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# Public Hearing

before

## SENATE ENVIRONMENT COMMITTEE

"Potential adverse environmental and health impacts  
resulting from activities at the Edgeboro Landfill,  
and DEPE's response to concerns expressed by  
citizens and local government officials"

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**LOCATION:** South River Township  
Council Chambers  
South River, NJ

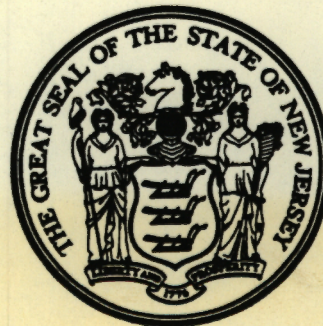
**DATE:** May 26, 1993  
7:00 p.m.

### MEMBERS OF THE COMMITTEE PRESENT:

Senator Randy Corman, Vice-Chairman

### ALSO PRESENT:

Raymond E. Cantor  
Office of Legislative Services  
Aide, Senate Environment Committee



***Hearing Recorded and Transcribed by***

The Office of Legislative Services, Public Information Office,  
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068

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HENRY P. McNAMARA  
Chairman  
RANDY CORMAN  
Vice-Chairman  
C. LOUIS BASSANO  
JACK G. SINAGRA  
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## New Jersey State Legislature

SENATE ENVIRONMENT COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NEW JERSEY 08625-0068  
(609) 292-7676

REVISED  
(DIRECTIONS ONLY)

# NOTICE OF PUBLIC HEARING

TO: MEMBERS OF THE SENATE ENVIRONMENT COMMITTEE

FROM: SENATOR HENRY P. McNAMARA, CHAIRMAN

SUBJECT: PUBLIC HEARING - May 26, 1993

*The public may address comments and questions to Raymond E. Cantor or Judith L. Horowitz, Committee Aides, or make bill status and scheduling inquiries to Elva Thomas, secretary, at (609) 292-7676.*

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The Senate Environment Committee will hold a Public Hearing on Wednesday, May 26, 1993 at 7:00 PM in the South River Township Council Chambers, Police Headquarters/Borough Hall, 64-66 Main Street, South River, New Jersey.

Senator Randy Corman, Vice-Chairman, will conduct a public hearing on the potential adverse environmental and health impacts that may result from various proposed activities at the Edgeboro Landfill, and the response of the Department of Environmental Protection and Energy to the concerns expressed by citizens and local government officials.

### REVISED DIRECTIONS FROM TRENTON:

U.S. Route 1 North to Route 18 (will either say South or East). Stay on Route 18 and at the Prospect Street jughandle (which will be at the fifth traffic light) take jughandle over Route 18 onto Prospect Street. Go to the second traffic light, which will be Thomas Street, and make a right onto Thomas Street. Go to the second traffic light and make a left onto Main Street. Police Headquarters/Borough Hall is second building on left.

Issued 05/21/93

\*Revised 5/21/93 PM Directions Only





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David A. Papi

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bqc: 1-125

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**SENATOR RANDY CORMAN (Chairman):** Okay. Good evening, everyone. This is a hearing of the Senate Environment Committee. I'm Senator Randy Corman. I am Vice-Chairman of the Committee. Senator Sinagra, another member of the Committee, will hopefully be arriving later. He has a family commitment he has to be at right now.

This is a hearing that I have called for to discuss potential adverse environmental and health impacts regarding activities at Edgeboro Landfill, and the response of the Department of Environmental Protection and Energy to concerns of citizens and local government officials. This, I believe, is the first legislative hearing on the subject of Edgeboro. I know that many people in the audience can testify to the fact that there have been numerous meetings regarding Edgeboro Landfill. However, there has not been any legislative inquiry into the matter.

The two issues that I would like to explore today are, to deal with the Department's response to issues regarding Edgeboro Landfill, and the public's perception that the Department has not responded appropriately or effectively -- I have found that there is a serious creditability gap with whatever the Department says or does in reference to this landfill -- and if it's possible, to identify exactly what it is the Department does which makes people disbelieve them so. I would like to identify what that is, and if there are any legislative remedies that could be proposed and acted on by the Legislature, that's something that this Committee may take up later in the year as a result of this hearing.

I would like to first just go through a few ground rules. If you wish to speak, there are some forms at the front table. If you would please fill one out and pass them up to the staff here, we'll make sure that you're recognized and will have the opportunity to be heard. When you are called on, if you could just come up to the microphone up at the front and



identify yourself, because these hearings are being transcribed. A permanent record will be made of this and made available to the public, and the hearing reporters would like to be able to identify all of those who speak.

Just by way of introduction, we have two staff members. We have Ray Cantor from the Office of Legislative Services. He's a nonpartisan staff member assigned to the Senate Environment Committee. We also have John Hutchinson, from the Senate Republican staff, who is assigned to the Environment Committee as well.

The first person that I will call will be Council President John Krenzel, who has another commitment to go to, and I promised I'd let him go on first.

Councilman, thank you for letting us use your council chambers.

**C O U N C I L M A N   J O H N   M .   K R E N Z E L:** Thank you, Senator. It's a pleasure to have you here. It is a topic of -- not the main topic of conversation in South River -- Edgeboro, the so-called landfill.

My brief overview will hopefully outline one of the main problems among the legions of problems that exist with Edgeboro. I think the one that you've pointed out that is-- The fact of oversight of the DEPE-- The DEPE is supposed to protect the citizens of this State, and when it comes to Edgeboro, the Department has seemingly forgotten its role as protector of the environment. For example, the sludge dumped at the landfill let out quite a stench. The sludge permit can be withdrawn if the odor gets out of hand. In April of '93, there were 173 complaints with the Middlesex County Board of Health. The question becomes: When is enough, enough?

We know that the EPA has not declared the Edgeboro Landfill a Superfund site, yet there are monitoring wells throughout the area. You yourself know, Senator, that when you

were a Councilman, wells in Sayreville were closed due to pollution -- not saline from the bay, but heavy metals. Yet what is the DEP doing? It projects an image of not caring.

Another example would be: It took the various legislators, Borough officials, and citizens, plus a healthy dose of media coverage, to force the withdraw of the plans to exhume part of the landfill. There needs to be a greater legislative oversight concerning the DEPE when it comes to Edgeboro. The Department has to pay greater concern to what is going on. One way is to communicate with the people. As the infamous Miller memo indicated, the DEPE is not paying attention, but the citizens in this area do know what is going on. I urge you, Senator, to hear the people. Listen to them not only today, but whenever they speak on the subject of Edgeboro. And in their name, keep an eye on the DEPE, especially when it comes to Edgeboro.

Thank you, sir.

SENATOR CORMAN: Thank you, Councilman.

Okay, next I would like to call on-- We have with us Assemblywoman Harriet Derman and Assemblyman Jeff Warsh, who represent the 18th District, the Borough of South River, and also represent Edgeboro Landfill -- not the landfill, but it's in your district.

**A S S E M B L Y W O M A N   H A R R I E T   D E R M A N:** Thank you, Senator. I just want to say on behalf of Senator Sinagra, he will try to attend this evening, but he is presently attending his fifth-grade daughter's play.

From the very beginning of my tenure in office, I have been very troubled and deeply moved by the testimony I have heard from my constituents. At the very first meeting that I attended on the subject of Edgeboro -- one held by the EPA on Edgeboro's Superfund status -- a woman got up and testified her husband had died of cancer; she had been operated on for cancer twice; and she had two dogs that died of cancer. She went on

to say that other people on her block have had similar stories to tell. That story and the many others like it that I have heard from my fellow residents of Middlesex County have made me deeply concerned about the Edgeboro Landfill.

Virtually every time DEPE has required MCUA to take a commonsense step to assure that our environment and the public health is protected, the MCUA delays, litigates, and delays. In September 1990, the MCUA and Edgeboro Disposal Incorporated were required to study the integrity of the slurry wall. Did they do it? No. Instead they requested an administrative hearing, and are only now beginning to test.

In October, my colleagues and I met with representatives of the DEPE, MCUA, and ATSDR. We all agreed on a timetable to implement an air monitoring system. Did MCUA comply? No. Instead the MCUA sued to appeal the order. When I asked Fred Kurtz (phoenetic spelling) about repeated Clean Water Act violations, his reaction was it would be a long time before the MCUA will pay the fines. They would be held up on appeal.

The taxpayers of Middlesex County pay exorbitant legal fees to enable the MCUA to avoid its environmental responsibilities. No corporation, governmental entity, no citizen, and certainly, no municipal authority should be allowed to evade responsibilities that impact upon the public health. Despite calls for cooperation and dialogue by Mr. Kurtz, he remains remote and inaccessible.

The buck has to stop somewhere, and when it comes to the operation of Edgeboro, that buck has to stop in Fred Kurtz's office. Yes, we need dialogue and cooperation. More importantly, we need accountability. We need Mr. Kurtz to start returning the calls of the legislators who are trying to get that accountability for their constituents.

Thank you.

SENATOR CORMAN: Thank you, Harriet.

Assemblyman Warsh.



A S S E M B L Y M A N J E F F W A R S H: Thank you, Senator. I first would like to applaud you on initiating this hearing, and for bringing it to the 18th Legislative District in the Borough of South River.

Edgeboro-- You know, a lot of us-- It's the usual cast of characters that have been rounded up here, Harriet and I included, and a variety of MCEC members and other environmentally responsible members throughout Middlesex County are here. We've been here; we were at the Fire Academy; and we've been in the 18th Legislative District offices. We've been in pretty much every office throughout Middlesex County, and a variety of offices in Trenton, and here we have another Edgeboro meeting.

Well, this time, fortunately, this is a legislative hearing. We're actually taking a transcript of this, and I do see that some small message, if any, has gotten through to the DEPE. Now instead of sending no officials -- then it became one official -- we're up to about four or five DEPE officials here today. So whether that's good news or bad news, it remains to be seen, but at least more ears, or at least witnessing of what is going on here with the plight of Middlesex County residents and Edgeboro Landfill--

What I've argued way prior to being State Assemblyman -- since back in 1985, when I first started getting involved in the Edgeboro issue -- is that this is not a normal situation. In fact, Edgeboro Landfill is a special case and should finally, finally be treated by the DEPE as a special case.

Edgeboro Landfill has the distinction of being the nation's only double-decker landfill. That was the permit approved by the Department of Environmental Protection and Energy. Edgeboro Landfill, to my knowledge, is the only landfill that is relying upon what is known as meadowmatic. (phoenetic spelling) Years and years -- thousand of years worth of decaying vegetative waste is supposedly stopping the

pollution in the groundwater from contaminating our water supplies in South River, in Sayreville, and indeed, in the entire aquifer.

Seeing as though Edgeboro Landfill was built on top of an aquifer recharged area-- Although we heard at the Fire Academy that this is not true, no one has brought me evidence to say otherwise that Edgeboro Landfill is the only landfill in the State of New Jersey, and perhaps in the EPA Region II, that uses sludge as daily cover. What we heard more disturbing at the Sayreville Fire Academy hearing of last week from Assistant Commissioner of the DEPE, was that they're not even using it as cover. The cover has become so thick that it can't even be justified as being used as cover. In fact, the MCUA is dumping sludge daily onto the landfill in violation of State law. Even though that obviously is known at the highest levels of the DEPE, I don't believe that any violations have been issued in respect to that illegal dumping of sludge onto Edgeboro Landfill.

So those three things: the double-decking, the meadowmating, the sludge being used as daily cover -- and, in fact, the sludge being dumped is unprecedented, which makes Edgeboro Landfill and the residents surrounding Edgeboro Landfill guinea pigs. Plain and simple, we are being treated by the Department of Environmental Protection and Energy, Edgeboro Disposal Incorporated, and the Middlesex County Utilities Authority as guinea pigs. It's got to stop -- the smells, the traffic, the pollution, on, and on, and on.

I'm not going to be duplicative, Senator, because you will hear from a series of very well-educated, very intelligent people in the area who are going to come forward and bring you, as you well know yourself, Senator, a host of information revealing the fact that this is a special case and this is a serious source of pollution, despite that Norman Miller

memorandum. That, I know, is one of the reasons why, Senator, you decided to host this hearing in South River, and again, I thank you for that.

But what we witnessed last week at the Middlesex County Fire Academy in Sayreville was the best effort that the DEPE could muster in order to create what politicians refer to as positioning, or spin, or damage control, all those kinds of words. In fact, Norm Miller has said that he didn't insult the Borough of South River or the residents of Middlesex County; that he was actually complementing them. I quote from this memo on page 2:

"The citizens of South River are an interesting lot. They genuinely regard this as a life and death issue affecting not only their health, but their quality of life and their financial solvency. Accordingly, they have educated themselves on the relevant issues as well as nontechnical, nonintellectually sophisticated people can. They find how we make decisions here at the DEPE incomprehensible," and it goes on, and on, and on.

Everyone in this room is generally familiar with it. If that is the way to compliment the Borough of South River, then I suggest a serious reeducation process needs to take place at the Department of Environmental Protection and Energy, because this is nothing more than insulting, and clearly a waste of the taxpayers' money.

SENATOR CORMAN: Assemblyman Warsh, I would have to just point out that there was a time in my infancy that I was a resident of the Borough of South River. I lived across the street from my great-aunt and great-uncle, who helped take care of me. I have a lot of relatives in this Borough who can't vote for me, unfortunately, because it's in a different district. However, I would have to say that any characterization of South River residents must necessarily also apply to me. So I guess if the Borough is referred to as being



unsophisticated or any other such characterization, I have to assume that is also directed at me. So I would share your feelings toward that, though maybe in a more personal way.

Continue.

ASSEMBLYMAN WARSH: Thank you, Senator.

No, that wasn't -- those are the kind of things that are incredibly disturbing, the level of insult that was waged upon us by the Department of Environmental Protection and Energy. But what is particularly disturbing is what it portends for the future, because the memo continued.

In characterizing the involvement that Commissioner Weiner should follow with respect to Edgeboro Landfill the memo reads, and I quote: "It would be absolutely great if you -- referring to the Commissioner -- "could meet with them yourself, but I understand you have to preserve some distance." Let me tell you something, Senator. There is no reason for anyone, whether it is us here elected at the local level, or whether it is Governor Florio -- and I had problems with Governor Kean preserving some distance -- in effect, dumping on Middlesex County from a variety of external -- other counties. No one should preserve their distance from Edgeboro Landfill because it grows and it grows and it grows.

I asked about this at the Middlesex County Fire Academy and they had their spin ready, Senator. You can be sure of that. What they told me was, "Surely, Assemblyman, as an attorney, you are well-aware of the fact that as an Agency Head, Commissioner Weiner needs to preserve his distance from this issue, because he is going to have to, in essence, act as a magistrate on this issue."

What I pointed out to Assistant Commissioner Sinding, the number-two person at the Department of Environmental Protection and Energy, was that while I appreciated he knew that I was an attorney, as an attorney, I damn well know that he has the ability to recuse himself from this case; that, in

fact, as an Agency Head the laws of the State of New Jersey allow him to send this case as a contested case -- as you also know yourself, Senator -- to the Office of Administrative Law, where it will be free from politics. It will be free from the kind of money that flows from Edgeboro Disposal Incorporated, the Middlesex County Utilities Authority, and Wilentz Goldman and Spitzer, and on, and on, and on. There's a conspiracy here, Senator, and that is another reason why this is a special case. (applause)

But I didn't want to go back and forth, and back and forth, because fortunately there were a hundred good citizens out that night that needed to speak. But it's not just Harriet and I, and Jack Sinagra who have been complaining about this. All the residents that have been good enough to get involved in this over the years-- The News Tribune, on April 19, issued an editorial that said that the DEPE memo reinforces public perceptions of government as distant, insular, self-serving, and callous, and it went on, and on, and on. It expressed great concern for the real issues facing the people of South River with respect to Edgeboro Landfill.

