale given by the City for this change is not to improve recycling rates, but to "avoid costly litigation" arising if DSNY is unable to recycle the mandated tonnage due to a reduction in the overall amount of waste. However, this approach is an inappropriate way of dealing with noncompliance and seems unjustified given DSNY's projected increase in waste. The Committee recommends that proposals to amend Local Law 19 should not be taken lightly, and should only occur if, after adequate studies are completed, a clear need is shown to amend Local Law 19 to improve the City recycling program.

Regarding the third tier of the State policy hierarchy – waste-to-energy – the only discussion of this method is in the plan to send Manhattan's 1,680 tpd of residential waste to the Essex County Incinerator. While technically a waste-to-energy method of managing the waste, this action is inconsistent with the implicit requirement that the recovered energy be available to the planning unit or the state. Sending waste to an out-of-state incinerator has the same impact as any other method of out-of-state disposal, namely, treating the waste purely as a burden to be externalized. Also, this method may contribute to pollution in the City and State when the air pollution emitted by the facility travels into the area. While the creation of waste to energy capacity in the City would likely be environmentally and politically difficult to achieve, the SWMA calls for a full analysis of the options.

3. THE SWMP SHOULD INCLUDE A COMPARATIVE COST ASSESSMENT OF THE INTERIM PLAN, THE PROPOSED ACTION AND OTHER REASONABLE ALTERNATIVES FOR MANAGING COMMERCIAL AND RESIDENTIAL SOLID WASTE AND RECYCLING.

The three-page "Economic Analysis of Long Term Export Scenarios," contains insufficient detail and analysis to reasonably inform the planning process. The analysis sets forth only the overall estimated costs of two variations on exporting waste to other states – the Proposed Action to revamp four marine transfer stations at a cost of \$85 million each and to take other measures for a total cost of \$388 million, and the conversion of all eight marine transfer stations for a total estimated cost of \$473 million. The analysis does not describe the underlying calculations or assumptions for these two estimates, even though the cost estimates of anticipated contracts with private haulers for DSNY-managed waste in Bronx, Brooklyn and Queens may vary by ten percent. The disclosure of cost components would allow the public and decision-makers to compare the additional \$85 million for renovating all eight stations to potential savings in health costs from the reduced reliance on truck hauling for DSNY-managed waste in large parts of the City. The plan should also consider the



economic impacts of the converted marine transfer station for commercial waste at 59th Street, the barge staging area and any incentives or other methods that will be used to encourage private carters to use the dedicated 59th Street marine transfer station and surplus capacity at the other four converted marine transfer stations.

A comprehensive economic analysis and comparison with a wider range of viable alternatives would allow the City and public to make a clear-eyed choice to export waste through renovating all or some marine transfer stations or whether to pursue alternate options. Estimates in the SWMP put export costs at anywhere from \$70 to \$85 per ton, and note that they are expected to rise to \$95 per ton. The SWMP states that the cost of the Proposed Action will be about \$100 per ton, but does not state whether these costs will decrease over the twenty-year planning period. Nor is it clear whether these figures account for potential increases in exporting costs arising from consolidation, concentration and/or other limitations on disposal markets. In light of the risk of rising costs and diminished capacity in export markets, the SWMP should give greater consideration to self-sufficiency on a State-wide, if not City-wide, basis.

### C. RECOMMENDATIONS TO IMPROVE THE DEIS'S CONSISTENCY WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

#### 1. THE SWMP AND DEIS SHOULD FULLY ANALYZE AND COMPARE THE IMPACTS OF THE INTERIM SYSTEM, PROPOSED ACTION AND A RANGE OF REASONABLE ALTERNATIVES

In order to ensure that the City chooses a solid waste management plan that will best minimize adverse environmental, social and economic impacts, the SWMP and DEIS should provide the public and elected officials with comprehensive information regarding the impacts of the interim system, the Proposed Action and a range of reasonable alternatives that would reduce the amounts of solid waste generated, improve recycling, increase composting, and control and reduce new sources of toxic materials into the waste stream, and reduce the City's reliance on long-term trucking of its solid waste to landfills in neighboring states. However, the SWMP and DEIS provide little or no baseline information about the totality of environmental impacts of the interim system, inadequate information about the impacts of the Proposed Action and inadequate consideration of and comparison with alternative actions.

#### 2. THE DEIS SHOULD INCLUDE ALTERNATIVES TO THE PRESENT MANAGEMENT OF COMMERCIAL SOLID WASTE

As the DEIS is required to consider reasonable alternatives to the Proposed Action that are more environmentally-benign, the DEIS should be expanded to include a broad range of alternatives to the present system of commercial solid waste management, including alternative management approaches that address the problems the Committee identified above with the present commercial waste management system not addressed by Proposed Action. Such an analysis is needed to demonstrate whether the Proposed Action will, as claimed, improve environmental conditions for the communities in which the land-based stations are located. The need for a broader range of alternatives is apparent from the SWMP's admissions that the siting and operational regulations are an incomplete remedy to the environmental and social effects of the commercial waste system.

