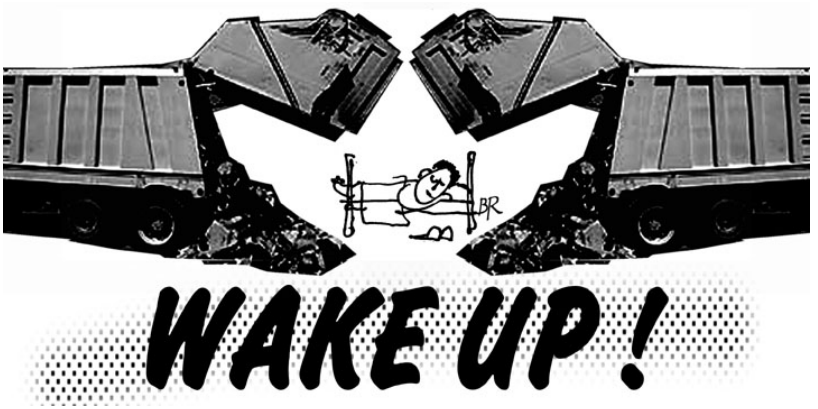
PESTICIDES, AND THE SOUTHWEST BROOKLYN GARBAGE TRANSFER STATION

by Mitchel Cohen



Testimony before the NY State Department of Environmental Conservation

This pamphlet is distributed free of charge to those who contribute funds to help defray legal costs in opposing New York City's 20-year Solid Waste Management Plan (SWMP) and in particular the siting of the Southwest Brooklyn Marine Transfer (Garbage) Station. This testimony is only one facet of a multi-pronged critique of the City's plans. Others have written about air pollution from garbage trucks and tug boats; traffic chaos; health impacts on the community; the City's failure to deal in any serious way with waste reduction; and, environmental impact on marine life. Thank you very much!

You can hear Mitchel every Thursday at 11 a.m. on his internet radio show (only on computer, not regular radio), by tuning to http://www.TribecaRadio.net and clicking on "Listen Live". Each show is repeated Tuesdays at 6 p.m. To hear past shows, click on "Podcast" and then "Steal This Radio". Pick a show to listen to, and click on the arrow beneath each "Steal This Radio" show description.

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Testimony of Mitchel Cohen, Submitted to the NY State Department of Environmental Conservation

Re: Southwest Brooklyn Waste Transfer Station, Application # 2-6106 00002/00022

The Department of Sanitation (DSNY)'s application for the SW Brooklyn Waste Transfer Station is so fraught with inconsistencies, contradictions with the Environmental Impact Statement, and insufficiencies in addressing the legitimate health and environmental concerns expressed by members of the community that this proposal must be rejected for this site.

I am a stakeholder who lives a few blocks from the site, as well as the coordinator of the No Spray Coalition, which has been battling with New York City and its various departments over the dangerous misuse of pesticides and larvicides for nine years. In my experience, the Department of Sanitation and the Department of Health and Mental Hygiene have been duplicitous and negligent in matters of grave concern to the public's health and safety.

The Department of Sanitation had for decades run an unpermitted municipal incinerator in this area – indeed, on this very site now proposed for the Marine Transfer Station! — until public outcry and a court order forced it to close in 1991. The ash, heavy metals and dioxin emissions poisoned the Bay and grossly endangered the surrounding environment, as well as the public's health and safety. In order to situate a large Marine Waste Transfer Station on this same site, the Department of Sanitation now proposes to annually

dredge the bottom to deepen the port, thus stirring up over and over again all the dangerous chemicals, metals and other toxic material emitted from the years of incinerator burning that plagued the community but which have now become neutralized at the bottom of the Bay.[1]

The North Shore Waterfront Conservancy of Staten Island, Inc., notes in its June 30, 2007 letter to the NY State Department of Environmental Conservation, "This is clearly an established viable residential neighborhood and placing a Waste Transfer Station in the midst of it would destroy its diverse social and economic community base. This is an illogical action considering what a positive contribution this community has already made to the city and state of New York. ... Families eat the fish in Gravesend Bay and these fish are the staple of their diet. Therefore, we are concerned that this waste transfer station would stir up toxins that lay covered in the surrounding waters causing harm to residents."