Harriet touched a little bit on the duplicity that we've experienced as elected officials -- attempting to manage, because as elected officials all of them from time and immemorial -- we make certain promises, whether it's promises that we're going to do a specific thing, or whether it's promises that we're going to do the very best that we can to achieve a goal.

When Jack, Harriet, and I campaigned, we said that we were going to do our very best to pull together all of the various finger-pointing parties over the years that have made a variety of assurances with respect to Edgeboro Landfill, and every single one of those assurances have fallen by the wayside.

We pulled together a meeting of the Middlesex County Utilities Authority. The Agency for Toxic Substance and Disease Registry flew up from Atlanta, in particular, to be here -- two of their members were here. I would like to refer to the Agency for Toxic Substance and Disease Registry as the canary in the coal mine; referring to that old practice in the nineteenth century where you brought a canary down in the coal mine with you. When the canary died, you knew there wasn't enough oxygen left and you got the hell out of the hole. Well, that canary died a long time ago with respect to Edgeboro Landfill. ATSDR has been singing for a long time about that, and the DEPE clearly has turned a deaf ear to that.

We pulled them all together one day with respect to air monitoring. We wanted air monitoring done at Edgeboro Landfill. Whether it was Areas V or VI, or the entire area, it all needed to be done. Everybody said, "Oh, yes, Senator; yes, Assemblywoman; and yes, Assemblyman, this will be done and we'll get right to it." They said within 90 days that this was going to be done. Harriet and I, being good attorneys, asked aloud whether we should issue a Memo Of Understanding. Everybody put the points down on the paper and get your signatures on the dotted line. And we were assured, well, that wouldn't be necessary. So attempting to show good faith and hoping that good faith was going to be returned, we did not commit that to writing. It turned out to be a big mistake, because nothing, nothing, Senator, has been done out there with respect to air monitoring.

What is most annoying out of that day is, not 10 days later, Edgeboro Disposal Incorporated and the Middlesex County Utilities Authority filed legal challenges to the Department of Environmental Protection and Energy's authority to even mandate, as a condition of the permit for operating Edgeboro Landfill, that air monitoring systems be installed there.



Clearly I know, as an attorney who practices in a similar area of law day in and day out, that when you prepare a complaint that is that thick, you don't do it in 10 days. Knowing the bills totaling close to a million dollars a year coming from Wilentz Goldman and Spitzer representing the MCUA, it takes a lot more than 10 days to do that. So they were staring at us right in the face, and they were lying to us right in the face that day. They filed those complaints anyway. And God knows what happened to it that day, but we do know that there is no air monitoring out there.

When we were at Middlesex County Fire Academy, Assistant Commissioner Rick Sinding said, "Well, we understand what is going on here, and I'll promise you that in 90 days it will be done." Well, I can tell the Assistant Commissioner that Commissioner Weiner -- if we ever see him here in Middlesex County -- that the clock is ticking. Two weeks have gone by since then, and we're counting. After the 90-day period, there is going to be some high holy hell raised in Middlesex County when that isn't being done.

SENATOR CORMAN: Assemblyman, are you suggesting that you believe that there was some form of collusion between the Department and the MCUA regarding air monitoring, or the lack thereof?

ASSEMBLYMAN WARSH: Well, there are no smoking guns, Senator, as to whether that was what actually occurred.

SENATOR CORMAN: But on one hand you had -- you met with them and they said they would try to implement air monitoring. Ten days later, the MCUA had prepared a brief that was a half-inch thick to go to court to challenge essentially what was agreed to -- what was agreed at that meeting.

ASSEMBLYMAN WARSH: Well, the DEPE, Senator, was not present at that meeting that day. It was the MCUA and ATSDR-- (confers with Assemblywoman Derman) And who was the third party at the meeting? (no response) It wasn't the DEPE. But

we pulled all of the parties together and there were assurances made. Clearly, those assurances were not kept up. What is most disturbing is, you stare at someone right across the table, they tell you one thing and they do another. So I can tell you that from here on out, not only will we monitor and hold the Department to their 90-day commitment, but never again, ever, will I sit down with any of those parties without getting a Memorandum Of Understanding signed on the bottom line. We'll make sure that happens from here on out.

But as I said as I started off with my presentation, Senator, this is one in a long, long line of meetings on Edgeboro Landfill. I'm sure there will be a series of meetings from here on out. The question is, what can we really do about it? We've been tossed around by the EPA, as you well know. One day it looked like it was going to be a Superfund site, and then it wasn't a Superfund site. The DEPE acts on assurances of information that turn out to be incorrect. Permits are issued. The EPA acts on reliance upon the DEPE. So you wind up with a lie wrapped in a lie, and we wind up sitting with an incredible toxic mess in our own backyard.

You know, Senator, I had the honor and the distinction last week of being appointed by Speaker Haytaian to be the Chair of the new Assembly Standing Reference Committee -- the Regulatory Oversight Committee, with the power to invalidate regulations -- all regulations that are found to be inconsistent with legislative intent.

Someone experienced in the process like yourself, Senator, also knows that Title 54 allows a Committee to hold -- to demand hearings on all proposed regulations. So what I urge that we do, which is something that I'm doing as a sponsor of that Constitutional Amendment that provides for regulatory oversight, and fortunately, being appointed the Chairman of it -- we need real oversight.

Public enemy number one, with respect to this, is the Department of Environmental Protection and Energy. Four thousand employees at the Department of Environmental Protection and Energy, and yet they don't have the time to monitor the number one largest landfill in the State of New Jersey the way it should be done. There are only 10,000 employees in the EPA nationally. There are only about 4800 employees in California, and yet they are 10 times our size. We have 4000 of them here in the State of New Jersey and we can't get the proper service. I've condemned them before. I'll stand here -- I'm almost getting tired of it -- and I will condemn them again for that.

I can promise you this, Senator, and I'm sure that you will get involved in the process, knowing your history. I can assure you that the Assembly Regulatory Oversight Committee, under my direction, will be spending an enormous amount of time on the regulations promulgated by that Department in the past. All regulations that will be proposed by that Department in the future and all those that are inconsistent with regulatory -- with legislative intent, particularly with respect to landfills, will be invalidated with no ability, thank God, for this Governor, or any other Governor in the future to veto the veto. As you well know, Senator, 41 votes in the Assembly, 21 votes in the Senate, and that regulation is no more.

I thank you for having this hearing today, and I pledge to you that for the first time in the history of the State of New Jersey there is a new sheriff in town. Regulations are up on the block, and they're going to be right and left if they're not consistent with legislative intent. That is good news for the State of New Jersey, and hopefully for those of us who are victimized by Edgeboro Landfill and by the Department of Environmental Protection and Energy's incredible incompetence in protecting our health from the effects of Edgeboro Landfill.

I thank you.

SENATOR CORMAN: Okay, Assemblyman, if I could just -- and also, Harriet -- if I could just pose a question as to what your opinion might be with respect to why the Department behaves as it does? I mean, I think you had characterization from The News Tribune editorial being callous and indifferent bureaucrats, and that is not-- There are officials from the Department here and I'll ask them to respond, but that is not -- that hasn't been an unusual characterization of the Department. I think they have heard this before, not just from people in South River. They haven't just heard it from legislators in Middlesex County, they've heard it from legislators all over the State. They've heard it from people in lots of other communities. Why do you think that is? Is it just because people in that kind of bureaucracy attract people of a certain mind-set? What forces are at work here and what should we be attempting to reform?

ASSEMBLYWOMAN DERMAN: Well, I don't-- You know, to give them the benefit of the doubt, the Department -- I don't think it's done out of some grand scheme to affect the health here on a deleterious basis or to be difficult. They have a problem and they don't know how to handle it, both in terms of protecting the health and in terms of handling it as a P.R. matter. I think the Department, if anything, it is an enigma, because when it comes to creating regulations, as Assemblyman Warsh indicated, he's going to be reviewing them. That would help create jobs. They end up with a system that is nothing but obstructionist for the economy.

Here, for instance, we've been very involved with legislation that would create an affirmative defense for a company whose air-pollution control equipment breaks down through no fault of its own and does not create any problem for the environment.

The Ford Motor Company had received a \$50,000 violation because a truck had hit a utility pole on Route 1, and it's equipment went down. That's not the kind of reason to

impose a \$50,000 fine if there is no detriment to the environment. On the other hand, where we want them to be scrupulous and to observe every rule and regulation so as to protect the public health with regard to the landfill, they seem to be taking the line of least resistance.

I would like to turn your question around a little bit and ask why does the MCUA continue to march to the drummer that it does? I think the problem is a lack of accountability. They don't have to answer to anybody.

SENATOR CORMAN: That is some-- If there is anyone that I would be more critical of than the DEPE, it would be the MCUA. I think in one of my more intemperate moments, I once denounced them as being a great octopus among the world's environmental criminals. I found their behavior was such that they would come to a meeting with Sayreville Borough Officials; they would explain what they're going to do; and everything that they told us was false.

I think when their pumping station on Canal Street was stinking up the Borough of Sayreville, I was complaining about it. They offered me a tour and I stood there surrounded by officials from the Authority who are all swearing, "What are you talking about, Randy? This place doesn't smell. There's no problem here." If I didn't have witnesses-- If I didn't bring people along with me, I may have thought that maybe my sense of smell was off.

The behavior-- Have you seen-- Both of you are attorneys; you both have practices that go far beyond the borders of Middlesex County. Have you ever encountered any kind of institutional behavior such as that exhibited by the MCUA in any of your dealings?

ASSEMBLYWOMAN DERMAN: Absolutely not, and I think the word to characterize them is arrogance. They have gotten away with it this far and we've tried very hard--

SENATOR CORMAN: That's a good word. I could probably think of some more, but that's a good one.

ASSEMBLYWOMAN DERMAN: We've tried very, very hard to deal with them on a process basis in terms of making sure that they have to vote only after they've heard a public -- has had an opportunity to speak. I think that Assemblyman Warsh also introduced a bill which would give the freeholders an opportunity to veto the minutes of the Authority, which essentially would put an end to this arrogance, but until that happens, I'm afraid they're going to continue without answering to anybody. The DEPE seemingly comes in and is supposed to oversee what they're doing, but the best that it gets is a tap on the hand. The best that it gets is a tap on the hand when it probably should get a kick in the gut.

SENATOR CORMAN: Or somewhere else.

ASSEMBLYWOMAN DERMAN: Right.

ASSEMBLYMAN WARSH: If I may, Senator, the original question was, why is it that the DEPE is the way it is? One of the problems is -- one that may be difficult to work ourselves out of, but I'm not sure if the public understands that 80 percent of the DEPE's rather substantial budget does not come from general revenues. It comes from fees and penalties. When you have a budget that is comprised 80 percent of fees and penalties that must pay 4000 salaries, what it does is create a culture that is forced to find more fees; increase fees to the point where New Jersey has the highest permit fees in the nation, which is another reason why we are suffering still a hemorrhage of manufacturing jobs from the State of New Jersey.

Currently, we in New Jersey have the distinction, the dubious honor of having more people who work writing regulations than "managing" the State bureaucracy; than we have producing goods in the State of New Jersey. That is an incredibly sorry state of affairs for a once mighty industrial State.



We have a situation where a fee for a permit costs -- for an identical process costs \$6000 on one side of the Delaware River, in the State of Delaware, and costs \$600,000 in the State of New Jersey for the same process.

We have a situation sponsored by the Department of Environmental Protection and Energy that presented a \$3 million fine for a manufacturing facility in New Jersey because one of the ponds on their property was the home to a variety of birds, the excrement from which created permit problems. It exceeded their permit to the point where they received \$3 million worth of fines, and the DEPE would not back down. From what I understand, that company is going bankrupt.

We have a situation sponsored by that same Department of Environmental Protection and Energy where a company in New Jersey on the Delaware River, as I understand it, was fined for violating its NJPDES permit for expelling pure water into the Delaware River.

Things are out of control, and we have the ability to get that back into control by changing their budget from a fee- and penalty-based budget to a budget that is based on general revenue. However, that puts us into a predicament, Senator, as you well know, unless we make cuts. I believe that we can make substantial cuts in the size of the Department of Environmental Protection and Energy without affecting the health, the safety, and welfare of this State.

I believe that is exactly what we must do. That is why they are the way they are. It's not that-- I mean, you and I, Harriet, everyone in this room is a solid, strong environmentalist. I have one of the best environmental records in the New Jersey Legislature in my short term, as do you, Senator. That does not necessarily mean that we want a huge 4000 person bureaucracy, 80 percent of its budget of which is based on fees and penalties, reeking havoc in the State of New Jersey under the name of cleaning up our environment.

SENATOR CORMAN: Here is something puzzling: Now, I'm familiar with allegations from people in the business community that the Department, because so much of their budget is based on fees, fines, and permits, sometimes they will tend to -- they have been accused of bounty hunting to try to support their staff. The Department has consistently denied that, but even if we adopt that hypothesis, that doesn't totally explain their behavior with respect to Edgeboro and the MCUA.

If it was-- If it's money that the Department is looking for; if that is what they are motivating -- their motivating factor is, then they would be fining the MCUA left and right. Of course, it would be just passed on to us in the form of tipping fees or sewage treatment fees in our municipal tax rate. They'd be able to-- There are probably plenty of things that they'd-- I know that there are plenty of things that they could fine -- issue fines with respect to Edgeboro on whether it would be groundwater contamination or air pollution, but that doesn't happen. That doesn't happen.

So there is just one thing, and I probably should address this to the Department and I will very soon. The thing that puzzles me the most is that a lot of the people in the Department go to work for the Department because they are committed environmentalists. They're active in environmental causes when they're in college or in law school, and they went to work for the DEPE because they wanted to protect the environment. Many people -- in fact, I would dare say that most people that work for the Department believe that, and want to protect the environment. Yet that's not how the end result comes down when you look at the Edgeboro situation. Somehow it starts -- everything starts out with good intentions, but that is not the result. I don't know if you have any thoughts on that. I mean, that's--

ASSEMBLYWOMAN DERMAN: Senator?

SENATOR CORMAN: Yes, go ahead, Assemblywoman.

ASSEMBLYWOMAN DERMAN: Perhaps you'll have the opportunity to pose a very simple question to the DEPE: Are your hands tied in dealing with Edgeboro, and if so, why? Why aren't you more proactive in imposing your regulations, enforcing them, and imposing penalties? Just why? Why this inconsistency? Why the irony that more effort is expended against a company like Ford Motor Company, who has just put on 150 new employees in Middlesex County, when New Jersey is struggling with 9 percent unemployment? Why this sort of laissez-faire attitude towards the Edgeboro Landfill?

SENATOR CORMAN: Okay. Well, maybe-- I think maybe in the interest of fairness, now will be the appropriate time to call on the Department. We have here--

I thank you both for coming here.

ASSEMBLYMAN WARSH: Thank you, Senator.

ASSEMBLYWOMAN DERMAN: Thank you very much.

SENATOR CORMAN: We have here with us Deputy Commissioner Jeanne Fox, from the Department of Environmental Protection and Energy.

**D E P U T Y C O M M . J E A N N E M . F O X:** I have a short statement and then we can take questions.

SENATOR CORMAN: Okay, why don't you read your statement.