For example, there are several actions that the SWMP and DEIS should fully explore for managing commercial waste. One alternative that was discussed, but not fully explored, was retrofitting and reopening all eight City-owned MTSs. According to the City's Commercial Waste Management Study, retrofitting and reopening all eight City-owned MTSs, along with the new transfer station on Staten Island, will provide for a total capacity of approximately 29,250 tpd. This represents 7,139 tpd more than the current proposal, and would be sufficient to handle all of the DSNY-managed waste, all of the commercial PSW and most of the C&D. The remaining C&D (approximately 2,750 tpd) could easily be handled by a reduced network of smaller PTSs. Also, according to the plan's admittedly cursory economic analysis, revamping all eight MTSs would only cost \$85 million more than revamping just four. In addition, that option would provide the City with added revenues from tipping fees, further lowering the net cost, and providing greater control over the flow of waste.

In terms of addressing problems with the present PTS system, the plan should also consider alternatives for redirecting the flow of commercial waste from the PTSs to the MTSs. One alternative is for the City Council to enact flow control legislation requiring that all waste collected within a particular watershed be brought to a particular MTS. In order for this legislation to pass constitutional muster, the facilities to which waste is directed must be publicly owned.<sup>23</sup> Such an action would be possible if the eight City-owned MTSs are retrofitted and reopened, but it is not possible under the current plan. Short of flow control legislation, the City could also encourage the shift by amending § 16-131(c) of the City's administrative code to raise PTS permit fees and/or subsidizing the tipping fees at the MTSs.<sup>24</sup> DSNY could, pursuant to its power to specify the kinds of waste to be collected by the City and the manner in which it is collected, enter franchising agreements granting private waste collectors licenses to collect waste from particular watersheds.<sup>25</sup> The plan should also consider and compare the cost of financial incentives to encourage private haulers to use excess capacity at the converted marine transfer stations, with the costs and environmental benefits of subsidizing modern private collection vehicles.

Finally, the plan should consider methods for phasing out the clustered and unnecessary PTSs. One option would be to stop permitting new capacity and allow existing permits to expire.<sup>26</sup> This could be done by amending City and State law to include, as a ground for refusing to issue or renew a permit, the determination that the capacity is not needed,<sup>27</sup> and amending State regulations to remove the automatic permit extension.<sup>28</sup> These actions would also dovetail nicely with the capacity and control provided by retrofitting all eight City-owned MTSs. All of these alternatives for managing the City's commercial waste should be fully explored

<sup>23</sup> See *United Haulers Ass'n v. Oneida-Herkimer Solid Waste Management Authority*, 261 F.3d 245 (2d Cir. 2001), cert. denied, 534 U.S. 1082 (2002) (holding that where facilities to which waste is channeled are publicly owned, the laws do not discriminate in favor of economic interests to the disadvantage of out-of-state economic interests and will be upheld unless burden imposed on such commerce is clearly excessive in relation to putative local benefits).

<sup>24</sup> As previously noted, these options should be subjected to a detailed economic analysis.

<sup>25</sup> NYC Charter § 75.3.

<sup>26</sup> According to a comparison of self-reported data from in-City transfer stations with DSNY permitted capacity, the current system has approximately 30,000 tpd of excess capacity.

<sup>27</sup> Administrative Code of the New York City § 16-131.1 and N.Y. Environmental Conservation Law §27-0703.

<sup>28</sup> 6 NYCRR 360-1.8(f)(2).

before the City commits to a plan that may result in uncontrolled costs, legal challenges and/or unwieldy management problems in the future.

3. THE DEIS'S ASSESSMENT OF THE IMPACTS OF THE PROPOSED ACTION ON WASTE REDUCTION AND RECYCLING, AND CONSIDERATIONS OF ALTERNATIVES, NEEDS TO BE IMPROVED

While the SWMP relies almost exclusively on a twenty-year contract with the Hugo Neu Corporation to handle recycling, a discussion of certain environmental impacts and the pricing and other terms of that contract are deferred to the future. Specifically, the total cost per ton for metal, glass and plastics recyclables that the City will pay under the contract has not yet been negotiated. There is also no information on whether the proposed long-term contract is flexible enough to adapt to the changing technologies and characteristics of the City's solid waste generation, or is rigid and will preclude innovation and adoption of more environmentally sound and efficient recycling collection approaches as they become practicable. Furthermore, it is unclear whether there will be adequate incentives for Hugo Neu to maintain and upgrade facilities with state of the art technologies in the future if the value of the contract is diminished by changing economic circumstances in the City or region. Comparing today's New York City to the New York City of 1985 highlights how much the City can change over a 20-year period. For that reason, it is important that the plan and DEIS adequately describes and considers the ramifications of the Proposed Action, along with alternatives to the Proposed Action, over the entire 20-year period.