In addition to being a critical "social justice" issue, the proposed transfer station will be situated right on Gravesend Bay — the most environmentally sensitive water body in this area and one of the most important water bodies, in terms of wildlife, in the entire State. In fact, DSNY itself notes that the Southwest Brooklyn MTS would be placed in an area of great biological integrity and tremendous diversity:

> It housed a diverse benthic, larval finfish and adult finfish community. It also had the greatest number EFH-listed fish (8) and larvae (4) and the highest number of *Dyspanopeus sayi* (a mud crab whose presence indicates suitable dissolved oxygen levels in the water col-

1 See testimony of Vicky Grubman and NY State Assembly Represenative William Colton. Also, note that DSNY did not adequately investigate other possible sites. (See Section 2, below.)

> umn). A diverse finfish community exists at the southwest Brooklyn converted MTS. Of 1,293 adult finfish collected, 69% were bay anchovy. Weakfish (*Cynosciion regalis*) and Scup (*Stenotomus chrysops*) were also abundant at this site. ... The species collected were scup, windowpane, summer flounder, Atlantic herring, winter flounder, Atlantic butterfish, bluefish, and Black Sea bass. ... Some of the highest finfish egg and larval densities and the greatest larval species richness were found in the Southwest Brooklyn Converted MTS. A Shannon-Weaver Index indicates this MTS to have the greatest finfish egg and larval species diversity and a Jaccard Index indicates that the finfish eggs and larvae were most dissimilar at the Southwest Brooklyn Converted MTS in comparison to the other MTSs sampled.[2]

In addition, seals have been spotted in the Bay, and the Brooklyn Bird Club, along with stakeholder Mark Treyger, who works with NY State Assembly representative William Colton, has photographed peregrine falcons (*Falco Peregrinus*) in the adjourning Dreier-Offerman regional park and wildlife sanctuary. The Peregrine Falcon is a federally listed endangered species. The Environmental Impact Statement, on the other hand (and contrary to this visual first-hand sighting), notes that the peregrine falcon "was not listed as present for this site in the recent response from the USF & WS."[3]

DSNY's application and related documents, including the FEIS, also fail to note the nearby Dreier-Offerman bird sanctuary or the spotting there of a western reef heron, which the *NY Daily News* (July 17, 2007) depicts as "more common to

2 Final EIS, Solid Waste Management Plan, April 2005, p. 5-39. I removed the footnotes and some of the italicized Latin species names.

3 FEIS, Chapter 5, p. 40

West Africa or the Persian Gulf and only seen half a dozen times in North America." But the rare heron touched down in Dreier-Offerman Park in July 2007, and, the *Daily News* continues, "local friends to the feathered kind hoped it would serve as their spotted owl, forcing the city to take a different line on protecting the area for local fauna and exotic visitors. ... It's the 'best sighting' ever in the park, Brooklyn Bird Club President Peter Dorosh wrote in an e-mail." And, according to *Courier Life* reporter Gary Buiso, "It's the avian equivalent of a Honus Wagner baseball card — and it's arrived in Brooklyn." (*Courier Life*, July 12, 2007) "'There's no denying it's a real thrill,' said Alex Wilson, 48, of Bay Ridge, who was the first to officially identify the bird." Wilson grabbed his camera, and on the next page is the picture he took.

The rare species was spotted again three weeks later in the park, which has been drawing visitors from out of state, including two West Virginians in town to catch a sight of the western reef heron, according to the blog account reported in the *NY Daily News* (Aug. 6, 2007). Alex Wilson also reports a total of 165 different species of birds seen at Dreier-Offerman Park. These include:

Red-throated Loon
Common Loon
Pied-billed Grebe
Horned Grebe
Northern Gannet
Great Cormorant
Double-crested Cormorant
Great Blue Heron
Great Egret
Snowy Egret
WESTERN REEF-HERON
Little Blue Heron
Green Heron
Black-crowned Night-Heron
Yellow-crowned Night-Heron
Glossy Ibis
Turkey Vulture*
Snow Goose
Canada Goose
Brant
Mute Swan
Gadwall
American Wigeon
American Black Duck

Mallard
Northern Pintail
Northern Shoveler
Canvasback*
Greater Scaup
Lesser Scaup
Common Eider
Bufflehead
Common Goldeneye
Hooded Merganser*
Red-breasted Merganser
Ruddy Duck
Osprey
Bald Eagle*

Sharp-shinned Hawk
Cooper's Hawk
Red-shouldered Hawk*
Broad-winged Hawk
Red-tailed Hawk
American Kestrel
Merlin
Peregrine Falcon
American Coot
Ring-necked Pheasant *
Black-bellied Plover
Semipalmated Plover
Killdeer
Greater Yellowlegs*