DEPUTY COMMISSIONER FOX: My name is Jeanne Fox, and I'm Deputy Commissioner of the Department. I'm the number-two person at the Department, and the Commissioner asked me to come because he's working on some major dioxin dredging issues yesterday, today, and tomorrow.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I can't hear you. Speak up a little louder.

SENATOR CORMAN: Is the voice microphone on?

DEPUTY COMMISSIONER FOX: Go right up to it? Which one is the one that they hear, this one?

SENATOR CORMAN: The silver one is for the recording.

DEPUTY COMMISSIONER FOX: Okay. My name is Jeanne Fox. I'm the Deputy Commissioner of the Department. I have with me a number of Department employees who you've seen in South River. I think a number of--

SENATOR CORMAN: If you would like to introduce them for the record.

DEPUTY COMMISSIONER FOX: Steve Gable, who is next to me, is the Director of the Division of Solid Waste Management. He has been around some of the hearings. John Castner, who knows the most about the technical aspects of the Department, is Chief of the Bureau of Landfill Engineering in the Division of Solid Waste Management. Charles DeWeese, who is the new Director of the Division of Enforcement Field Operations. Dr. Iclal Atay, who is Chief of the Bureau of New Source Review and our Air Quality Regulation unit. And also with us is Greta Kiernan, who is Special Assistant to the Commissioner.

I want to emphasize the Department's commitment to open communications with the community, and our attempts to attend hearings and meetings as they come up on the subject of Edgeboro in particular. We've been at a number of public hearings and meetings. I think two in the last couple of months. We have attendance at municipal meetings by staff and the municipal -- the county freeholders, Edgeboro Commission meetings as well. Obviously, we're required to, and we will have additional public meetings and hearings on permit actions on the landfill.

I want to emphasize-- The Commissioner asked me to emphasize that he wants to work with the Legislature, as we do frequently with your Committee, Senator, as well as with the Assembly members and the community to define the solutions perspectively for Edgeboro. We know there are enumerable ones at the landfill. There are substantial resources at the Department's Solid Waste and a lot of problems involving Edgeboro. Site remediation, which is a--

UNIDENTIFIED SPEAKER FROM AUDIENCE: We cannot hear her back here at all. We don't hear her back here at all.

UNIDENTIFIED DEPE STAFF MEMBER: Maybe that one works better.

UNIDENTIFIED SPEAKER FROM AUDIENCE: We don't hear her.

SENATOR CORMAN: All the remarks are going to be addressed through the Chair. Everyone who wants to speak will have an opportunity to speak, but please, for the sake of order, it's all going to come through the Chair.

Go ahead.

DEPUTY COMMISSIONER FOX: Thank you. The Department spends substantial-- This one works. You can hear me now? (no response)

SENATOR CORMAN: Can everyone hear? (no response)

I think you have got to speak a little closer to the mike.

DEPUTY COMMISSIONER FOX: The Department spends substantial resources in the area of Edgeboro; it isn't just the Solid Waste Division. Site remediation, air permitting, enforcement, and inspection units are devoted to Edgeboro, as well as the Middlesex County Environmental Health Department, which is our County Environmental Health Act delegated agency.

Obviously, the major issues of concern today and in the future that we would like to work with you on are the odor issues, which are of prime concern; air monitoring; and then site remediation. The Department is aggressively pursuing solutions to each of those areas.

Concerning the odor problems, we're currently addressing the substantial increase in odor complaints from Edgeboro, which have resulted primarily from the use of the sludge-derived product as cover on the landfill. At the meeting that was held by Department staff last week in Sayreville, we committed on taking a course of action by the end of this week. While we have not finalized our approach, we

expected -- we'll have the Middlesex County Utility Authority implement a series of odor-control procedures at the landfill, including the use of a deodorizing agent. If these procedures fail, we would then direct the MCUA to stop using the sludge product at the landfill. At the same time, the Department would encourage and assist the MCUA in finding other beneficial uses for the sludge. Obviously, it has to go somewhere.

In addition, the Department will shortly be issuing a permit for the installation of additional methane flares, which should also reduce odor problems at the landfill. We're also working with the community to implement an air-monitoring system at the landfill. This already includes methane gas monitoring and some stack testing at the existing flares. Additional analytical information will be collected regarding the actual releases to the atmosphere from Edgeboro so that site specific impact to the community can be calculated and future monitoring requirements can be defined. We will be clarifying the procedure on how to file odor complaints and work closely with the County Department of Health to insure an adequate enforcement response to this.

In the site remediation area, our activities include a greatly expanded groundwater monitoring system, also a thorough examination of the cutoff wall, and improved leachate control facilities for the Phase I area. A conference of evaluation of the nature and extent of waste in the areas outside of the cutoff wall will allow us to make informed decisions for an overall remedial or closure strategy that is protective of health needs and the environment.

In closing, I want to reemphasize that our commitment is to work with you, the legislators, with the Senate Committee, with the Assembly, and with the community to help find solutions.

SENATOR CORMAN: Okay, thank you. If I could just pose a few questions that I posed to fellow legislators. Jeanne, I appreciate all the things -- all the actions that



you've indicated here that you're going to take. I appreciate the fact that the Department has made available some high-ranking staff members to come here and answer questions. I appreciate the fact that you did so last week at the Fire Academy in Sayreville.

One thing that I have to let you know, and not intended as any slight against you, probably most of the citizens and residents in this area who just listened to what you said don't believe you. (applause)

No, completely no demonstrations.

They don't believe you. They really do not believe any statements made by the Department. You know, obviously the Department has made a few steps to try to rectify this serious lack of confidence in the Department as an institution, but it's going to take a lot of town meetings, and indeed, a lot more than town meetings to get people to believe what you say. Really the only way for that to occur is, the actions that you say you're going to take actually have to take place. You're going to be held to a very high standard. If you say this is going to happen in a week and it doesn't happen in a week -- if it happens in 10 days, people say, "Well, they've lied to us again." That is the standard that you are going to be held to. That's the result of well over a decade of accumulated Departmental actions with respect to Edgeboro.

Let me pose the same question to you: How did the Department get into this fix? How did it come to be that-- You weren't there this whole time. Why is it that no one believes what you say? It's not really unusual to this area.

DEPUTY COMMISSIONER FOX: I've been with the Department for about 27 months, but I've been a State employee for 12 years. I think it was a gradual process. I mean, obviously what happened in the '80s regarding landfills and solid waste in New Jersey has a lot to do with what happened to Edgeboro. As it was mentioned by Assemblyman Warsh, I think

some other counties were allowed in the '80s to dispose of their garbage and dump on Middlesex. So therefore, Edgeboro had a Phase I that filled up much quicker than otherwise was planned. I think that had a lot to do with it, and it was probably a mistake in the past by this State. The garbage has to go somewhere and the policy of this administration is that we're trying to recycle. The citizens in this State are doing a good job, as well as those in Middlesex, much better than anybody predicted that we would. The Governor's goal is 60 percent and we're well on our way to that. We should be able to accomplish that, then we still have a substantial amount of garbage.

Middlesex County, to the citizens' credit, at least have taken their own responsibility for their own garbage, unlike still some other counties. Steve Gable, the Director, knows a lot more about that, and he's been with the Department for actually less time than I have.

**S T E V E N   G A B L E:** I didn't want to spend too much time tonight on history because I wanted to try -- we wanted to try to at least set a theme that you're right. There is absolutely a creditability problem of large proportions between the Department and the community at large here. The only way we're going to prove it is looking forward -- is proving it by our actions from today forward. We recognize that, and I think what Jeanne laid out in her opening statement was really a brief overview of the actions we're either currently taking or plan to take, in what we view as the three major areas of concern on our part and on the community's part.

Just a moment of history, and I think I would probably tick off two events of the 1980s which probably lead the pack in describing why this creditability problem exists. Jeanne pointed out one; that is, a series of North Jersey counties when they closed their own landfills were directed to Edgeboro, leading to horrible traffic problems, leading to a series of other environmental issues.

SENATOR CORMAN: It's leading to traffic fatalities, as a matter of fact.

DEPUTY COMMISSIONER FOX: Yes.

MR. GABLE: Correct.

The second is the Department's decision to authorize a permit for Phase II, which was a decision that was not well -- to put it mildly -- was not well received in the community. I want to point out two things: One is, that decision is one decision we did not make alone. The Middlesex County Board of Chosen Freeholders was vested by statute in making the decision of what the disposal system in Middlesex County would look like. They made the initial decision that Edgeboro Landfill was to be the disposal facility for the county.

Secondly, the permit decision by us was on top of that decision, and was based on a thorough scientific review of our regulatory requirements for proper design of a landfill, not proper siting of a landfill. There is a distinction between those two things. Our regulations go into liner design. Other design issues at a landfill have to be met by people who apply to build landfills. The Middlesex County Utilities Authority, in the view of the Department, two summers ago met those requirements and was allowed to construct the Phase II landfill.

Those two issues or those two decisions, I think, are primary drivers in the problems in the relationship -- if I can call it that -- between the community and the Department.

On the other hand, I would like to try and take a step back. The Department can either be viewed as a monolith Department making decisions, or as I prefer, because I work there, to view it as people working within the Department. I've been there for two years. I've been in State government for 14 years. The people in the Department have been here at least that long, if not longer. Each of them on a day-to-day basis are committed to finding solutions to incredibly difficult problems.

You know what those problems are about because you deal with them everyday at your level in the Legislature, the most broad of which is trying to wrestle with environmental protection and economic development simultaneously, others dealing with -- trying to deal with having adequate disposal capacity and making sure the local citizens are not negatively impacted by the provisions of that disposal capacity. We wrestle with those every day. The only thing I can do is really try and stand up for the commitment and integrity of the individual people who are trying to deal with that problem. None of those people are perfect, but they make a strong attempt and have integrity in dealing with those problems.

As Jeanne talked about the three major issues on odor, remediation, and air monitoring, I think we've got a good story at least today and looking forward to tell with respect to those three issues. The staff -- the technical staff of the Department is here to talk about those and any other issues you have.

SENATOR CORMAN: Okay, if I could just continue on some of the ground that we've covered to Assembly members. I guess Assembly Warsh read some comments from the News Tribune, which indicated there is a scathing editorial about arrogant, elitist, distant bureaucrats.

As you say, Steve, you're talking about people. Yet I really have to say that I have witnessed, and other people have witnessed evidence that those sorts of criticism have a certain amount of merit.

As a matter of fact, at last week's meeting at the Fire Academy in Sayreville -- I guess Deputy Commissioner Sinding was there, who was running the meeting -- it was obviously an attempt by the Department to try to deal with the community and respond to community concerns. Yet there was just, you know, exactly the kind of institutional or, I guess, bureaucratic arrogance that gets everybody's blood to boil. I

guess you know it was a member of the Environmental Commission from South River who questioned the permit that was issued for Edgeboro and said that he thought the permit was illegally issued. The response to that individual was, "Are you a lawyer? If you're not a lawyer, who are you to question this? Commissioner Weiner is a lawyer and he personally reviewed this. How dare you question this?" I responded to this. I indicated my own outrage at that kind of treatment to anyone.

Rick Sinding, I guess, agreed with me that he blew it on that score and he shouldn't have said that. But that kind of attitude seems to come out every now and then, and that absolutely enrages people regardless of the merit or the lack of merit of any decision that's being made. When that kind of attitude comes forward, the average citizen views it as intolerable.

DEPUTY COMMISSIONER FOX: Yes, Assistant Commissioner Sinding is also working on dioxin tonight. Steve Gable reports directly to Rick Sinding. Rick did realize he shouldn't have said that. I think what it comes down to is that all DEPE employees are human, and being in front of a public meeting or a legislative hearing is not a easy thing to do. Sometimes you get nervous; you get upset; and sometimes you appear to be arrogant.

I remember at a public hearing about six or seven years ago I was considered snickering at the public when, in fact, I agreed with exactly what they were saying because I had been fighting with that particular utility for a long time myself and concurred with the statements being said by the public about that utility. Yet the reaction to me was I was reacting to what they were saying.

I'm a lawyer myself and I would not have said that, but then I have a different type of personality than Rick, and sometimes we just handle things differently. So, I mean, my

apologies to that. I wasn't at that meeting, so I didn't hear him say that. I mean, Steve was there and he might want to respond, but I know Rick did feel badly about that.

SENATOR CORMAN: I could tell after I blew my stack and excoriated him. He didn't dispute me or fight with me. He said, "You're right, Senator. I shouldn't have said it."

DEPUTY COMMISSIONER FOX: Rick isn't an attorney, so he probably has--

SENATOR CORMAN: He has an elevated view of our abilities--

DEPUTY COMMISSIONER FOX: Yes, and much more than we deserve.

SENATOR CORMAN: Very true, very true.

MR. GABLE: The only thing I want to add -- and you mentioned Rick immediately apologized for his statement -- the only thing I want to add is to try and view that one comment of Rick's in the context of his answers for an entire-- When you're on the firing line, a very long evening in terms of trying to respond to all the questions coming in from very different directions from the public that's asking questions of the Department--

In that overall context, my view is that Rick stood up very strongly and said, "The Department realizes its problems in the past and is ready to make commitments in the future, and ready to try to find solutions in the future." He stood there over the course of the evening and made commitments on behalf of the Department to accomplish certain things. I know we won't establish full creditability till we live up to those commitments, but in the overall context of that evening, he made a statement that he regrets. In fact, he has talked to me about it a few times since then and isn't pleased with his performance--

SENATOR CORMAN: Just that one statement, I mean, people are going--



MR. GABLE: I know.

SENATOR CORMAN: People left that meeting--

MR. GABLE: He's talked to me since--

SENATOR CORMAN: --and that's the one thing that they're going to remember. They're not going to remember the commitments that were made.

MR. GABLE: We understand.

SENATOR CORMAN: They're not going to-- They're going to remember an instance of someone from Trenton putting down somebody just because they didn't have a law degree. All the effort, all the time that was taken by all the officials of the Department to come to the community and be responsive to their concerns were forgotten. It was like it was all washed away by one intemperate remark.

I mean, that's really the precarious position that the Department has gotten itself into as far as public trust and public confidence. I hope-- You say that you're cognizant to that. I truly hope you are. Because if you are to be effective as a Department; if you are to be effective in your mission in protecting the environment, which is the name of your institution, people have to believe in what you say; people have to believe in what your do; and people have to believe that you're doing the best job that you can be doing. If not, you're not going to be effective.

If you don't have any other specific comments, I think what I would like to do-- One other thing I'd like to bring up, Assemblywoman Derman indicated that there is a much -- it seems as though there's a very exacting standard that industry is held to, but the MCUA and Edgeboro Landfill is not held quite to that exacting standard. At least that's the way it seems to many of us in the area. Would you care to address that?

DEPUTY COMMISSIONER FOX: There are different laws for different violations. The Clean Water Enforcement Act is very strict and very stringent so that government entities, the

municipalities or county authorities, are held to the same standards, basically, as a private company and the mandatory penalties. The Department has very little discretion on those penalties. Frequently we get complaints about that because there is very little discretion. So if there are extenuating circumstances, it was not really knowledge of committing a violation. There is nothing we can do about it because under that act a violation is a violation, and there has to be a penalty of a large amount usually.

In the other areas -- and I'll have Steve speak on solid waste -- it's different depending on what the law is and how much discretion is there. Obviously, the point of the law is to get compliance with them. So the air pollution laws really are the ones that cover odor in a kind of strange way. That's how we get the odor, through air pollution, because there are particles in the air and it makes life unpleasant for people; therefore, it is an odor violation. It is a little bit more tenuous than, say, the water violation.