In addition to answering these fundamental questions, the DEIS and SWMP should discuss additional alternatives to certain elements of the proposed recycling plan and its greatest cost component, collection, such as the use of dual bin trucks or the sorting of mixed recyclables at the processing facility - both of which may result in fewer collection runs - or the use of neighborhood recycling drop-off bins for high traffic areas, or at least discuss why such alternatives were rejected. The plan should also fully analyze the impacts of the solid waste composting pilot project to determine whether it could significantly reduce the amount and noxiousness of the waste to be transferred and disposed of and thereby mitigate many of the City's waste management challenges. Other alternatives to consider might include: (1) permanent drop-off centers for household hazardous waste (batteries, etc.) and electronics; (2) more frequent special collections of hazardous household waste, programs to exchange household mercury thermometers and other toxic items for non-toxic alternatives; (3) recovery of mercury switches from junked cars or (4) comprehensive producer-sponsored programs for dedicated returns of computer monitors, cell phones and other consumer electronics and (5) use of new technologies for "end-of-the pipe" management of municipal solid waste that allow for the possibility of more environmentally-friendly and locally-sited disposal methods.<sup>29</sup>

4. THE DEIS SHOULD CONTAIN A PROJECT-WIDE ENVIRONMENTAL ASSESSMENT OF THE INTERIM ACTION AND PROPOSED ACTION.

Both the present plan and Proposed Action for exporting waste involves numerous facilities and disposal sites, a numerous diesel-powered collection and transport vehicles, and an extensive network of trucking routes

<sup>29</sup> In Middletown, NY, one such facility will recycle or beneficially use over 90% of the municipal waste and sewage sludge, leaving only a small residue for landfilling, at a cost to the city of \$55-65 per ton.

connecting the various facilities and disposal sites. The DEIS, however, does not set forth the project-wide, or cumulative environmental impacts of the present system for comparison with the impacts of the Proposed Action, and therefore provides an inadequate baseline against which to compare the impact of the latter. Rather than providing a project-wide analysis, the DEIS consists mainly of separate environmental analyses for each waste processing facility, each in its own separate chapter. For the 17 facilities studied, most environmental impacts are analyzed only within a ¼ mile radius, with impacts to open space and cultural resources analyzed within a ½ mile radius. The DEIS should, but does not, contain a project-wide impacts analysis over the entire area affected by the project. Such a cumulative analysis would combine both the site-specific impacts of each facility (analyzed in the DEIS), and the impacts of collecting and transporting solid waste between each facility and to final disposal sites (presently not analyzed in the DEIS). Such an approach would improve the DEIS's assessment of the cumulative impacts of the plan.<sup>30</sup>

The ramifications of such a limited site-specific scope of analysis are significant, in that they cause the DEIS to (1) overlook potentially significant environmental impacts of the plan resulting from the transportation of solid waste in diesel trucks or by diesel tugs, and (2) omit consideration of environmentally-beneficial alternatives to mitigate such impacts. The use of diesel trucks in upwind states – and disposal in an incinerator in Newark, only six miles upwind – can be reasonably anticipated to cause significant effects in New York through the downwind transport of pollutants. Regional transport of air pollutants is a well-documented phenomenon, and most areas of the tri-state metropolitan area are in non-attainment for particulate matter ( $PM_{2.5}$ ,  $PM_{10}$ ) (lower Manhattan only) and ozone ( $O_3$ ). Yet the DEIS does not contain any analysis showing the environmental impacts on a regional basis for particulate matter. Indeed, the DEIS explicitly omits any analysis of the impacts of the Proposed Action's nitrogen oxides ( $NO_x$ ) and volatile organic compounds (VOC) emissions' contribution to ozone pollution in the region, yet claims it is not significant.<sup>31</sup> The metropolitan region is a non-attainment area for the one-hour and eight-hour ozone standard, with a compliance deadline of 2010. As a non-attainment area, the DEIS should include a cumulative analysis of air quality effects, which the present DEIS does not contain.

### C. CONCLUSION

The Committee's comments center around the proposition that management plans – especially one for the largest waste market in the United States over 20 years – should provide detailed, forward-looking analysis of a wide range of alternatives for moving towards sustainable and economical waste management. The SWMP and DEIS are complex undertakings that generally will improve solid waste management in the City. In certain key areas, however, the documents fall short of fulfilling the Legislature's purposes of promoting fully informed decision-making and minimizing the adverse impacts of the Proposed Action. Policy-makers and the public need to understand the overall environmental impacts of a wide variety of actions and technologies and the conflicts or congruence with economic costs so that they can make informed decisions from the full range of alternatives.

<sup>30</sup> Chapter 34, entitled "Evaluation of the Proposed Plan" is a one-and-one-half page conclusion that the project will not have significant cumulative impacts. This is insufficient to comply with the requirements of SEQRA.

<sup>31</sup> DEIS at 3-69.

Consistent with our comments, we highlight the key recommendations for improving the quality, usefulness, and legal consistency of the SWMP and its DEIS with the SWMA and SEQRA:

*Recommendations regarding SWMA consistency*

1. The proposed SWMP and its Proposed Action should include additional measures to promote reduction and reuse of solid waste over long-term export and disposal, consistent with the priorities of the state Solid Waste Management Act,
2. The SWMP should consider alternative approaches for the management of commercial waste that increase capacity and promote the use of MTS over PTS by private waste collectors.
3. The SWMP should consider approaches to reduce the clustering and potential expansion of PTS facilities.
4. The SWMP should include a comparative cost analysis of the interim plan, the Proposed Actions, and other alternatives to manage and dispose of commercial and residential solid waste.
5. The SWMP should consider alternative approaches for controlling and reducing the amount of hazardous household waste that enters the solid waste stream.