Western Reef Heron, Dreier Offerman Park, July 8, 2007

Lesser Yellowlegs
Solitary Sandpiper
Willet
Spotted Sandpiper
Semipalmated Sandpiper
Least Sandpiper
Pectoral Sandpiper *
Purple Sandpiper
Short-billed Dowitcher *
American Woodcock
Laughing Gull
Bonaparte's Gull
Ring-billed Gull
Herring Gull
Great Black-backed Gull
Common Tern
Forster's Tern*
Least Tern
Black Skimmer
Rock Pigeon
Mourning Dove
Monk Parakeet*
Yellow-billed Cuckoo*
Chimney Swift
Belted Kingfisher
Red-bellied Woodpecker*
Yellow-bellied Sapsucker*
Downy Woodpecker
Northern Flicker
Willow Flycatcher
Eastern Phoebe
Ash-Throated FlyCatcher*
Great Crested Flycatcher
Eastern Kingbird
White-eyed Vireo*
Warbling Vireo*
Red-eyed Vireo
Blue Jay
American Crow
Fish Crow
Horned Lark
Tree Swallow
Northern Rough-winged Swallow*
Bank Swallow*
Barn Swallow
Red-breasted Nuthatch
White-breasted Nuthatch*
Brown Creeper*
Carolina Wren
House Wren
Winter Wren*
Golden-crowned Kinglet
Ruby-crowned Kinglet
Blue-gray Gnatcatcher
Eastern Bluebird
Veery
Hermit Thrush*
American Robin
Gray Catbird
Northern Mockingbird
Brown Thrasher
European Starling
American Pipit
Cedar Waxwing
Tennessee Warbler*
Orange-crowned Warbler
Nashville Warbler

Seaside Sparrow, May 2007

Northern Parula
Yellow Warbler
Magnolia Warbler
Yellow-rumped Warbler
Black-throated Green Warbler
Prairie Warbler
Palm Warbler
Black-and-white Warbler
American Redstart
Ovenbird*
Northern Waterthrush
Connecticut Warbler*
Common Yellowthroat
Wilson's Warbler *

Eastern Towhee*
American Tree Sparrow
Chipping Sparrow
Clay-Colored Sparrow
Field Sparrow*
Vesper Sparrow*
Lark Sparrow *
Savannah Sparrow
Seaside Sparrow
Song Sparrow
Lincoln's Sparrow
Swamp Sparrow
White-throated Sparrow
White-crowned Sparrow*

Dark-eyed Junco
Northern Cardinal
Rose-breasted Grosbeak
Indigo Bunting
Bobolink
Red-winged Blackbird
Eastern Meadowlark*
Common Grackle
Boat-tailed Grackle*
Brown-headed Cowbird
Orchard Oriole *
Baltimore Oriole
Purple Finch
House Finch
Common Redpoll
Pine Siskin
American Goldfinch
House Sparrow

* Birds marked with an asterisk were reported by other observers. The remainder of the list represents (by the end of 2007) about a year's worth of Alex Wilson's sightings. Most of these species were seen in a few visits made in the winter and summer of 2007. htttp://www.digitalmediatree.com/arboretum/vauxlist/Checklist

Semipalmated Plover & Willet, June 2007

Among these are several endangered species utilizing the adjoining park and waterways. The birds, fish and other wildlife will be severely and directly impacted by the use of pesticides so close to their sanctuary. Some species of birds eat rats and mice – in fact, they are the best natural way to protect the surrounding community from rodent infestation. But when their food supply is targeted by rodenticides and pesticides, many of these magnificent birds will end up being poisoned by pesticide applications.

An article in the *NY Daily News*, "Owls are back — will they last? — City's poisoned rats pose biggest threat" (November 10, 2002), reports that "millions of pounds of pesticides are used in the state each year to kill insects, rodents and other pests that infest and damage homes, gardens, and buildings. In the fight against rats and mice, government agencies such as Transit and Housing authorities and the city Sanitation Department make regular use of rodent poisons that, in turn, can enter the food chain." The article goes on to say that "Mice and small rats are the screech owl's favorite food. State records show that one of the city's screech owls, found dead near 72nd Street in January, ate the wrong rodent. It's the first time the death of one of the park's owls has been connected with rat poison." Since then, many more incidents have been uncovered.