In the solid waste areas, I'll let Steve speak on that. I don't think we treat them so differently than other areas, but I'm not sure. Solid waste is not my area. I have not seen a policy saying treat a landfill, or Edgeboro in particular, differently than any other entity, although it is a unique situation, I must admit, here in Middlesex with the landfill.

MR. GABLE: There is no more a separate standard for county or governmental authorities than there is to private entities. I think the answer-- What springs to mind for me is really that some of the -- I guess what are best termed "horror stories" of the Department issuing penalties, which on their face sound absurd -- at least on their face. Most of them, at least as far as I know, may go back a few years. I'd like to think-- Obviously, we would bring back to the Department and its enforcement units any more recent horror stories and look into them.

I like to think that over the last two and a half years, since Commissioner Weiner came on board, he's really dramatically changed the attitude in our enforcement program to one that really tries to go toward one where there is predictability and fairness in the way we handle our enforcement matters. So we don't have the effect on private entities through our enforcement matters where there may well be very obvious mitigating circumstances as to why the violation occurred. We could take-- I'm not familiar with the two specific examples raised about a half-hour ago, but I could take those back--

DEPUTY COMMISSIONER FOX: Actually, the one I'm vaguely familiar-- I think it's the large-- I don't whether it's an insurance company--

E L O I S E A. H A N S E N: (talking from audience) You're going; you're going again. (referring to Assemblyman Warsh and Assemblywoman Derman) I am really sorry. I would never do this. We want to speak to our legislators, and you're the last one out the door and she's gone again. No one is ever here to hear anything we have to say about solutions.

SENATOR CORMAN: Excuse me. Excuse me, Eloise. There is no-- You're out of order. If you want to talk--

MS. HANSEN: Excuse me.

SENATOR CORMAN: --wait your turn. I will call on you, and you will have an opportunity to say whatever you want to say. Right now you are out of order, and you really ought to sit down.

MS. HANSEN: My arm can't reach to that door to stop them.

SENATOR CORMAN: Right now you're out of order, and you ought to sit down. It's not polite.

MS. HANSEN: Fine.

SENATOR CORMAN: Say whatever you want later, but right now you're out of order.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Is this the hearing for the public? Is this the hearing for the public? We want-- When will the public be heard?

SENATOR CORMAN: It is a public hearing, and the public will be heard.

UNIDENTIFIED SPEAKER FROM AUDIENCE: When, Randy? At the end of the evening when it's 12:00 a.m. and there is nobody here to listen?

SENATOR CORMAN: Not at the end of the evening. Not when there is no one here to listen.

IDENTIFIED SPEAKER FROM AUDIENCE: Why don't you call on some average citizens here?

SENATOR CORMAN: I will call on average citizens.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I was one of the first people in the room.

SENATOR CORMAN: You will be called on.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Thank you.

DEPUTY COMMISSIONER FOX: Senator, the Department staff will stay around so that if you want to-- We'll take some questions now, then we can stay around and take questions later.

SENATOR CORMAN: The Department will be here, and I will be here for the duration for whoever wants to talk and whoever wants to ask questions or present their views.

ASSEMBLYMAN WARSH: Senator, if I may, if you please take my indulgence for one second. I believe that, first of all, Harriet and I have another event this evening which we must attend. Willie Alexander, who is right there, will make sure he will be here throughout the night--

MS. HANSEN: Willie Alexander, who yelled at us in the hallway--

SENATOR CORMAN: Wait a minute.

MS. HANSEN: --yelled at us in the hallway for asking that you people would stay?

SENATOR CORMAN: All remarks are going to go through the Chair. I'm not going to tolerate anymore of this.

ASSEMBLYMAN WARSH: Through the Chair, Mr. Chairman, as everyone from Middlesex County Environmental Coalition will know, no one has been more accessible; no one has been more involved in this issue. For whatever partisan silliness you're involved in-- (indiscernible due to applause)

MS. HANSEN: Excuse me, not nice, not nice. I'll call you tomorrow.

SENATOR CORMAN: Please continue.

DEPUTY COMMISSIONER FOX: The one company that I think he was referring to talking about geese and polluting of the water in the Clean Water Enforcement Act penalty -- The Department was not thrilled with that penalty, but it was mandated by the Clean Water Enforcement Act that that amount be set. We had no discretion in that matter. So I know there is a problem with the Clean Water Enforcement Act, and in fact, although I wasn't at the Department at the time it was passed, my understanding is that some of the Department pointed out to the Legislature at that time there could be problems with that. There are a lot of examples that have come up, and at some point in the future you might want to look at that.

SENATOR CORMAN: Okay, just one last question. What is the, you know-- I guess Harriet Derman indicated that Ford Motor Company was fined \$50,000 for an air pollution violation which resulted as a truck hit a utility line on Route 1, yet I don't want to get into that. I cannot recall any similar fines being issued with respect to air pollution violations with Edgeboro, and I know that there are many. I'm sure you could if you wanted to.

DEPUTY COMMISSIONER FOX: I vaguely know about that. I know Greta Kiernan, I think, is more on top of it. But in the air pollution area, if their equipment goes down, there is a fine. So that I know staff, Greta in particular, and our

legislative staff have been working with Assemblywoman Derman and other legislators on a bill that would allow us to have some more discretion in that area. So if it wasn't the fault of the company, in fact, we would not then issue a fine of that magnitude. The Department concurs with the Assemblywoman in that, and we're working with her to do away with that really unfair fining situation.

SENATOR CORMAN: Okay, now the flip side of the coin is, why have there not been fines of similar magnitude, or even a magnitude approaching that with respect to Edgeboro?

MR. GABLE: I think we indicated last week at the hearing that we are now in the midst of wrestling with that issue and expect by the end of this week to have -- to be in a position to issue an order to address the odor problems at Edgeboro.

I think at the moment-- Again, we're not done yet; we're still doing the evaluation. Our focus isn't so much on economic impact on the MCUA and, ultimately, on its ratepayers and the citizens of Middlesex County, but our focus is on trying to find a solution to the odor problem, either by in the very short run trying to get some odor control procedures in place at that landfill relatively quickly-- We're looking at anywhere from 60 to 120 days. If those control procedures don't work to direct the MCUA to cease using the sludge-derived product as cover at the landfill-- So the answer to your question is, our focus, at least with the respect to the MCUA, at the moment isn't to economically penalize them; it's to solve the problem.

SENATOR CORMAN: Okay, so within 60 to 120 days you will have control procedures in place. Was that 60 to 100 days--

MR. GABLE: Although-- No.

DEPUTY COMMISSIONER FOX: No, clarify that.



MR. GABLE: Let me-- It's really two steps. One is-- And let me preface it by saying I'm talking about an action that's still under review within the Department. It will be issued by the end of the week, and it's not fully laid down on paper and signed off.

DEPUTY COMMISSIONER FOX: This is the outline of it, of which it will fall within. It will be out by Friday at 5:00.

SENATOR CORMAN: So by 5:00 Friday there is going to be some sort of--

MR. GABLE: Right, and let me -- just to lay out the outline for you-- We would really be -- really have two stages to it.

SENATOR CORMAN: Okay.

MR. GABLE: First, immediately directing the MCUA to implement odor control procedures -- upgraded odor control procedures at the landfill. While they're doing that, we would look for them to try to find and identify alternatives -- alternative beneficial uses for the sludge-derived product. If in a certain limited time period -- and it will be, as I said, anywhere from 60 to 120 days -- the odor control procedures do not work, we would direct the MCUA to cease using the Edgeboro Landfill, and cease using the sludge-derived product as cover at the Edgeboro Landfill.

SENATOR CORMAN: Okay, so I will be anticipating this at 5:00 Friday?

MR. GABLE: Hopefully sooner.

SENATOR CORMAN: Hopefully sooner?

DEPUTY COMMISSIONER FOX: We were hopeful for this evening, but we wanted to make sure it was right.

SENATOR CORMAN: Okay, right now I'd like to get to public comments and if--

DEPUTY COMMISSIONER FOX: We will stay.

SENATOR CORMAN: Okay.

MR. GABLE: Do you want us to line up here?

SENATOR CORMAN: Do you want to line up here, like Ms. Shirley-- Maybe you could sit at the little tables on the side and--

MR. GABLE: You can say Kewpie dolls, but don't say sitting ducks.

SENATOR CORMAN: No, no, I didn't want to characterize what you have line up as-- You don't have to have the chairs exactly there, but-- You can sit at those chairs and you can pass around the mike when it's needed. You can pass around microphones if necessary.

I would like to call on Susan Wisniewski. Susan, just identify yourself for the record.

**S U S A N M. W I S N I E W S K I:** Susan Wisniewski, 9 Jacobson Street, Sayreville.

Randy, first of all, let me thank you for holding the hearing, and I'm very sorry about the turnout you had up here. At the end of this meeting, I would ask you to please name who was on the Committee who didn't show up. Obviously, it's only you here and you've done a lot of chastising of the DEPE. I feel the same could be done for the public officials on this particular Committee, because I think they show the same indifference as the DEPE by not being here, okay.

I'm also upset that these hearings are turning out to be no more than press conferences for ambitious politicians. I understand that courtesy allows public officials to speak first. They represent a large population and they should be heard first. What I object to, though-- I think courtesy and duty should demand that those same officials stay here and listen to the average citizen who they represent. I'm outraged at their conduct, and I am tired of them leaving all the time. They say their cute little remarks; they get their lines for the newspaper; and they leave us with our problem. You're no different than the DEPE.

Okay, what we need from you, Randy, and what we need from that Committee up there is legislation. That's what you were elected to do; that's what I expect of you.

SENATOR CORMAN: Actually, that's one of the reasons that I want to have this hearing. If you have some ideas--

MS. WISNIEWSKI: Okay, I have two suggestions for bills which I think should be taken under immediate consideration. The first bill would give host community benefits to those people directly impacted upon. The value of their homes is diminished; the enjoyment of their homes is diminished; their expense of running air conditioners-- Base those benefits on the distance; base it on the number of fines. Review it annually; consult the DEPE; come up with the formula. Do the right thing by the people. I don't want rhetoric. I want action.

More importantly, the second bill, I would love to see this Committee sit down with the DEPE -- the scientists of the DEPE -- and come up with some beneficial reuse of sludge. All of the sludge does not have to be in one place, okay. This substance could be used in other ways. Has this Committee sat down with the DEPE to see which programs they might want to foster, where they want to put some money? I hear nothing from you. I hear rhetoric. I'm tired of the rhetoric.

I think you are genuinely concerned, but I think you're misdirected. I don't want to applaud for you. I don't want your empathetic venting of your spleen; I don't want it. I want action. That's why you got elected. That's what I expect of you and every other official in here. So stop screaming at the DEPE and do your portion of the job. We'll be happy to scream at them when they don't do their portion of the job. They've been screamed at. It's time for you to move. It's time for you to make them act.

SENATOR CORMAN: Susan, I think your suggestions for legislation are meritorious, in particular I like the one on

beneficial reuse. You made that suggestion at the Fire Academy meeting in Sayreville.

MS. WISNIEWSKI: I'm glad some aide got back to you with it. Although, Randy, I will say you were the one who remained the longest.

SENATOR CORMAN: I was there.

MS. WISNIEWSKI: Let me exempt you.

SENATOR CORMAN: Thank you. I was there when you said that.

MS. WISNIEWSKI: Let me exempt you from that, okay. But Harriet Derman stayed two minutes. Two minutes she asked about a wall and chatted as she got the answer from these officials. If she were truly interested, she would have listened to the answer. She would have listened to the citizens.

SENATOR CORMAN: Could we talk about proposed legislation?

MS. WISNIEWSKI: No, I'm here.

SENATOR CORMAN: You can talk about that if you want, but I--

MS. WISNIEWSKI: You're having a hearing and you want to know where the criticism is. In this particular case I don't choose to level it all at the DEPE. I choose to level it at you.

SENATOR CORMAN: Yes, you're entitled to do that.

MS. WISNIEWSKI: And let me tell you, you guys are taking the heat, but the Democrats sure need-- I could give them even more heat. They're not even at the hearings.

I am nonpolitical on this issue. I am not a Democrat or a Republican. I am a human being with a nose who wants to enjoy my home, so stop this. I beg you, stop this. Don't insult people's intelligence. You're upset about one man's letter at the DEPE, an internal memo, and such outrage. You're

doing the same thing. You're insulting the intelligence of the people who live here. Act, Randy. I'm counting on you to do it.

SENATOR CORMAN: Okay, that's what I want to get to.

MS. WISNIEWSKI: Well, you can answer me back--

SENATOR CORMAN: I'm not answering you back. I want to ask you questions.

MS. WISNIEWSKI: --but when you're finished, please name every single member who did not show up, okay?

Thank you.

SENATOR CORMAN: I will do-- Wait, wait, stay there. I've got questions for you. I'm not hostile. I mean, I want to be constructive. I want to talk about your idea for beneficial reuse. I have asked to set-- I was there when you made your suggestion. I think it's a very good idea. I believe it was to require that public entities use sludge-derived product in their landscaping.

MS. WISNIEWSKI: Right, absolutely. At the golf course is one of them. We import stuff and we're not even sure if the quality is the same or not the same. We're all quick to point out we can't put this sludge on because of ECRA, but you don't care what is coming from other states. It just doesn't make sense.

SENATOR CORMAN: Okay, you're right.

MS. WISNIEWSKI: It's not scientific. If we'd gotten to the science of the thing, we'd be coming up with some solutions. Let these men instead of being pressured politically one way or the other at the DEPE, let them be the scientists that they're supposed to be. That's what we need. We need answers. I don't like to live like this.

I know the sludge was taken out of the ocean. It was politicians who passed legislation to do that, but they act with no solutions. They had no other place to put it. They left that in the hands of the authorities dumping it. We all

know, Randy, here in Middlesex County there's nobody smiling on sending this to Texas. So we've got to find solutions here. You have a body of people that can act; force them to act. Let them act, and give us the relief we need.

SENATOR CORMAN: Okay, what I want to do -- and I want to get this on the records in the hope -- because this is going to be distributed to the absent members of the Committee. My hope is that they will study it. But I want this available. I want to try to flesh out these proposals on beneficial reuse. Obviously, if this can be used for something other than spreading a coating on Edgeboro that makes it smell worse, I think that's positive. I think that's action. Exactly how do you--

MS. WISNIEWSKI: Maybe if all of it didn't have to use -- if it didn't have to be so "thick," then perhaps we could still use it for landfill cover. I'm not saying-- We don't know. We haven't been able to experiment with that because there is nothing else to do with it. How about if it was put along the Parkway? How about if it was rototilled in? Maybe there will be no smell.

SENATOR CORMAN: Half of?

MS. WISNIEWSKI: I don't know. Rototill, rototill, when they mix it up with the soil there--

SENATOR CORMAN: Oh, okay.

MS. WISNIEWSKI: I'm not a farmer, but it's a pretty familiar term. Anyway, I don't know. I'm not a scientist, as aptly reminded by the memo and by you, but at least I'm willing to think of things. I'm sure there people there that have college degrees that study this stuff.

SENATOR CORMAN: Okay. Well, actually, what I'm trying to-- You made some very good points last week in Sayreville regarding the problems that we have with beneficial reuse, and I'm kind of hoping you would repeat them here for the benefit of the public record. I mean--

MS. WISNIEWSKI: Okay, I have heard a number of years-- Fred Kurtz has said on occasion he didn't understand why it wasn't used along the Parkway. I don't know all the details. I don't know all that -- why it's not. I know it's another authority. Perhaps legislation could force that authority to do something, I don't know.

SENATOR CORMAN: Yes, it could. Yes, it could.