*Recommendations regarding SEQRA consistency*

1. The DEIS should complement the present site-specific analyses of each facility, with a project wide or cumulative environmental impact analysis of the interim plan and the Proposed Action over the entire area affected by the SWMP.
2. The DE IS should consider alternatives to the interim plan and Proposed Action's approach toward commercial waste management, to address capacity issues, promote the use of MTS over PTS by private waste companies, and reduce sources of hazardous household waste entering the waste stream.
3. The DEIS should provide a project -wide or cumulative analysis of the Proposed Action's environmental impacts, including a project-wide analysis of its contribution to air pollution, specifically ozone – as the City and region are exceeding regional federal air quality standards.
4. The DEIS should consider alternatives to retrofit diesel trucks and barges to reduce exhaust emissions of NO<sub>x</sub>, SO<sub>x</sub>, and PM<sub>10</sub>.

Incorporation of these recommendations in the SWMP and its DEIS will improve their quality and usefulness, better incorporate state priorities toward waste management and environmental conservation into the City's solid waste management plan, and reduce legal vulnerabilities in both documents. Thank your for your consideration of these comments.

Sincerely,  
*Chris R. A. Fazio, Secretary*

10101711  
January 24 2005

Page 13 of 13

cc: Steven N. Brautigam  
Assistant Commissioner  
Department of Sanitation  
Bureau of Legal Affairs  
125 Worth Street, Room 708  
New York, NY 10013

1285661.1

**Carrieri, Donna**

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**From:** joseph acosta [dakidjoey@yahoo.com]  
**Sent:** Wednesday, December 15, 2004 10:50 AM  
**To:** miller@council.nyc.ny.us; DSNY, Commissioner

NEW YORK CITY IS ACCEPTING COMMENTS ABOUT THE SOLID WASTE MANAGEMENT PLAN.

WE WANT TO ADDRESS THE ENVIRONMENTAL JUSTICE ISSUES THAT HAVE LED TO POLICIES THAT HAVE DISPROPORTIONATELY IMPACTED OUR SOUTH, SOUTH BRONX COMMUNITIES.

FACT: MANHATTAN MAKES 7,000 TONS PER DAY OF GARBAGE, AND DOESN'T HANDLE IT. IDEA: THAT THE EAST 91ST STREET TRANSFER STATION BE OPENED IN FAIRNESS.

FACT: SOUTH, SOUTH BRONX HAS NO OFFICIAL WATERFRONT ACCESS

IDEA: CREATE SHORE LINE PARKS AND ACCESS POINTS NOW!

FACT: NYC HAS THE HIGHEST RATES OF ASTHMA IN AMERICA

IDEA: CONVERT TRUCKS TO BIO-DIESEL (LIKE OLYMPIA & TACOMA) & ELIMINATE POLLUTION

FACT: NYC DOES NOT Reduce waste sufficiently.

IDEAS: Pass legislation that requires businesses to accept packaging from consumers, this will lead to less packaging from the manufacturers. And INCREASE COMPOSTING!

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**Carrieri, Donna**

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**From:** justin munoz [justinmoney@hotmail.com]  
**Sent:** Wednesday, December 15, 2004 11:24 AM  
**To:** miller@council.nyc.us; DSNY, Commissioner  
**Subject:** NO MORE BASURA(garbage)!!!

NEW YORK CITY IS ACCEPTING COMMENTS ABOUT THE SOLID WASTE MANAGEMENT PLAN.

WE WANT TO ADDRESS THE ENVIRONMENTAL JUSTICE ISSUES THAT HAVE LED TO POLICIES THAT HAVE DISPROPORTIONATELY IMPACTED OUR SOUTH, SOUTH BRONX COMMUNITIES.

FACT: MANHATTAN MAKES 7,000 TONS PER DAY OF GARBAGE, AND DOESN'T HANDLE IT.

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IDEA: CREATE SHORE LINE PARKS AND ACCESS POINTS NOW!

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FACT: NYC DOES NOT Reduce waste sufficiently.

IDEAS: Pass legislation that requires businesses to accept packaging from copnsumers, this will lead to less packaging from the manufactuers. And INCREASE COMPOSTING![]

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Carrieri, Donna

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**From:** brian pagan [lilseanjaun193@yahoo.com]  
**Sent:** Wednesday, December 15, 2004 11:48 AM  
**To:** miler@council.nyc.us; DSNY, Commissioner  
**Subject:** NO MORE GARBAGE!!!!!!!!!!!!!!

NEW YORK CITY IS ACCEPTING COMMENTS ABOUT THE SOLID WASTE MANAGEMENT PLAN.

WE WANT TO ADDRESS THE ENVIRONMENTAL JUSTICE ISSUES THAT HAVE LED TO POLICIES THAT HAVE DISPROPORTIONATELY IMPACTED OUR SOUTH, SOUTH BRONX COMMUNITIES.