The Daily News article picks up on this pesticides and birds calamity: "State files are replete with examples that conclude birds of prey were felled by pesticide poisoning in New York City: red-tailed hawks, American kestrels, a long-eared owl.

"I think there is a huge pesticide problem out there," said Ward Stone, a state wildlife pathologist who took part in a 1999 study that linked 26 deaths of owls, hawks and eagles to like-

ly anti-coagulant rat poisons, which cause hemorrhaging.

"**When pesticides kill owls, it's killing the very thing that should not be harmed, because owls are going to control the rats and mice**," Stone said. ...

"The city Parks Department at times has restricted, but not eliminated, the use of rat poisons within the parks, officials said. But researchers tracking the owls with radio transmitters have found the birds frequently prowl the streets far beyond Central Park's boundaries, where no such restrictions apply. The owls are "out on the streets foraging for rats and mice at night," said William Giuliano, an ecologist at Fordham University, which is studying the park's screech owls. With rodenticides in wide use, "That's certainly a concern."

In fact, the Raptor Trust, a New Jersey bird rehabilitation center that supplied the first six owls released in Central Park in 1998, declined to send more birds because of concern over rat poisons used by the city, according to the *NY Daily News.*

"I was asked to continue the program after 1998 and I declined, because as I understood it ... they had reinstituted the use of poisons in the park," said Len Soucy, the president of the trust. "You can't be pro-owl and support the wholesale poisoning of rodents." (*NY Daily News*, November 10, 2002)

Prompted by concern about the spread of West Nile Virus, New York State asked counties to report dead birds to its DEC wildlife pathology laboratory. After receiving more than 80,000 birds, Ward Stone discovered that while the virus was a factor in some of the deaths, **the leading cause of bird deaths was pesticide poisoning.** Lawn care chemicals were among the most common toxins.

An American Bird Conservancy letter states: "Spraying pesticides in urban and suburban areas does little to reduce the spread of West Nile Virus, is extremely harmful to birds

and may also harm the humans it is intended to protect."

In the Spring of 2007, the No Spray Coalition filed a FOIL request for specific information about the pesticides that will be used at the proposed MTS. Stakeholders and environmental groups also asked the same questions during numerous testimonies before the NY City Council, and at the Environmental Justice hearing ordered by the DEC that DSNY held in April 2007. To date, DSNY has not responded.

DSNY's application offers no information about the kind of baiting or rodenticide that will be used for rats around the perimeter of the facility nor does it consider monitoring for misuse of pesticides or accidental contamination. Yet this information is key to protecting wildlife, workers at the facility, and the surrounding community.

Pesticides are the leading cause of non-natural bird deaths in New York City. More than 30 percent of the dead birds submitted to NY State DEC wildlife pathologist Ward Stone are said to have died from pesticide poisoning. Although forty million dollars have been allocated by New York City to set aside a section of Dreier-Offerman Park adjacent to the proposed site to become a wildlife preserve and sanctuary, the introduction of pesticides into this area will devastate the migratory and local bird populations, as well as fish and marine wildlife. It may also be dangerous for dogs and other pets walked in Dreier-Offerman Park.

Waters and Pesticides

DSNY also neglects to study how the pesticides and rodenticides will be kept from being washed into the water or land, or be blown into the air, affecting other wildlife, particularly birds, as well as human beings. The toxic chemicals will be regularly applied on land, facilities, trucks, barges

and containers, making it likely that they will be washed into the waters of the Bay, either accidentally or by design (see below), greatly compromising the biological diversity of the area as well as public health. In its Final Environmental Impact Statement (FEIS), DSNY writes:

> Procedures to control vermin, such as rats and insects, would be or, in the case of existing facilities, are incorporated into the operating permit of each Proposed Plan Facility. Licensed exterminators would service each Converted MTS monthly. ... The exterminators would evaluate potential pest and vector problems and apply bait and/or spray throughout the refuse handling area, the tipping floor, the lunch and locker rooms and administrative areas. **Standing water in barges not being used would be treated with larvicide and pesticide spray when necessary.**[4]

And what would become of the run-off and wash-waters containing larvicide and pesticides? "It is DSNY'S understanding that bilge and loose water pumped from the barges is permitted to be discharged directly into the river [sic]."[5] In other words, they would just be washed into the Bay. But DSNY is not worried. "Loose and bilge water contamination is not of concern and such water will be pumped into surrounding bodies of water."[6]