MS. WISNIEWSKI: I mean, this is your job. Maybe you could go to the DEPE and say, "Give us some ideas. Give me a list of the five top things you would like to study, what you need money for. Let's do it." The answers aren't going to come overnight. But you're not going to come until you start the process. That process has to be started by asking them. Ask them for five ideas to experiment. Give them the money to do it so that all of this doesn't have to be suffered upon one population. The entire Middlesex County suffers. The people in this area suffer for the rest of the County. It's not fair. They have a low cost, cheap, centrally located landfill, and it's at our expense. That's not fair. If a portion of money has to be given to those people, okay. I don't say that's the best solution, but--

SENATOR CORMAN: The best solution is to eliminate the smell.

MS. WISNIEWSKI: That's exactly right, but in the meantime, when you have to run air conditioners, when you have to stay in doors--

SENATOR CORMAN: It costs money.

MS. WISNIEWSKI: I don't see anything wrong with it. There is \$4.6 million going to East Brunswick right now. The town fathers there are very reluctant to give it to those directly affected upon. But another part of town doesn't even know that landfill exists. It's not fair. It's truly not fair. It's not fair to the people of South River; it's not fair to the people of Sayreville. I know you've had a bill

vetoed, but some of the criticism of it was that there was no direct compensation formula from other legislators. Work together, who cares what party they're from. Get together. Do something for us.

SENATOR CORMAN: That's the method of providing for compensation to those affected most and that's something that you have to come up, I guess, with some kind of a formula. Maybe it would be provided on the basis of some kind of an inverse condemnation kind of benefit--

MS. WISNIEWSKI: Distance, number of fines, verified complaints, I'm not quite sure.

SENATOR CORMAN: Okay, but that's--

MS. WISNIEWSKI: Maybe the DEPE can help you here, too.

SENATOR CORMAN: There might be something -- some kind of formula we can work out with respect to beneficial reuse. I mean, we've got the Department here-- Obviously there are other, I guess, fertilizers that are made from sludge-derived products in other states that are used by farmers in the State of New Jersey. Is that not correct?

DEPUTY COMMISSIONER FOX: Senator, Ms. Wisniewski has a lot of good points, and one of the major ones is that the Department has a lot of very good scientists, but are-- That is financed primarily by the State Appropriations. It has been dramatically cut back over the last three or four years because of the State's budget situation.

There are a lot of priority research projects that get put down the list. What we do with sludge is one of the high priorities. What we do with dioxin is a high priority. You need the scientists with their Ph.D.s to investigate this. They work-- We either bid out the contracts to Rutgers, NJIT, or some academic institute, or we have in-house people to do it. We don't have enough money clearly to do the research needed because it's very clear from the Commissioner's point of view-- What we need to do is based on sound science, and we don't have enough money for those projects.



But secondarily, on beneficial reuse-- It's very clear that our sludge in New Jersey, because of the industrial base, a lot of that can't be used on crops. It has metals; it has things in it that you've got to do something with it. Still, we can't dump it now, so we need to put it somewhere or do something with it. Obviously, we need a lot more research in that.

I would ask Steve Gable and maybe John Castner to briefly talk as to what we're doing now in that area.

MR. GABLE: Well, I think just to point out two recent events that I think maybe will support the goals you're talking about, which are goals that we're trying-- We have a group within the Department that tries to push on a day-to-day basis to develop these marketplaces not only for Middlesex, but for a host of other municipal generators of sludge who are trying to find something to do with the material.

But the two events that recently occurred are, first, the EPA adopted some rules which hopefully are going to turn the sludge business into one that's heavily regulated; into one that will turn it into a real marketplace, so people like -- or entities like the MCUA can market their material not only in New Jersey, but can take it as a product. If it meets certain preestablished national standards, it can then become a product in commerce. Those were just adopted about 60 days ago, but those will begin to have an effect to open up that marketplace.

The second thing that happened was, about a month ago the Legislature passed a law and the Governor signed a very, very detailed executive order which tells the entities that the Governor has control of -- and that's not the MCUA or the Turnpike Authority, but the agencies in State government -- to make the use of sludge and solid waste compost a priority purchase above other types of compost for our land-use activities. That's another one which agency by agency will begin to kick in over the next few months.

One of the troubling things when you're trying to find these type of solutions are, instead of having a high-tech solution where you just burn it and it goes away, which no one wants to see, these types of things are, one: point, by point, by point, finding user, after user, after user to take the material and then the problem is solved. That's really how we look at it.

I would reiterate Jeanne's point on the resource issue. We do try and find ways to develop public confidence in this material because you have to work with the agriculture community, with Cook College, the Agriculture Extension Service, and the localities where this material is going to be land applied to develop public confidence. We work on that. That also is a troubling local issue in those towns or in those areas where it might be applied.

SENATOR CORMAN: Two questions I want to just direct to the Department: 1) If the Legislature would have passed a law that required that all State facilities would have to use some form of sludge-derived product as fertilizer, would there be enough produced in the State of New Jersey that wouldn't have any heavy metal content?

DEPUTY COMMISSIONER FOX: Sir, I think the major problem would be the people who live in the areas where that sludge would be applied would not be happy because there might be odor problems. I know in the last two years in the Pinelands area there was consideration of putting sludge there and also agricultural applications, because obviously it's generally -- if it doesn't have metals, etc., in it, that's a good purpose for it. There are a lot of problems with that. You have to convince people that there is not a problem. The concept of it is not nice. There is plenty of sludge in New Jersey--

SENATOR CORMAN: Okay, right. Here is the question that I've got: There are sludge-derived products that are being used in New Jersey from -- they're made in other states

and they're being used in New Jersey. They're are being spread on farms or golf courses, and they come from other states. Are you aware of any-- I'm not aware of any odor problems associated with those particular products. So the question is, if New Jersey-- If there was-- If we required State agencies to use this, provided that it was in the same form that is being sold, marketed, and used right now in this State but made in other states, would we be able to get enough of it here?

MR. GABLE: I think if you were just to rely on State agencies alone, there wouldn't be enough land area to land apply the amount--

SENATOR CORMAN: We wouldn't be able to use -- get rid all of it.

MR. GABLE: --we wouldn't be able to get rid of all of it. But that's only one little corner of the answer. Most of the market studies that have been done, particularly those that have been done on behalf of PBSC, which is one of the largest sludge generators in New Jersey, have found that there is a sufficient market out there in the multi-state region to handle the sludge generated in New Jersey provided we do two things:

- 1) Improve the quality of some of our sludges--

SENATOR CORMAN: Right, there has got to be pretreatment.

MR. GABLE: --in our industrial regions through pretreatment programs.

- 2) We still need to work on our market develop activities or communication activities so there's more of a receptivity to this and a recognition to what you say -- what you pointed out, which is that the other materials that are already available on the market may be as or more problematic than the very material which we generate in New Jersey. But because it's called sludge, people tend to shy away from it.

SENATOR CORMAN: Right. Now, the question that I have is-- All right, let's suppose here in New Jersey we're able to develop guidelines for a sludge-derived product that can be

used as fertilizer. It has no more odor problems than the products that come from other states. Would we be able to -- assuming that we can get this now -- would there be any potential for an ECRA problem?

MR. GALBE: The potential is there, but it can be addressed legislatively or from a regulatory standpoint with the standards being properly set, and with the regulations properly setting out the removal of that liability.

SENATOR CORMAN: Is there any more potential than there is for using sludge-derived fertilizer that comes from Pennsylvania, or Milwaukee, or some place?

MR. GABLE: Anything, no. Take any commercial fertilizer -- chemically developed fertilizer, not organic fertilizer, misapplied -- applied too heavily can cause an ECRA problem. So the problem is one that cuts across any possible fertilizer you might buy. If you buy the fertilizer at Sears tomorrow and apply it improperly, it can cause a problem. The real--

I wanted to cut to one of -- something that you'd mentioned in one of your assumptions, and that's trying to decide on reasonable standards that everybody can go along with. Not only do we get the concerns raised by you, but as an example, the USEPA established standards at the same time. The Rutgers Agriculture Extension Service, which the farmers in New Jersey rely on very heavily for their advice, came up with standards which were more rigorous than the USEPA. So you still have that tug going on that hasn't been resolved yet to get this material out to the market. We're trying to break those type of logjams on a daily basis.

SENATOR CORMAN: Right, I would be interested-- I think the Committee would be interested in assisting the Department in resolving this. The thing that I find paradoxical is that farmers might be using a fertilizer which has no more ECRA problem potential than some sludge-derived

product made in New Jersey. Yet they would shy away from the New Jersey product because of, I guess, this logjam that we have. I think that's something that this Committee ought to take up, and take up soon.

Susan, do you have anything else?

MS. WISNIEWSKI: Randy, if you just would name the no-shows, I'll step down.

SENATOR CORMAN: The other members of the Committee are Senator Henry MacNamara -- Senator MacNamara is recovering from surgery; that's why I'm the acting Chairman today -- the others are: Senator Bassano, from Union County; Senator Adler, from Camden County; Senator Rice, from Essex County; and Senator Sinagra, who I expect to be here soon.

Okay, the next two people -- next is Eloise Hansen, and then I'll call on Bob DeMartino.

MS. HANSEN: First off, I am sorry I interrupted your hearing. It didn't have anything to do with you personally, but my arm did not reach long enough to stop those people at the door, and I'm becoming increasingly annoyed about that.

I think Susan talked about the beneficial reuse of sludge pretty well. I really don't want to repeat everything she had to say. I did say at the Fire Academy last week that I had been doing an internship at the MCUA as part of my public health degree and was contacting potential users of Meadowlife. I was amazed to find out so many people did import sludge pellets from out of this State from across the continental divide, I think, to bring here and use. So I know that everyone -- our officials have probably all been at one time or other to the MCUA to take some kind of a tour. But if you could come down one time, or anybody else could come down one time to see what the grounds looked like before the application of Meadowlife and after, those are approved uses now.

SENATOR CORMAN: I drive by it almost everyday.

MS. HANSEN: I've seen areas--

SENATOR CORMAN: I know what you're talking about.

MS. HANSEN: At the plant, where there was gravel and a little bit of dirt there is grass growing now from the appropriate amount of Meadowlife being tilled into the soil. So the Department of Agriculture and crops notwithstanding, there are uses right now for Meadowlife. I think it would help if everyone came and took some kind of a look.

SENATOR CORMAN: Well, if we could encourage uses for it, then that would be less that they would be dumping on Edgeboro.

MS. HANSEN: Right. I agree with that, and it seems silly to spend money to manufacture a product that is then--

SENATOR CORMAN: Thrown in the garbage.

MS. HANSEN: --dumped somewhere else -- the excess is dumped. I don't know at what level Meadowlife would not smell as much at the landfill. I don't understand any of those things.

As this is a public hearing, is there a date on when we can still send you testimony? Like I said, I don't want to repeat everything that Susan said, but I would like to officially put my comments in writing.

SENATOR CORMAN: I guess I could, you know--

MS. HANSEN: Like 10 days?

SENATOR CORMAN: If 10 days is sufficient.

MS. HANSEN: Ten days is fine.

SENATOR CORMAN: I'll keep the record open for-- I'll keep the record open for two weeks for anybody who wants to submit written testimony.

MS. HANSEN: Okay, that's fine. Yes, like I said, I don't want to repeat everything.

I just have a couple of small comments. I keep hearing that Commissioner Weiner isn't here, and isn't there, and isn't at all these meetings. I don't really understand how one person can be at every single meeting.

UNIDENTIFIED SPEAKER FROM AUDIENCE: How about one?

MS. HANSEN: But his close representatives are at some of these meetings.

UNIDENTIFIED SPEAKER FROM AUDIENCE: See the letters that they get back, too.

SENATOR CORMAN: Look, all remarks through the Chair.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I'm sorry.

SENATOR CORMAN: You want to talk; you'll have a chance, through the Chair.

Go ahead.

MS. HANSEN: Considering that he administers to the entire State, I don't see that he could spend more than 10 or 20 minutes here, or 10 or 20 minutes there. But we all start to think of ourselves as the center of the universe, and we're not. I don't mean this for all the people in the audience, but I'm going to give you an example: I went to Trenton a few weeks ago and a lot of people in this room were at that meeting. It was meet the Commissioner, with the Environmental Commission Chairmen. There were about 15 or 16 Environmental Commission Chairmen there, all to talk about their -- what they considered were their individual municipality problems.

The first person to talk was Bob DeMartino, who was able to talk about 10 minutes about Edgeboro. The second person was a woman from another town who talked for 20 minutes nonstop on a 10-gallon kerosene spill and some brake fluid that came off a truck. So for her, it was her center of the universe. But she took up 20 minutes of the Commissioner's time to tell us about that. The third person who talked argued that this was -- where she lived was the most clogged area in New Jersey, traffic-wise. The fourth or fifth person that talked said no, no. Their area was the most clogged.

So we all want everyone, everywhere when we want them. I just don't see how that's possible. It's just not possible because we all have different conceptions of what is

the most important and pressing problem in our lives at that moment. Ten gallons of kerosene is nothing compared to what we have in Sayreville, or East Brunswick, or anyplace else.

It was a shame to drive all the way to Trenton to have the ear of 20 Environmental Commissioners, not the DEPE Commissioners, and to have the whole thing cut short because somebody wants to talk for 20 minutes. That's a problem. That will always be a problem. I just don't see any way to solve anything like that. But there is always a considerable amount of time spent on, "Why isn't he here? Why isn't she here, or anybody else?" So that's hard.

Anyway, I just wanted to say that. The other thing I wanted to say: I've been attending a lot of these Edgeboro Landfill meetings, and I don't know how you as a legislator can wave through everything that is said at these kind of meetings and determine what is the real agenda of everyone who comes up to the mike to speak. I want to give you an example, because this is the one that has been generating all these meetings. It's about excavation of the garbage outside the cutoff wall.

Over the years, the arguments have been we can't buy Edgeboro for our landfill because the slurry wall is not intact. Now we can't buy the landfill because there is garbage buried outside the supposed--

I'll get to you, Susan--

--because there are supposed-- Next, we can't buy it because there is garbage buried outside of the supposed slurry wall that may or may not be intact. Then there is a proposal to dig up the garbage closest to the homes for whatever reasons: stability of the soil, roadways, to protect the homeowners. No, now we can't dig up this garbage because it will smell.

So when I came here to the last South River meeting, I had questions about the methane traveling. Was it an alligator in the sewer? I was met with -- it sounded like 20 hecklers



behind me because I'd asked such a stupid question, because I did not know. Yes, I was told there is a possibility of methane traveling and causing explosions.

I went to last night's meeting at the Fire Academy. It came up again. Task Force members want to know what you are going to do about these proposed explosions considering Lipari Landfill and the GEMS Landfill. I just-- I don't understand. I mean, is every concern the same? Every concern can't be the same. Where are they coming from? How are you supposed to deduce what is a problem and what is not; what is just an effort to stop the landfill from expanding, and what is a real threat?

As a member of the public, I find this very unsettling, and it sounds like rhetoric back and forth. The same as you would accuse the DEPE of giving you, or the same as legislators would give us it. I don't have-- If I don't have-- I don't know how anybody else can. How can you have a clear idea of what is a real threat and what is not; what people really want and what they don't want? Do they really just want money? Do they just want the landfill to close? Do they really want the garbage in or outside the cutoff wall? I don't know. Maybe it's because I've been to about 20 meetings in the last 3 months. So it's-- I don't know. It's just testimony and comments with my own frustration. It's as difficult in the audience as it is up there, I think.

Thank you.

SENATOR CORMAN: Thank you, Eloise.