FACT: MANHATTAN MAKES 7,000 TONS PER DAY OF GARBAGE, AND DOESN'T HANDLE IT. IDEA: THAT THE EAST 91ST STREET TRANSFER STATION BE OPENED IN FAIRNESS.

FACT: SOUTH, SOUTH BRONX HAS NO OFFICIAL WATERFRONT ACCESS

IDEA: CREATE SHORE LINE PARKS AND ACCESS POINTS NOW!

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IDEA: CONVERT TRUCKS TO BIO-DIESEL (LIKE OLYMPIA & TACOMA) & ELIMINATE POLLUTION

FACT: NYC DOES NOT Reduce waste sufficiently.

IDEAS: Pass legislation that requires businesses to accept packaging from consumers, this will lead to less packaging from the manufacturers. And INCREASE COMPOSTING!☐☐☐

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## Carrieri, Donna

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**From:** davon richardson [davon1012003@yahoo.com]  
**Sent:** Wednesday, December 15, 2004 11:02 AM  
**To:** DSNY, Commissioner  
**Subject:** garbage in the bronx

NEW YORK CITY IS ACCEPTING COMMENTS ABOUT THE SOLID WASTE MANAGEMENT PLAN.

WE WANT TO ADDRESS THE ENVIRONMENTAL JUSTICE ISSUES THAT HAVE LED TO POLICIES THAT HAVE DISPROPORTIONATELY IMPACTED OUR SOUTH, SOUTH BRONX COMMUNITIES.

FACT: MANHATTAN MAKES 7,000 TONS PER DAY OF GARBAGE, AND DOESN'T HANDLE IT. IDEA: THAT THE EAST 91ST STREET TRANSFER STATION BE OPENED IN FAIRNESS.

FACT: SOUTH, SOUTH BRONX HAS NO OFFICIAL WATERFRONT ACCESS

IDEA: CREATE SHORE LINE PARKS AND ACCESS POINTS NOW!

FACT: NYC HAS THE HIGHEST RATES OF ASTHMA IN AMERICA

IDEA: CONVERT TRUCKS TO BIO-DIESEL (LIKE OLYMPIA & TACOMA) & ELIMINATE POLLUTION

FACT: NYC DOES NOT Reduce waste sufficiently.

IDEAS: Pass legislation that requires businesses to accept packaging from consumers, this will lead to less packaging from the manufacturers. And INCREASE COMPOSTING!

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## Carrieri, Donna

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**From:** Luis Rodriguez [madchasty@yahoo.com]  
**Sent:** Wednesday, December 15, 2004 11:40 AM  
**To:** miller@council.nyc.ny.us; DSNY, Commissioner

NEW YORK CITY IS ACCEPTING COMMENTS ABOUT THE SOLID WASTE MANAGEMENT PLAN.

WE WANT TO ADDRESS THE ENVIRONMENTAL JUSTICE ISSUES THAT HAVE LED TO POLICIES THAT HAVE DISPROPORTIONATELY IMPACTED OUR SOUTH, SOUTH BRONX COMMUNITIES.

FACT: MANHATTAN MAKES 7,000 TONS PER DAY OF GARBAGE, AND DOESN'T HANDLE IT. IDEA: THAT THE EAST 91ST STREET TRANSFER STATION BE OPENED IN FAIRNESS.

FACT: SOUTH, SOUTH BRONX HAS NO OFFICIAL WATERFRONT ACCESS

IDEA: CREATE SHORE LINE PARKS AND ACCESS POINTS NOW!

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FACT: NYC DOES NOT Reduce waste sufficiently.

IDEAS: Pass legislation that requires businesses to accept packaging from consumers, this will lead to less packaging from the manufacturers. And INCREASE COMPOSTING!

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[http://promotions.yahoo.com/new\\_mail](http://promotions.yahoo.com/new_mail)

**Sarah Dolinar**

---

**From:** Sarah Dolinar [sarahjd@verizon.net]  
**Sent:** Wednesday, January 19, 2005 12:31 PM  
**To:** 'lilseanjaun193@yahoo.com'  
**Subject:** Your e-mail to Commissioner Doherty

Dear Mr. Pagan: The undersigned has responded to your recent e-mail, as follows:

January 18, 2005

Via e-mail

Mr. Brian Pagan  
lilseanjaun193@yahoo.com

Dear Mr. Pagan:

I am writing in response to your December 15, 2004 e-mail message to City of New York Department of Sanitation (DSNY) Commissioner John J. Doherty regarding the Draft New York City Comprehensive Solid Waste Management Plan for the next twenty years (New SWMP).

Your comments will be considered in the development of a Final Environmental Impact Statement (Final EIS) for the New SWMP and during the approval process for the New SWMP, along with the testimony and written comments received during the extended public comment period (October 22, 2004 through January 24, 2005). The New SWMP Final EIS is expected to be issued in February/March 2005.

Thank you for your comments.