It is illegal, under Federal and State law, to apply or dispose of pesticides into navigable water bodies under the Clean Water Act, among other laws. Doing so also violates the labels of organophosphate and pyrethroid-related pesti-

4 Chapter 33.5

5 Final SW Brooklyn Part 360 Permit Application, Vol. I, 2007, 6 NYCRR Part 360-1.14[v], 11.2[a][3][iv],11.4[f] p. 77.

6 FEIS, Section 2.3.8 Barge, Bilge and Loose Water Control,

cides, the most common ones used in New York City, and the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). Yet, there is nothing in the application that addresses the cleaning of the containers, whether for vermin or garbage. This becomes an even more serious matter if the containers are to be re-used. How will those containers be washed, stored, and protected from vermin and insects? And if off-site cleaning will be used, what supervision will be provided to ensure that no pesticides used will splash out of containers when garbage is dumped into them? In addition, will they be stored on-site? What precautions will be taken to prevent pesticides and larvicides in wash-water and run-off from barges, containers, garbage trucks, and the structure itself from being accidentally released, contaminating the surrounding areas?

Even tiny amounts of pesticides kill fish, horseshoe crabs (which, in addition to being the oldest creatures on the planet, are indispensable for scientific research and which are currently thriving in the Bay), butterflies, bees, birds, dragonflies, etc., as well as mosquitoes and unwanted critters. The labels on Malathion, Pyrethroids, and piperonyl butoxide (a so-called synergist and a carcinogen in most pyrethroid combinations) all warn against spraying over or near bodies of water.

Discharge of pesticides into NYC water bodies has had immediate adverse impacts on environmental health. On September 24, 1999, for example, hundreds of bluegill sunfish were found dead in Clove Lake, Staten Island, New York.[7] NYSDEC attributed this illegal fish kill to the pres-

7 *New York State Department of Environmental Conservation [NYSDEC] Memorandum from Peter Furdyne to DEC wildlife pathologist Ward Stone, January 21, 2000.*

ence of the toxic pesticide, Malathion. Toxicological studies performed on the bluegill sunfish confirmed the presence of Malathion.[8]

As a result of a lawsuit brought against New York City officials by the No Spray Coalition, the U.S. Second Circuit Federal Court ruled that "a pesticide is certainly a toxic substance,"[9] and that the pesticides discharged are "pollutants" and "toxic pollutants" within the meaning of the Clean Water Act.[10] U.S. District Court Judge George B. Daniels ruled in that case that "if the City did discard the pesticides over water, it did so in contravention of the CWA. Such activity would constitute the discharge of a pollutant into navigable waters from a point source, and cannot be done without an NPDES permit."[11]

So by applying pesticides to barges, containers, truck, facilities on or near waterways, land or facilities abutting waterways, or by washing the residues into the Bay (and DSNY plans to do this on a regular basis), the City will be in premeditated violation of the Clean Water Act and other laws and regulations designed to protect wildlife, waterways and habitats.

Should DSNY develop different plans for pesticides and cleanup, these need to be explicitly reflected in the proposal and submitted for public review and comment. For instance, there is insufficient information in the application and other

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8 *Illinois Department of Agriculture Animal Disease Laboratory Toxicology Report, November 19, 1999.*

9 *No Spray Coalition, Inc. v. City of New York, 2000 WL 1401458, *3 n.2 (S.D.N.Y. 2000).*

10 *CWA § 502(6), (13), 33 U.S.C. 1362.*

11 *U.S. District Court, Southern District of New York: No Spray Coalition, Inc. v. The City of New York, et al., 00 Civ. 5395 (GBD), June 7, 2005.*

documents about protection for and monitoring of the health of the workers themselves, who will be working indoors at this facility and exposed repeatedly to pesticides, rodenticides and other toxins. During the Department of Health's administration of the pesticide spraying program for New York City beginning in 2001, after taking it over from the Mayor's Office of Emergency Management, many city workers were made sick because the agency utilized inadequate safeguards to protect them. Yet, at the proposed Southwest Brooklyn MTS, trucks loaded with garbage and sprayed with pesticides, will drip them from compactors and track them through the community. DSNY, like the Department of Health, will again jeopardize workers, the environment, and the community by facilitating exposure to these dangerous toxins. At the very least, DSNY needs to explain how it will monitor the health of workers. None of this has been included in DSNY's application nor in related documents.