Next is Robert DeMartino, South River Environmental Commission, and also member of the Middlesex County Environmental Coalition.

Dr. DeMartino.

R O B E R T D e M A R T I N O: Thank you very much. Although I may not be an attorney--

SENATOR CORMAN: But you are a doctor.

DR. DeMARTINO: That's right. I wanted to point out, concerning the Edgeboro Landfill, that a lot of the problems that we have today concerning the landfill are because of concerns that have been raised by the community, particularly the Middlesex County Environmental Coalition, were never addressed when the five-year solid waste permit was issued for Edgeboro.

I would like to review some of the reasons why it is my contention, and the contention of many people, that the current permit issued to Edgeboro is an-- What do you want to use: illegal, irregular, or what have you? The process that DEPE went through-- Again, I have to say contrary to what Mr. Gable said earlier, the process was an invalid one; therefore, we have basically an invalid result because the process itself was invalid and faulty.

I'd like to review just briefly. The coalition had submitted, at Commissioner Weiner's request in 1991, a motion to reconsider the permit that the Division of Solid Waste Management had issued for Edgeboro Landfill. The Coalition raised many concerns, all of these concerns were sweepingly dismissed by the Commissioner by stating that somehow the Division had reviewed this information and considered it. However, today -- to this day, we still don't know exactly the process that the Division had used.

For example, I would like to just bring up one point, okay; follow one issue with Edgeboro Landfill, and that's the issue concerning hazardous waste. For example, in 1986 the New Jersey DEPE, Division of Solid Waste Management completed a preliminary assessment of Edgeboro Landfill for the USEPA. In this preliminary assessment -- again, I have a copy here tonight of everything that I'm talking about -- includes numerous examples of hazardous waste that was dumped at Edgeboro Landfill.

For example, it includes a 1981 confidential memorandum from the Office of Cancer and Toxic Substances Research, which lists specific incidents of hazardous waste dumped at Edgeboro. For example, 9900 pounds of formaldehyde were dumped at Edgeboro Landfill, 15,768 pounds of trichlorethylene, unknown amounts of chromium, and so on. The preliminary assessment also states that the hazardous waste in the landfill may contaminate the groundwaters, swirl, and service water of the State of New Jersey. Again, I remind you that this report -- preliminary assessment -- was prepared by the Division of Solid Waste Management, itself for EPA.

In 1989, however, the DEPE denies the existence of hazardous waste in Edgeboro. In a report entitled, "Responses to Questions from the Middlesex County Solid Waste Advisory Council," this report was signed by Mr. Castner, who is here tonight. The letter of transmittal for this report was signed by John Czapor, then Director of the Division. In this report, Mr. Czapor describes it as factual responses, and that the report represents a significant commitment of resources of the Division. The report states, and I will quote: "A question of the potential for hazardous waste being deposited at the Edgeboro Landfill has been raised. The Department is not aware of hazardous waste, as defined pursuant to State and Federal standards, having been disposed of at Edgeboro."

That same year, 1989, August 24, in a meeting between the Division -- representatives of the Division of Solid Waste Management and the MCEC, representatives of the Division and, again, Mr. Castner denied that there were any records of hazardous waste dumped at Edgeboro in the Division. Mr. Fred Kurtz also in 1989, March 13, issued a report on Edgeboro Landfill and replied to questions asking if hazardous waste was dumped at Edgeboro. The report states, and I'll quote: "Edgeboro Landfill, as a municipal solid waste landfill, was not legally permitted to accept toxic waste. In the course of

Malcolm Pirnie's studies, no evidence has been revealed to suggest that toxic waste was deposited at Edgeboro or that sludge was a significant concern."

So therefore, the MCUA -- the applicant for the solid waste permit -- claims it knew nothing of hazardous waste dumped at Edgeboro; therefore, in the permitting process the applicant was required to complete an environmental health impact statement. So there is no information in the EHIS prepared by the applicant addressing hazardous waste at Edgeboro. The Department apparently agreed with that assessment.

Now, New Jersey Administrative Code states specifically that if a site adjacent to a site already used for solid waste is to be used for a landfill, the applicant must detail all the kinds of waste dumped in the previously used site. That is -- just for the record -- that's New Jersey Administrative Code 7:26-2.9(c)5i. Okay, in addition, the New Jersey Administrative Code states that the Department must accurately describe the site proposed for a landfill in the statement of facts prepared for the public meeting. No statement concerning hazardous waste appears in this statement of fact for the public meeting; therefore, the Division of Solid Waste Management violated New Jersey Administrative Code 7:26-2.4(g)16, which states: "A fact sheet concerning the proposed facility must be prepared by the Department. The fact sheet shall include the following," -- and I won't read the whole thing, but it says, "The principal facts -- and it is with, again, significant factual, legal, methodological, or policy questions considered in granting the tentative approval, a description of the propose facility," and so on.

Nowhere in the fact sheet, which, again, I have a copy of here tonight, does the Division admit that it was aware of, or even considered the massive amounts of hazardous waste dumped at Edgeboro. Nowhere in this fact sheet does the

Division admit that Phase II physically will go on top of Phase I. Therefore, a question would be, and perhaps maybe someone -- one of the representatives of the Department can answer this later on: Why did the Division decline to include this information in its fact sheet for the public even when it is required by State regulations to admit this information to the public?

Therefore, since the public was denied accurate information of existing conditions both by the applicant, the MCUA, and the Department itself to reveal this critical information, the public hearing was held in violation of State regulations. Simply put, the reasons for the public meeting is to gather information from the public -- community concerns. Since this information was not in the application nor in the fact sheet prepared by the Division, the public was denied its chance to review this information and to raise these concerns to the Department.

Again, getting back to what I stated earlier, the MCEC in 1991 was invited by the Commissioner to submit a motion to reconsider. In this motion, the MCEC informed the Commissioner that the Division did not consider the hazardous waste dumped at Edgeboro. The Division was given a chance to reply to the motion to reconsider submitted by the MCEC. In its reply, the Division of Solid Waste Management -- now this is dated July 5, 1991 -- states that contrary to prior claims -- it states that it knew all along about the hazardous waste dumped at Edgeboro. Therefore, it did not require the applicant to submit this information since it already possessed this information. The Division therefore did not apply its own regulation, which requires the MCUA to include this information in the Environmental Health Impact Statement.

Again, according to NJAC 7:26-2.4(f), it states that any failure to submit such information shall constitute cause for denial of the permit. So again, a point here to consider

is, why do they have these regulations on the books? They flagrantly disregard the regulations and nothing seems to happen. There is no accountability here.

Another point I'd like to make, in this reply brief by the Division of Solid Waste Management it states on page 6 -- and, again, this is arguing against the Coalition's arguments -- the Division states, "In making its argument in favor of reconsideration, however, MCEC totally ignores the fact that MCUA had been ordered to terminate operations at Phase I by December 31, 1991." Now, again, we're talking -- we're into May 1993, so the Division again sweepingly throws away the Coalition's concerns by saying that Phase I must cease operation by the end of 1991. Here we are into 1993, with Phase I still in operation and being allowed to accept sludge by DEPE.

You have to then get back to the point, okay. Now, here is a Division that previously denied that hazardous waste was dumped at Edgeboro. Now when it's put to task it suddenly admits, "We knew about it all along, and that's why we never required the applicant to submit this information." If that's true, therefore, then the Division knowingly violated New Jersey Administrative Code in issuing three unprecedented TCOAs. Again, in DEPE lingo, which we've kind of picked up over the years, a TCOA is a Temporary Certificate of Authority to Operate.

According to New Jersey Administrative Code, to issue a TCOA it says, "No exemption shall be granted to permit an operation which will pose a threat to public health or the environment." Now, after the second TCOA had been issued, I contacted Mr. Herb Gross, who is an engineer at the Division of Solid Waste Management who was assigned to Edgeboro. I asked Mr. Gross, "How could the Division properly put that statement in its TCOA issued for Edgeboro when they know that's not true? Mr. Gross stated that the Division knew that the

statement was not true, but that New Jersey Administrative Code required them to include that statement in the TCOA or they could not legally issue the permit.

Therefore, again, it's the contention: If they knew this information all along, all three TCOAs were issued in violation of New Jersey's State regulations. In other words, you can't have it both ways. On the one hand, if the Division admitted that it knew this information all along, it could not legally have issued the TCOAs. On the other hand, if it didn't know the information, then you have to get back to the permit itself. If they didn't have that information issuing the permit, then they did not consider that information and the permit was issued illegally.

The Coalition can produce numerous documents where the Department knew for years and made statements for years. All along they knew that Edgeboro was causing significant contamination in the waters of New Jersey, and indeed was a public health threat. The bottom line, therefore, is that the public loses. The Division of Solid Waste Management knowingly jeopardized the health of thousands of residents of the New Jersey -- in New Jersey, particularly in Middlesex County, by concealing information that hazardous waste was dumped at the landfill, and that it issued the three TCOAs without allowing for any orders for remediation of the hazardous waste at Edgeboro.

Now we come to 1990. In 1990, the EPA issued a final draft of its site inspection report dated March 30, 1990. The EPA states that the known amounts -- again, not just suspected, but known amounts of hazardous waste at Edgeboro number 4389 tons. If my math is correct, that equals 8,778,000 pounds of hazardous waste known to be dumped at Edgeboro. The same report by the EPA states, "No enforcement or removal actions are known to have been taken regarding these wastes, nor are any known to be scheduled." Potentially affected media includes soil, groundwater, surface water, and sediment.

On this same EPA report, June 22, 1990, Mr. John Trela, who was then, I believe, Assistant Commissioner at DEPE, states that the DEPE, in a letter to EPA, knew that Edgeboro's preliminary Superfund score was 51.99, which was well above the minimum Superfund qualifications of 28.5. Mr. Trela quotes in this letter, "The information in the report is well-documented, and it's consistent with information provided by Department staff and within Department files." Therefore, apparently Mr. Trela is in agreement that the 8 million pounds of hazardous waste in Edgeboro Landfill coincides with the information in the Department's files, information which the Department for years had been denying that it knew about.

So again, the fact that the information on hazardous waste does not appear in the EHIS -- the Environmental Health Impact Statement -- means that the public hearing held by DEPE on Edgeboro was held in violation of New Jersey State regulations. It also means that other agencies that would look at the application for Edgeboro would certainly be misled by the facts concerning the landfill. For example, the EPA in preparing its report on Edgeboro looked at a lot of this information and was misled. In the application the MCLA states, for example, that there are no municipal wells affected by Edgeboro Landfill or in the Farrington Sand Aquifer, which of course is inaccurate because South River's wells are within that same aquifer.

Therefore, the Division never considered this information, never gave the chance for the community to review this information. It's not known, for example, what effects the hazardous waste in Phase I would have on the liner for Phase II. It's not known, for example, and the Department still has not stated what contribution does the hazardous waste in Phase I contribute towards air pollution; how the rivers in the aquifer are being damaged by these dangerous chemicals. Again, that's still not known today, even though that permit was issued two years ago.



Nevertheless, after the Coalition had submitted its motion to the Commissioner, the Commissioner ignored all of MCEC's objections and issued the permit stating that the Division somehow had considered information that all along it had denied ever knowing, and also information that the applicant, the MCUA, never submitted. By this action, the Commissioner violated New Jersey Administrative Codes, and therefore, by this example encourages other applicants to submit incomplete or bogus applications in the hopes that they too may have such an application approved by the Commissioner.

I would like to quote the Commissioner's words in his denial of the MCEC motion, which is dated July 26, 1991. He says, "It is my conclusion that the Coalition has submitted nothing which has not already been considered by the Agency, and that the Division correctly concluded that neither Phase I or Phase II causes an adverse impact on the other." The Commissioner thereby sweeps away all of the valid objections raised by the MCEC concerning the application, and quite frankly, this is why we're still here today discussing the issues concerning Edgeboro Landfill. The Department never addressed these issues in 1991.

In summary, therefore, I'd liked to state that the permit issued by the Division of Solid Waste Management and confirmed by Commissioner Weiner to operate Edgeboro Landfill was issued knowingly in violation of State regulations.

I'd like to point out, too -- and I brought this information up to Assistant Commissioner Sinding last week. I spoke with him briefly after the meeting and Mr. Sinding said, "Well, if you want action concerning this issue, why don't you sue us?"

So again, I'd liked to just point out that you had an invalid process which led to the problems that we have today. Public safety and the environment were compromised by the

Division of Solid Waste Management by allowing Edgeboro to remain in operation when it knew about hazardous waste at the landfill.

If I could offer something constructive by the way, perhaps this is one thing that the Department might like to consider: During the motion to reconsider, the Commissioner had met one of the members of the Middlesex County Environmental Coalition, and what he stated to them was, "Well, look. About the motion to reconsider, why don't you go ahead and sue the Department if you want action?" Again, repeating or maybe almost prophetic as to Mr. Sinding's words. But, you know, why should a grassroots organization, why should the community, or why should any citizen or resident have to take it upon themselves to take action that really the Department itself should do. In other words, the MCUA, they have their attorneys; EDI has their attorneys, but supposedly the public in New Jersey, we have the DEPE. For them to turn around and say, "Well, if you want action, if you want State regulations followed, you know, you take us to court and you take them to court." I think that's an inappropriate response.

Perhaps one thing that the Department can consider is, they can work out some sort of a process where not just technical advice would be offered to the public, but perhaps legal assistance would be offered to citizen groups. So, when you have a process like this, and obviously the Commissioner was fully aware that the permitting process of Edgeboro was invalid-- Why can't this be offered, then, to the community, rather than simply say, "Well, go ahead. Take them to court."

Again, the DEPE is supposed to be protecting the public, and that wasn't done in the case of Edgeboro Landfill. I'd like to thank you for letting me come up here and have the chance to make these remarks.

SENATOR CORMAN: Dr. DeMartino, I appreciate your remarks very much. It would seem that some of them were in the form of questions that you may wish to direct to the

Department. We have a number of officials here. If you'd like them to respond, I will certainly ask them to do so if you just hit them one by one. The first one was, if we go backwards, why not offer legal assistance? Why do they urge you to sue if you don't agree with something? Maybe you just want to phrase that or put that on the table. Let the Department respond to it.

DR. DeMARTINO: Well, perhaps one question I'd like to bring up-- It might be a different one, but last week I got this NJDEPE annual report, and it states here in its mission statement guiding principles. Among the guiding principles, for example, "We have to be accountable, accessible, and helpful to the public." I'd like to ask the question again, since the whole issue about the permit for Edgeboro Landfill -- to me it's still on the table today. When they say that they're accountable, I would presume, therefore, that they're still accountable for this action in issuing the permit. I don't see the phrasing here to say, "Well, everyone is accountable except for the Commissioner himself." But I'd like to know if DEPE is going to somehow resolve this issue about these concerns.

Again, I just brought up the issue of hazardous waste, but there are many concerns never addressed concerning its permit. Will the DEPE commit itself to some sort of process so this is resolved? In other words, are they accountable, or are the regulations simply words that they can ignore when they choose to?

SENATOR CORMAN: Jeanne, do you want to take that?

DEPUTY COMMISSIONER FOX: I'll talk generally speaking, and then, I think, refer to John Castner--

SENATOR CORMAN: Sure.

DEPUTY COMMISSIONER FOX: Clearly, the Attorney General's Office, who is our attorney, approves everything before the Commissioner gets to it, and in fact, participates

and reviews all orders that are issued by the Commissioner, including in this case the Attorney General's Office worked on the Edgeboro decision, and clearly they believe it was not illegal or improper.