Sincerely,

Harry Szarpanski

sd/HS

c: Commissioner John J. Doherty

1/19/2005

**Sarah Dolinar**

---

**From:** Sarah Dolinar [sarahjd@verizon.net]  
**Sent:** Wednesday, January 19, 2005 12:33 PM  
**To:** 'dakidjoey@yahoo.com'  
**Subject:** Your e-mail to Commissioner Doherty

Dear Mr. Acosta: The undersigned has responded to your recent e-mail message, as follows:

January 18, 2005

Via e-mail

Mr. Joseph Acosta  
dakidjoey@yahoo.com

Dear Mr. Acosta:

I am writing in response to your December 15, 2004 e-mail message to City of New York Department of Sanitation (DSNY) Commissioner John J. Doherty regarding the Draft New York City Comprehensive Solid Waste Management Plan for the next twenty years (New SWMP).

Your comments will be considered in the development of a Final Environmental Impact Statement (Final EIS) for the New SWMP and during the approval process for the New SWMP, along with the testimony and written comments received during the extended public comment period (October 22, 2004 through January 24, 2005). The New SWMP Final EIS is expected to be issued in February/March 2005.

Thank you for your comments.

Sincerely,

Harry Szarpanski

sd/HS

c: Commissioner John J. Doherty

1/19/2005

**Sarah Dolinar**

---

**From:** Sarah Dolinar [sarahjd@verizon.net]  
**Sent:** Wednesday, January 19, 2005 12:35 PM  
**To:** 'davon1012003@yahoo.com'  
**Subject:** Your e-mail to Commissioner Doherty

Mr. Richardson: The undersigned responds to your recent e-mail, as follows:

January 18, 2005

Via e-mail

Mr. Davon Richardson  
davon1012003@yahoo.com

Dear Mr. Richardson:

I am writing in response to your December 15, 2004 e-mail message to City of New York Department of Sanitation (DSNY) Commissioner John J. Doherty regarding the Draft New York City Comprehensive Solid Waste Management Plan for the next twenty years (New SWMP).

Your comments will be considered in the development of a Final Environmental Impact Statement (Final EIS) for the New SWMP and during the approval process for the New SWMP, along with the testimony and written comments received during the extended public comment period (October 22, 2004 through January 24, 2005). The New SWMP Final EIS is expected to be issued in February/March 2005.

Thank you for your comments.

Sincerely,

Harry Szarpanski

sd/HS

c: Commissioner John J. Doherty

1/19/2005

**Sarah Dolinar**

---

**From:** Sarah Dolinar [sarahjd@verizon.net]  
**Sent:** Wednesday, January 19, 2005 12:37 PM  
**To:** 'madchasty@yahoo.com'  
**Subject:** Your e-mail to Commissioner Doherty

Mr Rodriguez: The undersigned responds to your recent e-mail, as follows:

January 18, 2005

Via e-mail

Mr. Luis Rodriguez  
madchasty@yahoo.com

Dear Mr. Rodriguez:

I am writing in response to your December 15, 2004 e-mail message to City of New York Department of Sanitation (DSNY) Commissioner John J. Doherty regarding the Draft New York City Comprehensive Solid Waste Management Plan for the next twenty years (New SWMP).

Your comments will be considered in the development of a Final Environmental Impact Statement (Final EIS) for the New SWMP and during the approval process for the New SWMP, along with the testimony and written comments received during the extended public comment period (October 22, 2004 through January 24, 2005). The New SWMP Final EIS is expected to be issued in February/March 2005.

Thank you for your comments.

Sincerely,

Harry Szarpanski

sd/HS

c: Commissioner John J. Doherty

1/19/2005

**Sarah Dolinar**

---

**From:** Sarah Dolinar [sarahjd@verizon.net]  
**Sent:** Wednesday, January 19, 2005 12:38 PM  
**To:** 'justinmoney@hotmail.com'  
**Subject:** Your e-mail to Commissioner Doherty

Mr. Munoz: The undersigned responds to your recent e-mail, as follows:

January 18, 2005

Via e-mail

Mr. Justin Munoz  
justinmoney@hotmail.com

Dear Mr. Munoz:

I am writing in response to your December 15, 2004 e-mail message to City of New York Department of Sanitation (DSNY) Commissioner John J. Doherty regarding the Draft New York City Comprehensive Solid Waste Management Plan for the next twenty years (New SWMP).

Your comments will be considered in the development of a Final Environmental Impact Statement (Final EIS) for the New SWMP and during the approval process for the New SWMP, along with testimony and comments received during the extended public comment period (October 22, 2004 through January 24, 2005). The New SWMP Final EIS is expected to be issued in February/March 2005.

Thank you for your comments.

Sincerely,

Harry Szarpanski

sd/HS

c: Commissioner John J. Doherty

1/19/2005



# JOV THEODORE SOMESFALEAN

*Developer*

170 West End Avenue  
New York, New York 10023  
212/595-2511

FAX: 212/580-8698 E-Mail: JOVTS@aol.com

October 18, 2004

Mayor Michael Bloomberg  
City Hall  
New York, NY 10007

Comprehensive Plan for Processing the Hydrocarbon as Oil and Coal,  
Municipal and Industrial Garbage and Gasification and Atomo-molecular  
Decontamination of Most Pollutants Produced by Modern Industrial Society  
With Special Consideration for Processing New York City Fresh Kills Old  
Landfill on Staten Island and Daily Production of 25,000 Tons of Garbage  
Produced by All Boroughs of New York City