Wind Currents

Nor does DSNY provide any study of wind currents which, every afternoon, change direction and blow to the east and southeast, directly across the site of the proposed facility and into the tall apartment buildings, senior citizen centers, nursing homes, the two schools for developmentally disabled children and other nearby residences, and the abutting marina (containing 250+ boats, mostly of city workers and retirees), potentially impacting thousands of people in a ½-mile radius around the site who are most susceptible to pesticide drifts and chemicals that severely compromise immune and neurological systems.

The general environmental problems citywide related to pesticides and bird deaths will be greatly exacerbated in this

corner of Brooklyn, because the Department of Health and Mental Hygiene and the Department of Sanitation, which are responsible for monitoring the pesticide applications in the cases described, have done a terrible job of it. Yet the two pesticide applicators listed in the City's proposal will be once again "in-house" and under the lax supervision of this same Department of Sanitation.

While some of these concerns would apply to *any* location for a facility applying pesticides, it is especially onerous at the proposed site because of its immediate proximity to the natural wildlife avian preserve at Dreier-Offerman regional park, its location on one of the most environmentally sensitive habitats for fish and marine life in the state, and for the way the winds blow – directly from the site into the nearby apartment buildings, schools and other facilities heavily used by neighborhood residents who were forced to also bear the brunt of the pollution from the now-closed municipal incinerator at the same site.

This situation is compounded by the proximity to a number of schools and youth facilities. Pesticides are especially dangerous for brain and nerve development in young children, and for elderly or immune-compromised people. Yet DSNY's proposal makes no in-depth accounting of these circumstances, nor treats the matter responsibly in any environmental and health-related fashion. With the expectation that almost 5,000 trucks per month will be utilizing this facility, picking up pesticides on their wheels and rumbling past various local facilities for developmentally disabled children on their route, one would think that a proper Environmental Impact Study would address those concerns. But not a single line in the FEIS does so.

Also, there is no discussion of pesticides that become air-

borne, and only a general mention of waste water — it is to be washed into the Bay, apparently, pesticides and all!

In April 2007, the City agreed to settle a 7-year-old lawsuit against its massive and indiscriminate spraying of toxic pesticides brought under the Clean Water Act by the No Spray Coalition, which I coordinate. I've already alluded to this seminal lawsuit, earlier. In addition to the Coalition winning $80,000 for a number of local grassroots environmental and wildlife protection groups, as part of the settlement agreement the City admitted (and I quote): "Pesticides may remain in the environment beyond their intended purpose, ... cause adverse health effects, ... kill mosquitoes' natural predators, ... increase mosquito resistance to the sprays, ... and are not presently approved for direct application to waterways."

I submit citations for the following seven groups of published studies that speak directly to this grave issue, which is one of extraordinary environmental injustice.

> **i. Centers for Disease Control study** that found that *all* residents of the United States, including residents of New York City and State, now carry dangerously high levels of pesticides and their residues in our bodies, which may have onerous effects on our health.[12]
>
> **ii. U.S. Geological Study**, which shows that a large percentage of waterways and streams throughout the United States, including those in New York City and State, has been found to contain environmentally destructive pesticides that

12 *Third National Report on Human Exposure to Environmental Chemicals*, Centers for Disease Control, 2005.

may severely impact on animal and aquatic life.[13]

iii. Studies confirming that pesticides are both a trigger for asthma attacks and a root cause of asthma, and that asthma is epidemic throughout New York City.[14]

iv. Cicero Swamp Study, showing that pesticides killed off mosquitoes' natural predators and that mosquitoes came back much stronger after the spraying, because their natural predators (which have longer reproductive cycles) were killed. These studies were done in New York state for mosquitoes carrying Eastern Equine Encephalitis and found a 15-fold increase in mosquitoes after repeated spraying, as virtually all of the new generations of mosquitoes had become pesticide-resistant.[15]

v. Studies that show that pesticides have cumulative, multigenerational, degenerative impacts on human health, especially on the development of children which may not be evident immediately and may only appear years or even decades later.[16]

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13 *U.S. Geological Survey*: "The Quality of Our Nation's Waters, Pesticides in the Nation's Streams and Ground Water, 1992-2001," http://pubs.usgs.gov/circ/2005/1291/.

14 Salam, et al: "Early-life environmental risk factors for asthma findings from the children's health study." *Environmental Health Perspectives* 112(6):760-765.

15 *Journal of the Am Mosquito Control Assoc,* Dec; 13(4):315-25, 1997 Howard JJ, Oliver New York State Department of Health, SUNY-College ESF, Syracuse 13210, USA.