Therefore, the Commissioner did what he did with their guidance and their recommendations. So I think what he was saying -- I think he said it a little bit differently. I think what the Assistant Commissioner was saying -- Sinding -- he was saying it a little bit differently. If you disagree with that legal guidance that we've got from the State Attorney General's Office, you obviously have the right to take it to court and disagree with the State's Attorney. That's all they were saying. All citizens have that right. We have very few in-house attorneys. The Attorney General's Office is our attorney.

We don't have legal advice to help you out with-- In fact, because the Attorney General's budget is so tight, we don't get enough Attorney General time for us to get our advice back really in as timely a manner as we could use. So, I mean, just a short answer is that clearly from our perspective, and from the Attorney General's perspective, the Commissioner's decision on that permit was legal, and it was in the purview of the regulations.

SENATOR CORMAN: Okay, this issue came up last week at the Fire Academy. I indicated to Assistant Commissioner Sinding that in a appropriate way -- and the appropriate way to respond to Dr. DeMartino's question to the Department would be to have someone from the legal staff of the Department, or the Deputy Attorney General to simply restate the reasons why the Department feels that this permit was validly and legally issued, and specifically responding to the issues raised by Dr. DeMartino and the MCEC. Assistant Commissioner Sinding indicated to me that he was willing to do that.

DEPUTY COMMISSIONER FOX: Well, through the Chair, if the director who was there-- I don't know exactly what was said.

MR. GABLE: Just to add to what Jeanne said-- Just to add to Jeanne's comments, Commissioner Weiner considered the motion for reconsideration of the Environmental Coalition in a manner which, at that point in time, was unprecedented. There wasn't a rule which provided for that motion for reconsideration. Nonetheless, he had a special interest and wanted to hear about it himself. His decision which denied it wasn't perfunctory, didn't ignore things. I don't have it with me, and--

DR. DeMARTINO: I have it with me.

MR. GABLE: --I won't rehash it. I just commend it for your reading. You can decide for yourself whether he carefully considered the arguments of the Coalition or not.

More broadly, on Dr. DeMartino's questions on openness and accountability: At least since I've been in the Division -- running the Division -- and I know before that we were, at least in my view, about as close to an open book as we could be in terms of letting people see how we made our decision-making process -- we spend a lot of time not only answering questions at hearings like this, but on a regular basis-- John, I'm going to guess at least weekly we get questions or phone calls, if not daily on the Edgeboro situation. Not just what is going on -- we have odor problems -- but detailed questions, historical questions, engineering questions, which we go into the file to find answers to and give out to the public.

When I say we're an open book, I take it a step further. I came here tonight and talked about a decision that we might make in a few days, but haven't made yet. I mean, so we're basically being as open as we can be in terms of trying to let you see what is going on inside our process, or inside our collective heads. I know having said all that, it still

doesn't establish the creditability that we're seeking to establish. I think I'm going to go back to Jeanne's opening statement and talk about -- and ask people to think about the specific areas of concern. Think about how we're addressing them. Whether it's odors; whether it's remediation issues; whether it's air issues, we have a plan of action to address each of those.

John, I don't know whether you want to get into specifics of hazardous waste or, Senator, whether you want us to tonight or not.

SENATOR CORMAN: Actually, I want to touch on that if only briefly. I don't know if it's possible to touch on it briefly. Probably when the MCEC revealed that hazardous waste was, in fact, dumped at Edgeboro, and this information was found in the Department's own files-- I remember when that happened. I have to say that the Coalition truly shook the establishment down to its very foundation. In fact, I think that is probably one of the most -- that will probably linger in a lot of people's minds as one major creditability problem that the Department has.

I mean, the Department had said and the MCUA had said, "No, there is no hazardous waste dumped in Edgeboro. There is no evidence that anything other than household garbage was dumped in Edgeboro." Yet in the DEPE files a bunch of unsophisticated, nontechnical people like myself found all this information. I remember the headlines. I remember reading about it. I remember reading the documents. It was astounding. The question now remains that if those permits, and you know, I think the Coalition is posing-- If all those permits were predicated on the assumption that no hazardous waste was dumped in Edgeboro and, in fact, it was-- The Department had that information whether they-- People in one office knew about it and people in the other office didn't know

about it. Nevertheless, a permit was issued. Does that not render those permits invalid, or does that not render them suspect? I mean, that's a pretty good question.

DEPUTY COMMISSIONER FOX: Senator, if I might?

SENATOR CORMAN: Yes.

DEPUTY COMMISSIONER FOX: I would like to refer this to John Castner.

SENATOR CORMAN: Sure.

DEPUTY COMMISSIONER FOX: But my understanding is that the permit for the Phase II was not predicated on the belief or on the statement that there was no hazardous waste at Edgeboro. That initially, I think, was a concern in the late '80s when those temporary permits were issued, which was before this administration. My understanding is, and John can correct me if I'm wrong, but that was not a premise that the permit for Phase II was based upon; that there was no hazardous waste at Edgeboro.

DR. DeMARTINO: Can I clarify on that?

SENATOR CORMAN: Yes, Dr. DeMartino.

DR. DeMARTINO: I didn't quote this before, but again, according to New Jersey Administrative Code -- and perhaps for Ms. Fox's edification, 7:26-2.9(c)5i states: "The environmental health impact statement for all solid waste facilities shall contain the following if the site -- any portion of the site or any areas adjacent to the site were previously used for waste landfilling, information relating to depth and area of deposition, type of material landfill" -- we presume type will also include hazardous waste -- "gas concentration and migration, settling, and other factors which may potentially affect construction and operation shall be provided."

So this is in New Jersey Administrative Code. It says, "If you are going to build one site adjacent to another site, then you must accurately describe what is in the original site." That was never done by the Department.

I would also like to point out that if the Department truly wants to do something about its creditability, one of the reasons it has such a creditability problem is that it either has lied for years, or it was grossly negligent in representing to the public that there were no problems at Edgeboro Landfill. I really don't feel the Deputy Commissioner should come here tonight and say, "Well, somebody nameless in the legal department a couple of years ago advised the Commissioner that it was all right that the Division ignore all this information, so we're going to blame that person."

I really think today that the Department still has to deal with this information, because we still have the problems that were never addressed when the permit was issued.

DEPUTY COMMISSIONER FOX: I would note that most of these problems occurred in a previous administration, when the Commissioner was not there. Those were considered-- It wasn't by our legal office; it was by the Attorney General's Office.

DR. DeMARTINO: Whoever.

DEPUTY COMMISSIONER FOX: They're not nameless people. They are the people that are in charge of our environmental section. They're very good attorneys, and they know their stuff.

MR. GABLE: In addition, just to clarify it again, the Commissioner didn't sign onto the notion that this is false information, but it's not important. The Commissioner reviewed each of the contentions of the MCEC and responded to them.

DR. DeMARTINO: Again, I have the Commissioner's response here tonight, and I can share that with Mr. Gable. He never addressed the issues raised in this motion to reconsider, but just swept them aside by simply saying, "Well, the Division considered them." At what time did they consider them? What was their determination? Why did they never reveal about the hazardous waste? None of that is addressed by the Commissioner. I have that copy tonight -- be happy to share it with Mr. Gable later--



SENATOR CORMAN: Okay, and I would appreciate--

DR. DeMARTINO: --or with your Committee.

SENATOR CORMAN: Or you could share it--

Go ahead, Mr. Gable.

MR. GABLE: Real quick, and I'll get out of the way. We're really trying to address each of the concerns that the community has with Edgeboro. Notwithstanding your opinion of whether we've made a lousy decision two years ago or not, we're really are trying to address those issues.

DR. DeMARTINO: Can I have commitment from someone, then? Will someone in DEPE review some of these issues that were raised, then?

SENATOR CORMAN: Okay, that's just what I'm getting to.

DR. DeMARTINO: Thank you.

SENATOR CORMAN: Last week at the Fire Academy, when I blew my stack with Assistant Commissioner Sinding, he indicated that he would have no problem responding to Mr. DeMartino with, I guess, the Department's position as to why its objections -- why the Department believes those objections are not valid. I would like to make that request on my behalf at this point. I think we can move on with the hearing. I think Dr. DeMartino has set forth, I think in a fairly concise way, why he thinks that all this means that it's no good.

MR. GABLE: Can I just--

DEPUTY COMMISSIONER FOX: Sir, no. No, let me just--

SENATOR CORMAN: Simply a letter stating forth the Department's legal position as to why he doesn't believe that he's right; that all I--

DEPUTY COMMISSIONER FOX: Okay, that's-- You just don't want us to rehash the motion for consideration.

SENATOR CORMAN: You don't have to rehash the motion for consideration. There is a very specific -- very specific -- objection that has been raised, and I think a two-page memo would cover it, three at the maximum.

DEPUTY COMMISSIONER FOX: Would the Senator-- Give it to me exactly what you would like, because I don't quite understand what the question was. I wasn't there last week. Assistant Commissioner Sinding might have already asked the Attorney General's Office--

SENATOR CORMAN: This might be in the works. This might be in the works already. Very simply, Dr. DeMartino has set forth the proposition that the permit was improperly issued. He set forth his reasons why he believes that's the case, and obviously the Department disagrees. I think all that I would ask, at this point in time, are the legal reasons why the Department disagrees.

DR. DeMARTINO: Right, I'd like to thank you for making that suggestion. Also, you know if that's responded to-- Why, for example, would Mr. Gable say that the Commissioner of the DEPE would feel that 8 million pounds of hazardous waste is trifling, not worth considering, or not a valid point to review when they're issuing a permit? I think it's very critical that at least 8 million pounds of hazardous waste that's in a site is leaking into an aquifer used as drinking water by my community. I would like to know why the Commissioner feels that's unimportant.

Thank you.

SENATOR CORMAN: Okay, before you go--

DR. DeMARTINO: Okay.

SENATOR CORMAN: --you talked about some things last week that I kind of hoped you'd bring up today about enforcement. You had criticisms of enforcement policy and permits, and I was wondering if you-- You don't have to if you don't want to, but I think it would be illuminating.

DR. DeMARTINO: The point I brought up last week, again, was concerning enforcement. Take the sludge permit. Mr. Gable last week had said -- and it's true -- the sludge permit is an air-tight permit. I mean, there's definite-- If

the applicant-- If the MCUA does not follow the permit, if odors persisted at Edgeboro, the Department will take decisive action, which may include revoking the permit or suspending their permit.

You have this very strict language put in permits by DEPE. I'm not so much now speaking specifically about the sludge permit, but permits in general. Then, however, the community turns around and says, "Wait a minute. We raised at the public hearing that there are going to be odors from this sludge. Why don't you take some enforcement action?"

Now, at the same meeting that Eloise Hansen was at down at DEPE -- she mentioned I was there -- and I spoke with Diane Weeks, the Assistant Commissioner for Enforcement, who I had hoped would be here tonight. I raised to Ms. Weeks, why isn't the Department taking enforcement about this? And her first response, again, to me was, "If you want enforcement, why don't you take them to court?" And my reply, of course, to her was, "If I had to take them to court, why do I need you?" I mean to be -- you know, to be blunt.

But DEPE is suppose to be protecting the public, not just advising them to go sue when a permit that they issued is violated. Again, take the sludge permit, whatever permit, this seems to be consistent. When it comes down to enforcement, they say enforcement is discretionary and the public loses.

SENATOR CORMAN: Mr. Gable?

MR. GABLE: I think I probably touched on this a little bit back, with respect to the permit to allow sludge-derived product to go on a landfill. It's that exact authority that we intend to use in the action we're considering taking by the end of the week, which would in essence, if the odor control procedures don't work, pull the trigger and have the Middlesex County Utility Authority take the sludge-derived product off the landfill. So it's the very authority that you talked about last week that, as we indicated we would, we're

going to exercise, I think, in very deliberative manner by the end of this week; to address the sludge-derived product issue, and most importantly, the odor issue out at Edgeboro.

In addition, there is additional flare going on with respect to groundwater monitoring. I forget the number of wells.

John?

**J O H N   C A S T N E R:** About 43 to 46 wells.

**MR. GABLE:** But it's about 45 wells to look at groundwater monitoring data. There is an air monitoring program which we committed last week to have in effect by the end of this year.

**DEPUTY COMMISSIONER FOX:** We'll have the study done by then.

**MR. GABLE:** We'll have the review done by the end of this year, so we can talk about what the next appropriate step is in air monitoring. So again, I know we could spend a lot of time talking about what we said about hazardous waste five or six years ago. I'm trying to cut some new ground here and say, "Let's take down those different issues, odors, groundwater, air pollution. We have programs in place to, I hope, reestablish that creditability, and even more importantly, lessen the environmental impact in the community.

**SENATOR CORMAN:** Okay, I appreciate the responses. I just want to indicate to the Department that there is, I guess, a perception from some members of the community that the strict conditions contained in permits that are necessary before those permits can be issued really aren't intended to be enforced. Because if they weren't in there, you couldn't issue the permit. You couldn't allow it. If they're enforced, the activity could not continue.

People are kind of getting the idea that this is all a sort of charade that's being perpetuated. I would hope that's

not the case. I know you don't want people to think that that's the case, but there is-- I just want you to be sensitive to that. If there are strict conditions contained in a permit that people want there, the people expect those conditions to be enforced, not necessarily through punitive fines. they just want them to be complied with.

DEPUTY COMMISSIONER FOX: The Commissioner's goal has been since he has been there -- for the two years that he's been there -- is having enforcement; it's not to accumulate a great amount of penalty money. In fact, we've had a lot more enforcement compliance over the last year -- actually the last two years. The last year we have issued less penalties but have had more compliance across the Department, not just in the solid waste area. So the goal was really for enforcement purposes.

As Steve said, we're going to try to work with the community and with the Legislature on specifically lessening the problems that we have now. What Steve is talking about, I think, is very workable.

Dr. Atay was just up here last night regarding the air problems. It's very hopeful that it will be worked on. We'll have the study done, hopefully, by the end of the year, for implementation next year. We understand that it took longer than a year ago, when we were hopeful that it would be done -- well, less than last year, but we were hopeful it would be done by this fall. On the other hand, scientifically speaking, it has to be done correctly. We only have limited resources, and Dr. Atay is about it. She has to do it right in her scientific ability, and so that--

SENATOR CORMAN: I think the people expect that it be done right.

DEPUTY COMMISSIONER FOX: They're very complicated studies. I am not a scientist, but being with them for a couple of years now, I have a vague flavor of how difficult it

is and what they do. Because they are very professional and they want to do the right thing for the public, so they want to do it properly.

DR. DeMARTINO: Can I just make one final comment there, because I know there are other people that want to speak. Again, two years ago about the Edgeboro permit, the community raised a concern. The bottom line is, how can you allow a expansion of a site that isn't under regulation now? In other words, it stinks; it's polluting the water. There are all kinds of potential environmental and health problems with the landfill. How the heck can you allow such a site to expand when it's not being properly regulated now?

We heard -- and don't get me wrong, I'm gratified to hear these assurances tonight -- but I heard them two years ago, the same kind of assurances. I think the bottom line here is with the community. If the DEPE cannot regulate the site, then they really should close the site. They owe that to the people of Middlesex County, who really have had enough with this problem of Edgeboro Landfill.

SENATOR CORMAN: Okay, I think the Department is cognizant to the fact that they're going to be judged on their -- not on what they say, but on what they do.

DR. DeMARTINO: Right.

SENATOR CORMAN: And I would hope that they live up to our high expectations of them.

Doctor, thank you.

DR. DeMARTINO: Thank you very much, Senator Corman.

SENATOR CORMAN: Okay, the next speaker is MaryAnn Williams.