Dear Mayor Bloomberg:

Over a long period of years I have been watching the agony of the city of New York on issues of municipal and industrial garbage and the landfills that the city historically created within its limits. Those landfills should never have been built so close to such heavily populated areas, especially since it was known by scientists and the public as well how catastrophically dangerous the toxicity of the garbage was. The history of the garbage of New York mirrors absolutely the agony and the morality and the immorality of the society that produces it. But this is true anywhere in the world; for example, the garbage of the city of Manila is disposed of, to a high extent, into the Bay of Manila, especially that of the areas closest to the Bay, that found it economically more acceptable to dispose of their highly toxic municipal and industrial garbage in that manner, and still do so today. This illustrates very well that Manila has the lowest morality and dignity in this world. But New York City over a long historic period did the same -- disposing of the garbage in the ocean -- until the international protocols changed this criminal practice. But New York City disposing the garbage in the ocean also mirrored the morality and lack of morality, as well. Historically the disposition of garbage has been at the mercy of the mayors and organized crime, but the landfills created by the modern industrial society contaminated most of the underground water of the American people throughout this vast land. The underground water is the most precious resource of any nation. Now the American people drink water from the surface, equally contaminated, and pay an astonishing price, such as having the highest rates of cancer in the world. This grim picture frightened the Congress of the United States so they created the Federal Solid Waste Disposal Act that became the most comprehensive and severe act in American life. Later on the Congress amended this Act and attached the Alternative Science and Technology Amendment that completely and unequivocally takes the responsibility from the mayors and organized crime and gives it to the scientist that masters the knowledge of processing the garbage as a resource for energy and converting it into electricity. This event illustrates very clearly

2004 NOV 15 P 6:17

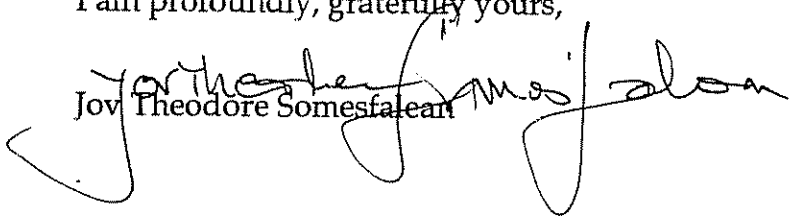
DEPARTMENT OF SANITATION  
COMMUNITY AFFAIRS

that the Congress did not trust the elected officials nor the mobsters to manage the number one threat to public health.

In 1992 a decision was made to close the Fresh Kills landfill in Staten Island. It had been active for many decades. This landfill killed numerous people who lived nearby for three generations and the latest lawsuits of the victims are in the courts now against the city. These victims were waiting for 15 years to be able to address their tragedies. This also illustrates that justice was not done and illustrates very well the corruption of the justice of our democratic society. Ever since the closure of the landfill, New York City hired mobsters to transport the garbage to New Jersey and Pennsylvania, where the garbage is incinerated. No account of these abominable crimes against the American people was given to the public. The garbage cannot be incinerated because the toxic substances that society produces for whatever noble purposes are released unchanged since they do not disappear with fire. In one word, they cannot be burned. When the garbage is exposed to fire, regardless the intensity of the fire, you just convert it from a solid state to vapors, magnifying exponentially the pollution tragedy. In this process of incineration, the molecules of the toxic substances remain completely unchanged. The incineration is an engineering process of oxidation in presence of the flame and oxygen. This presence of the flame and oxygen impedes scientifically and effectively the destruction of the toxic substances and any form of hydrocarbon. For example, burning the hydrocarbon, oil, coal and the rest, you burn barely a fraction from this material and 96% will be ashes that were converted from the hydrocarbon toxic into ashes of super toxicity. The ashes as a byproduct of burning to create, for example, electricity needs a landfill to be monitored for eternity. This landfill will contaminate the air through the toxins it releases, will contaminate the ground, the river, and the underground water for millions of years. This illustrates very well the perplexing issues that stand before us in finding solutions for this major issue of converting the landfills into electricity free of pollution and also creating electricity from hydrocarbon oil and coal as well, free of pollution and ending the existence of the landfills. This project I am introducing in America and I was successful with the Los Angeles Department of Sanitation, Federal Government Contaminated Sediment of United States Ports, Waste Management and by all accounts I was fully reviewed scientifically at the Department of Sanitation and the Economic Development Agency of New York City. My project was presented as a Comprehensive Plan for Processing the Hydrocarbon as Oil and Coal, Municipal and Industrial Garbage and Gasification and Atomo-molecular Decontamination of Most Pollutants Produced by Modern Industrial Society. Through this process I produce a gas that is the most effective fuel that we use next door to the generator to create tremendous amounts of megawatts of electricity. Another byproduct is char carbon free of pollution. In this process of producing the gas there will be zero emission and zero pollution. Scientifically my project is a conversion of hydrocarbon into gas. In this process I am converting the energy from one solid state to the gasified state 100%; that means no losses of energy will occur. The Congress of the United States understood very well that scientifically the municipal and industrial garbage and the landfills are an extraordinarily valuable store of energy and they were right because they listened to the scientists and because of that the municipal garbage and the landfill were given by the Congress to the scientists. Transporting the daily production of the garbage to New Jersey and Pennsylvania for incineration is a monumental crime against the people of this region and the American people, as well. The reasons above explain that the garbage cannot be incinerated and also the dangers