16 "The Multigenerational, Cumulative and Destructive Impacts of Pesticides on Human Health, Especially on the Physical, Emotional and

vi. Studies that show that pesticides make it easier for mosquitoes and other organisms to get and transmit West Nile Virus due to damage to their stomach lining.[17] And,

vii. **Studies that show that pyrethroid spraying is ineffective in reducing the number of the next generation of mosquitoes.**[18]

The use of toxic pesticides to control vermin attracted to the proposed Southwest Garbage Transfer Station is a significant Environmental Justice issue for which no impact has been analyzed, let alone any study offered for cumulative and synergistic impacts (with toxins in the seabed, air pollution from trucks and tugboats, and more). I was indeed surprised that none of this was discussed in the current application or FEIS, as I and others had raised these concerns at pri-

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Mental Development of Children and Future Generations." *A Submission to The House of Commons Standing Committee on Environment and Sustainable Development by Physicians and Scientists for a Healthy World,* February 2000; Guillette, Elizabeth, et al: "Anthropological Approach to the Evaluation of Pre-school Children Exposed to Pesticides in Mexico." *Environmental Health Perspective,* Vol. 106, No. 6, June 1998; Kaplan, Jonathan et al. "Failing Health. Pesticides Use in California Schools." *Report by Californians for Pesticide Reform,* 2002, American Academy of Pediatrics, Committee on Environmental Health; "Ambient Air Pollution: Respiratory Hazards to Children," *Pediatrics* 91, 1993);

17 Haas, George. "West Nile virus, spraying pesticides the wrong response." *American Bird Conservancy*, October 23, 2000.

18 "Efficacy of Resmethrin Aerosols Applied from the Road for Suppressing Culex Vectors of West Nile Virus," Michael R. Reddy, Department of Immunology and Infectious Diseases, Harvard School of Public Health, Boston, Massachusetts, et. al., *Vector-Borne and Zoonotic Diseases*, Volume 6, Number 2, June 2006.

or hearings. The answers to my and others' questions have not been forthcoming, our Freedom of Information request has gone unanswered, and basically we have been stonewalled by the NYC Department of Sanitation.

2. EXPLORATION OF OTHER POSSIBLE SITES?

For years DSNY ran an unpermitted municipal waste incinerator on the exact site in which it now proposes to construct a large Garbage Transfer Station. In responding to queries that I and others made during the hearings process to DSNY chiefs, namely John Doherty, Harry Szarpanski and other DSNY officials, they indicated that DSNY did not seriously explore other sites before settling on this inappropriate one because, they said, DSNY already owned this site. That alone is sufficient reason to reject the siting of the SW Brooklyn MTS.

I and others, including members of the NY City Council, requested that DSNY submit a checklist of other sites that they examined before settling on the current one. We asked that DSNY provide their original comments on each of those sites. DSNY has failed to provide such a list, and DSNY officials say that since DSNY already owned this site, it was unnecessary for them to look anywhere else.

I ask that DEC direct DSNY to provide such a list of other sites for the SW Brooklyn MTS that DSNY investigated, and include their original comments (with dates) about each potential site.

No waste transfer station should be placed in a residential neighborhood. There are other far less damaging, non-residential sites that do not require repeated dredging and that would have far less impact on the marine environment and natural habitats (including rare and endangered species).

Transfer stations at more appropriate non-residential sites would be far less disruptive to nearby communities; at the current site, a large number of trucks – hundreds of them (carting commercial as well as residential waste) would use already congested thoroughfares and turn onto single-lane streets 24 hours a day, 6 days per week. The wind patterns at this proposed location blow hazardous truck & tugboat diesel particulates, as well as pollution released by the dredging, directly into the tall apartment buildings, senior citizen convalescent homes, schools and children's amusement park adjacent to the site or nearby. A better proposal would investigate siting an MTS where the wind patterns would blow AWAY FROM residential communities. But those studies of alternative sites, including wind patterns, have not been presented by DSNY, which, to repeat, never seriously investigated other possible locations. DEC should reject their application for the current proposed site.

3. MISUSE OF SILT CURTAINS AND ECOLOGICALLY-SENSITIVE DREDGING?

On page 21 of the April 16, 2007 Environmental Justice meeting in Bensonhurst, Harry Szarpanski (one of the heads of DSNY) stated:

> We also plan to use environmental safeguards such as silk [sic] curtains, environmental buckets and prohibiting the dredge from overflowing the barge as dredging occurs.