the society is facing. New Jersey has been incinerating their garbage for over 20 years. Now that state has the highest rate of cancer in America. The municipality of Newark incinerates the garbage produced by approximately four million people and emerges as having the highest rate of cancer and cancer-related deaths in the state and the nation. A federal study released earlier this year depicts a very grim picture that New Jersey and others are paying for their crimes and their road to the cemetery is insured. Incinerating the New York City garbage in New Jersey is a monstrous crime because the pollutant will be blown by the winds daily to New York City and we are next to be found in the same statistics as New Jersey. Newark incineration of the garbage contaminates New Jersey tremendously as well as Harlem, because the wind brings the pollutants into Harlem from there daily. Thousands of children in Harlem are suffering from asthma and high numbers of blacks from this area are dying of cancer. The Federal Solid Waste Disposal Act once and for all took away the garbage from the mayors and from the gangsters. Now the garbage is mine and it is written in the law. Anything against this is a crime and a costly one. The City Council is also a partner in this crime to dispose of the garbage in New Jersey and Pennsylvania. This plan economically is a ruinous one when you take into consideration that I offer to the city in my plan \$179 per ton to be paid at the processing plant that will process as well the toxic substances of the hospitals and hospital waste and whatever industrial toxic waste would be available. If somehow my plan was not totally understood I am willing to meet you and the Comptroller who supported this monstrous plan. I am also interested to meet the City Council and the most dignified lady in the city, Betsy Gotbaum, Public Advocate.

I am profoundly, gratefully yours,

  
Joe Theodore Somesfalean

DEPARTMENT OF SANITATION  
COMPLAINT AFFAIRS  
2004 NOV 15 P 6:17

## Incineration - A Poisonous Technology and a Hoax

Incinerators represent a special environmental threat, because the combustion process releases and combines toxic materials in household and medical waste into super-toxic air emissions and tons of super-toxic ash. It is also a wasteful technology, as it destroys a huge source of reusable and recyclable materials. Overall, the typical volume reduction accomplished by incinerators is 60-70%, which could be accomplished easily and cleanly by comprehensive recycling.

The EPA estimates that more than 80% of the dioxin produced in the U.S. is from municipal and medical waste incinerator air emissions. Tons of mercury, lead, and other heavy metals are emitted in vapor form as well from incinerator stacks. "Modern" pollution controls on these poison factories just move some of the toxic emissions from the air to the ash.

Incineration is really a hoax: it does not even eliminate landfills. Ash landfills (called *monofills*) are far more dangerous and toxic than raw trash landfills. Incinerator ash is extremely hazardous, containing dioxin and heavy metals such as lead, mercury, and cadmium. Ash landfills are a legacy of poison that must be monitored for eternity. They never can become non-toxic, because most of the toxic materials in them - the heavy metals - do not bio-degrade.

The incinerator industry has known all these facts for years. Analyses of dioxin and other emissions from municipal waste incineration, overall efficiency of incineration as compared with comprehensive recycling, and the toxicity of ash were published early in the development of "modern" incinerators. The incinerator industry, however, chose to continue promoting its technology as an alternative to landfills, and often negotiated expensive, one-sided Guaranteed Annual Tonnage contracts, ensuring that communities that used incinerators were given a dis-incentive to recycle their trash.

Because of community opposition to incineration and the pollution and economic disaster that it brings with it, most of the incinerator proposals developed in the last five years have been abandoned, and many incinerators have been shut down due to violations of the Clean Air Act. The industry and their bond sellers are continuing, however, to find ways to re-invigorate the industry. The latest public relations campaign promotes incineration as a "renewable" energy source.

The idea that incinerators are "renewable" energy sources - promoted by the media - is ludicrous. The energy consumed in the creation of the materials - most of which is conserved if comprehensive recycling is pursued - is of course lost if they are incinerated, and this loss is far greater than the energy in the combustible materials.

It is the position of Toxic Alert that all incinerators - municipal solid waste, medical waste, hazardous waste, and Superfund mediation, should be closed and that incineration should be banned worldwide.

For a sample news article about an incinerator, see the [NESWC article](#).



# sanitation

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November 22, 2004

Mr. Jov Theodore Somesfalean  
Developer  
170 West End Avenue  
New York, NY 10023

Dear Mr. Somesfalean:

I am responding to your letter to Mayor Michael Bloomberg regarding a Waste Management issue.

Your correspondence was referred to Mr. Harry Szarpanski, Assistant Commissioner, Bureau of Long-Term Export, Department of Sanitation, 44 Beaver Street, 12<sup>th</sup> Floor, NY 10004 for his review.

Thank you for writing.

Sincerely,

A handwritten signature in black ink that reads "Elissa Werbin".

Elissa Werbin  
Supervisor

EW/MN  
E1343K

cc: ✓ H. Szarpanski, Assistant Commissioner

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