This statement runs counter to the draft EIS which states that the currents are too swift at the current site to use silt curtains to protect the environment.

> Dredging however, will cause the upper organic silts

> to be disturbed to some degree, resulting in re-suspension of the sediments. Because of the swift currents in the area, mitigation measures, such as silt curtains, would not be feasible.[19]

According to the draft EIS, swift currents would disperse disturbed toxins from the old incinerator wastes throughout the Bay and the Atlantic off of Coney Island, where a great deal of recreational and some commercial fishing takes place. (Note, please, that higher levels of dangerous metals and other toxins were found by independent labs commissioned by NY State Assembly member Bill Colton; they now lay dormant on the floor of the Bay, but will be reactivated and dispersed by the repeated dredging at this site.) The final EIS reverses this finding, but provides no argument for why it has done so, nor scientific evidence to back up that administrative about-face.

Nevertheless, according to the *NY Daily News*, Kathy Dawkins, a Sanitation Department spokeswoman, noted that "the site was approved by the City Council and would actually reduce truck traffic. She said the dredging would be safe, and that 'the agency would use appropriate precautions to protect water quality by using measures such as an environmental clamshell bucket, silt curtains and preventing intentional barge overflow.'" [We'll leave aside, for the moment, lack of precautions in place for *unintentional* barge overflow, as well as overflow that occurs through the use of clamshell buckets! (see photo)]

19 DEIS Chapter 5, page 40.

Environmental "spill-proof" clamshell bucket ... hmmm.

DSNY claims that "the amount of re-suspended sediments is expected to be low and the impacts, if any, highly localized." But the findings of independent scientists refute this claim. In samples taken by researchers from Rutgers University, this area of the Bay was found to have higher levels of toxins than reported by DSNY, which relied on extrapolations from dredging studies done 19 years ago. (Harry Szarpansky defended DSNY's inadequate sediment sampling at the April 16, 2007 hearing, stating that "the dredging was done last at this site in 1988. The incinerator closed in 1991. We then therefore, don't believe that the material of the sediments that are going to be dredged were largely affected by the incinerator operation.")

DSNY assures concerned residents that toxic sediments

will remain confined. But the Sanitation Department's application and Environmental Impact statement fail to provide current data or research to substantiate their suppositions that impacts will be "low" and "highly localized." The fact that the draft EIS says that currents are so swift that they preclude the use of silt curtains indicates that there is significant potential and opportunity for sediment dispersal.

DSNY officials told the Environmental Justice meeting on April 16, 2007 that it plans to use silt curtains after all, contrary to the specifications in the draft EIS. This would be one small improvement **if they would work.** However, DSNY has not provided new evidence that refutes or "corrects" the current and very important declaration in the draft Environmental Impact Statement that silt curtains would not be effective in this area for containing the spread of toxins and other material. AND, the hazardous, toxic material from the old incinerator MUST BE contained, or the Bay will be destroyed.

DSNY has stated publicly that it plans to go ahead with the dredging regardless of massive community opposition and the ecological harm that it will cause. Toxins will spread throughout the Bay and beyond. Silt curtains will be useless in containing the toxic material, according to the draft EIS, with nothing in the final EIS to explain the change of opinion on the use of those curtains. The siting of this transfer station is environmentally unsound and dangerous, a travesty that must be prevented.

CONCLUSION

As a result of DSNY's cavalier treatment of environmental protection of Gravesend Bay and the surrounding area, there are numerous irreconcilable contradictions between

the claims in the Permit Application and the conditions in the Environmental Impact Statement. Gaping holes, omissions and insufficiencies plague the Environmental Impact Statement. For these and other reasons that I and others have enumerated, the DEC should reject the proposed siting of the Southwest Brooklyn Marine Transfer Station. I therefore request that the DEC reject the City's proposal for the SW Brooklyn Marine Transfer Station.

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Mitchel Cohen is a stakeholder. He is a member of Wake Up & Smell the Garbage, coordinates the No Spray Coalition, and is also presenting this testimony on behalf of the Brooklyn Greens / Green Party. This report is intended to supplement the reports of Vicki Grubman, NY State Assembly representative William Colton, Ludger Balan, Ida Sanoff, Will Hershkowitz, attorney Joel Kupferman, and a number of expert witnesses who submitted briefs. I hope to publish each of these reports in separate pamphlets, so please contact me if you would like copies.

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