MARYANN WILLIAMS: Hello. I live in South River, and I am on the South River Environmental Commission. I've lived here for 12 years, and I have worked very hard to restore an old home and to add value to my community. I am at a point in my life and my career where I can leave. I don't

have children or family here. I have no reason to stay other than I've grown to really love the place.

But I'm scared about what is going on at Edgeboro, so I've considered leaving. I believe that information is an energetic input into a system and that the more informational energy a system has, the stronger, more vital, and responsive it will be.

We're hearing a lot of information tonight and I just want to add a few more details. I'd also like to suggest some ideas. Here are the details: In my travels, I'm hearing from young mothers whose children cannot go out and play. Right around the corner from me, I have a young mother whose 10-year-old child had to be brought inside with the windows closed, the air conditioner on, and the doctor saying, "You may have to take the child away for four weeks due to the bad odor." I have a friend in Sayreville whose little girl is not allowed to drink the water and the lady has to cook with bottled water.

As I go around to different meetings, I see a bevy of senior citizens, who generally go first, having to stand up and fight this issue. They've been there for many years, and it just doesn't seem right to me that all the senior wisdom has to put up with this and fight this issue at this stage of their lives.

Then we have the instances of workers at the dump. I've seen people walk into meetings saying they're already digging up old garbage down there, and have been for many weeks. Then I hear about collecting cash at night, where trucks can go in and dump anything they want for a cash tip with no paperwork. Then I met a woman who said, "Well, I collect; I recycle; and I sort recyclable material. I know that my husband's friend takes the cans to Staten Island and the rest gets dumped at Edgeboro." And these are sorted materials supposedly.

I have a friend who sells real estate. He is a person of integrity, and he told me, "I'm showing homes in Old Bridge and further down Route 18. I don't see where I can really show homes in South River, and if I had to, I would have to tell people about the problem we have with Edgeboro."

Then there is the story of some people who write for newspapers and have a friend who asked a reporter, "Do you do any hard investigative reporting about what is going on there?" And he responded, "Well, we write what they tell us because we want to keep our thumbs." Right here in this room we have people who are spending their lives going to meetings like this, and it's just becoming a theme in their lives. I have heard -- read in the minutes of the South River Environmental Commission where officials go to the dump on tours, and at certain points they have seen truckers dumping recyclables. No one stops this from happening while they're all standing there together.

We heard about the industry fines from Harriet Derman. My husband is involved in an industry which is highly regulated and he says how stringent the rules are for industry, but how lenient for Edgeboro. I've been to public meetings where people say the DEPE is incompetent. I sort of feel stung when I hear that, because I'm helping to pay their salaries. It's embarrassing. Then we get two people from the DEPE who suggest to the Chairman of our Commission to take legal action. It doesn't seem logical. What do we have here? It seems to me an unenforced, inconsistent, unbalanced repository for waste. It compares interestingly to the unconscious. Stuff that goes unexamined and is hidden from view eventually pops up and goes bump in the night.

Earlier you had asked: How did it get that way and what do we really need? I think what we really need is strategic direction for positive solutions to a long-term problem. We need leadership who will provide strategic



direction and innovation, because so far there has been no clear direction. There is no head to set a direction; it's all middle line doing a lot of buffering with no direction. I'm suggesting that the Senators can provide this, and are beginning provide this by having this forum for information exchange.

I'd like to see you focus your energy on solutions -- technological solutions that exist which can help us long term. We now already know about the company in Cherry Hill which makes the co-composter, that it is on-line four places in the country. They mix trash and sludge and turn it into stinkless compost through a stinkless process. We have an experiment in South Jersey with the Dutch tunneling and there are probably two or three others that we could begin to look at closely.

Then I would suggest that-- A little while ago, we had an overhaul at the Division of Motor Vehicles which seemed to turn the Department around, and maybe the DEPE could take a look at a quality improvement program like that.

Finally, you could run a future search conference which is very different from meetings like this. You can get lots of people talking at once in small groups. It is a large group consensual process based upon informational energy inputs by participants. They result in action plans.

We've got a long-term problem here, and we really need long-term solutions. I believe that we can achieve this ultimate transformation, namely changing garbage and sludge into useful energy. Let's do it.

Thank you.

SENATOR CORMAN: Thank you.

I just want to talk about stinkless garbage disposal technologies. It's something-- Having lived in Sayreville all my life, I just wanted to-- Would the Department like to-- I presume the Department is familiar with these, would you like to comment on it or--

MR. GABLE: We've met with the people from Bedminster Bioconversion, and there is a project that we're working on with them down in Camden County. In addition, there are various other facilities under evaluation in the State of New Jersey. In Cape May County, in Atlantic--

SENATOR CORMAN: Cape May is going to composting, I believe?

MR. GABLE: Right. Cape May, Atlantic, Ocean County, some extent of Burlington County, and Morris County are taking a close look at it. We're meeting with the gentleman -- Mr. Christianson I believe is his name, who was at last week's hearing -- sometime next week to spend some time with him and try to work through his ideas and see how we can get those down to the county level.

One of the things that I had indicated earlier is that a lot of these ideas have to germinate at the county level, because the individual counties are the ones who administer and implement solid waste systems. We can use our authority and bring it to the counties for their action.

SENATOR CORMAN: Okay, if you would keep me apprised of the progress of these stinkless technologies, I would appreciate it.

MR. GABLE: Sure.

SENATOR CORMAN: Thank you very much.

Next is Susan Blumig.

**S U S A N E. B L U M I G:** I have a letter here to Fred Kurtz dated September 28, 1989 from Ed Londres, who at that time was Assistant Director for the Engineering Element. The reason I bring this letter up is because speaker after speaker, starting with the two Assemblypeople, discussed the fact that the MCUA has a lot of leeway; that they're never held to the letter of the law. They are notified of deficiencies, nothing ever comes of this. In this letter, it was at the time when the Authority was given a Temporary Certificate of Authority to

Operate, or a TCAO. It says-- I just want to read a paragraph or two from this to show another time when they were not being held responsible or accountable here:

"The Department is extremely concerned regarding the MCUA's repeated submissions of inadequate information, and the MCUA's unresponsiveness to Department requests for additional information." They say when deficiency letters were sent out: "Due to the sheer amount of materials submitted, the review time was extensive. However, after Department review, it was clear that these reports did not properly address all outstanding deficiencies, and it appeared that certain requests had totally been ignored.

"At this time, the Department is issuing this temporary authorization because there is no alternative disposal site presently available in Middlesex County capable of meeting the County's disposal needs, and because present information does not indicate that operation of the facility for the duration of the TCAO is environmentally harmful."

One problem I have with that is that the MCUA has a number of deficiencies. A number of items were not submitted to the DEPE, yet the DEPE issued a Temporary Certificate of Authority to Operate, and I take from this statement that the main reason for that was because there was no other disposal site in the County. "However, the Department will not issue anymore Temporary Authorizations To Operate for the Edgeboro Landfill. If on September 30, 1990 the MCUA has not obtained a full registration, the Department will require the facility to close," which it did. On September 26, 1990, a termination order was issued by then Commissioner Judith Yaskin, signed also by Governor Florio, saying that the landfill -- Phase I of the landfill was to be closed by December 31, 1991 -- "and I really mean it this time." However, it is now March 26, 1993 (sic) and the landfill is still in operation.

"Condition D8 of the TCAO contains a schedule for compliance with the requirements of registration. This schedule also appears in the deficiency letter being sent under separate cover, which more thoroughly and specifically outlines each submission required. The Department will not continue a practice of multiple deficiency letters in response to grossly inadequate submissions by the MCUA. Failure to respond to the list of deficiencies in a manner acceptable to the Department will result in the denial of the expansion application."

Okay, so that says that if there are anymore deficient submissions, the Department will not give the expansion permit to Edgeboro Landfill. It goes on to discuss the contingency plan. It says, "The contingency plan shall be submitted to the Department by December 1, 1989. The contingency plan shall include an implementation schedule. The plan shall be capable of being implemented immediately in the event that the Department must revoke the TCAO for any reason, or in the event that the full permit is not issued by the expiration date of this permit."

It is my understanding, unless the Department can shed some new light on this, that the contingency plan is issued by the MCUA, and the contingency plan is, if we cannot use this landfill, this alternate site would be used. The alternate site for short-term disposal was also Edgeboro Landfill. The alternate site for long-term disposal was also Edgeboro Landfill. So if the TCAO was revoked, and this is supposed to be able to be implemented immediately, how were we going to use Edgeboro Landfill? I find that according to the County Freeholders, when they decided that we would purchase this dump, they said we were backed into a corner. We have been backed into a corner. We've been backed into a corner by the MCUA, and we've been backed into a corner by DEPE, because time and time again the MCUA was told to come up with an alternate site for disposal, and no alternate site was ever submitted. The only alternate site was the exact same site.

So once again, the DEPE allowed the MCUA to call the shots, and the residents of Middlesex County are the victims of that. There is no alternate site.

Also in the permit -- the existing permit of the Edgeboro Landfill-- I don't have the exact wording here, but in the permit it states that if there is a methane problem where it exceeds the LEL, which is the Lowest Explosive Level, appropriate agencies would be notified immediately. I brought this up at the Fire Training Academy the other night that in July of 1990, it was found that the methane levels that were seeping along the businesses on Edgeboro Road had exceeded the LEL. The Middlesex County Environmental Coalition was the agency that had to notify the Middlesex County Health Department and notify the DEPE. We notified them immediately when we got the letter, which was six and a half months after this problem was discovered. It was in January of 1991. Once the Health Department and the DEPE were notified of this problem, once again nothing happened to the MCUA. They were allowed to have methane levels running up and down Edgeboro Road without ever notifying anyone.

In response to questions that the Middlesex County Environmental Coalition raised of several Department heads on March 3 of this year at a meeting in Sayreville, we asked about the methane levels along the river. In our document that we received about 10 days ago, it said that in Section VI of the landfill the levels are at an explosive level. Section VI is not very far from residents on Weston Avenue -- Weston Place in East Brunswick. These people have not been notified of any problem. About 10 days ago also -- no, actually it was last month -- a man that lived on Weston Place complained to Mr. Kurtz, at the Landfill Oversight Task Force meeting -- the first meeting -- that he had smells in his basement. Mr. Kurtz told him that would be looked into the next day. We had our second meeting a month later, which was last night, and the

man's house has not been checked for methane levels. There are two other residents on that same street that have odors in their basements, and no one has checked their houses for odors or for any methane levels.

I don't see this as a responsible approach either by the Middlesex County Health Department, or the MCUA, or the DEPE. If it says in the permit that certain things have to be done in a timely fashion, I don't think a timely fashion is six and a half months later.

I also wanted to comment on something that was said at the meeting last night which we have heard, as the Coalition has been to a kazillion meetings on Edgeboro Landfill. Each time we meet with different groups or different people, we are told that this is a very special site. Commissioner Weiner himself told us this is a very special site. Jeanne Fox at a Kin-Buc meeting told two of our members that she didn't want to touch the Edgeboro issue because this was a special site. The EPA told us that they spent more man-hours doing the NPL investigation on Edgeboro Landfill than any other landfill ever studied, because this was a special site. And last night we found out that the air monitoring program that is being put together is something that has never been done before, because this is a special site.

If this is such a special site, why isn't it getting a closer review on problems that the public are bringing up? Why is this such a special site? If it's safe to expand and it doesn't meet Superfund qualifications, why is this site getting so many more man-hours and so many more dollars spent to make sure that everything is done properly?

As far as the permit for the sludge being used as daily cover, it was brought up again last night that the daily cover of sludge is being covered daily with dirt. So I don't understand how the daily cover can be covered and still comply

with the permit. We have asked-- The Coalition asked on March 3, as well as March 18, for the latest groundwater monitoring well test results, and we have not received that yet.

Several times over the last six years the Coalition has been referred to by enemies or agency representatives as a political group. We have been told that we have a secret agenda and it is political. We submitted information from different politicians asking that Edgeboro Landfill be kept open; asking that Edgeboro Landfill not be included on the Superfund list. One such letter that I have here is dated March 19, 1991, to Senator Frank Lautenberg from John Lynch. They are asking-- It actually says, "This site should not be listed" -- meaning on the Superfund list -- "at all, when funds are immediately available and remediation will exceed Superfund standards."

I have never seen John Lynch at any of the many, many Edgeboro meetings or hearings that have ever been held. I am not saying the man does not know anything about Edgeboro Landfill, but I do believe that the political side of this battle is not the Coalition's political intervention or political aspirations, but rather different politicians. I find it alarming that the DEPE can guarantee us time and time again that this is not a political issue, that there has been no political intervention, and yet three or four nights ago I saw the Deputy Commissioner Jeanne Fox doing a commercial for John Lynch on TV on what a wonderful Senator he is. I find that to be a political statement. I resent the fact that public State employees are using their titles to benefit someone's election.

I also think that it's alarming that there are no MCUA representatives at this meeting. Yes, I understand that everybody can't be everywhere all the time, but I do believe that Commissioner Weiner might show up once. I have never seen him at any meetings. We have met with the Commissioner. After

several weeks of phone calls we were able to set up meetings with the Commissioner, but I think if the man can sign the permit to expand a landfill that has not been in compliance for I don't know how long, then he should take the responsibility to address the people in the area.

SENATOR CORMAN: Susan, just to-- I don't want to interrupt your train of thought. I did personally invite the Commissioner to attend here. I understand there are other pressing matters regarding the environment throughout the State. So I can't take particular umbrage just because he could not attend my particular hearing. However, I appreciate the fact that the Commissioner sent the number-two person at the Department. I would just hope -- I would just hope that the reason Scott Weiner is not here is because he's trying to insulate himself; that maybe at some future occasion he could attend some sort of forum regarding Edgeboro.

DEPUTY COMMISSIONER FOX: Yes, actually Greta and I both talked to the Commissioner about it. He clearly-- This is a legislative hearing; he attends a number of legislative hearings at the Legislature's request. Because of the timing of this, you asked him, I guess, about a week or so ago. We found out the exact time and place last Friday afternoon. It was clear, with the situation with the dredging and the dioxin, that this was the week of dioxin and dredging. So Assistant Commissioner Sinding, who handles solid waste and the dredging, could not be here, and clearly the Commissioner has to be working over hours on the dioxin issue.

But as it has been expressed before, the specifics of certain cases, i.e., Edgeboro, that might have to appear before him as a matter where he is the adjudicator of that, he might not be able to get into. But he could very well express the policies, because he makes the policies that are enforced by and implemented by the program. He will be very willing to come, but we have to work with his schedule. For instance,



when he met with the Coalition, he had a very, very difficult schedule. It's difficult for me to get in to see him. I have to schedule two weeks ahead, and usually then he pushes me aside anyway for something more important. So he has a very busy schedule, but he would be willing if we could work with his schedule.

SENATOR CORMAN: Perhaps some future forum could be established so we could talk about general policies regarding Edgeboro.

DEPUTY COMMISSIONER FOX: Particularly with this Committee.

SENATOR CORMAN: Okay. Go ahead, Susan. I'm sorry, I didn't want to interrupt.

MS. BLUMIG: That's okay. I just have one more thing. I also wanted to mention what Bob DeMartino had already brought up about the fact that Commissioner Weiner suggested that we hire a lawyer -- and I forget his title. There are so many commissioners, deputy commissioners, and directors at the DEPE that I think it's a little top-heavy. But Rick Sinding -- and I'm sorry, I don't know his title anymore -- also suggested we have a lawyer, as well as Mr. Gable suggested that we use the appellate process.

The Federal government has a TAG program -- a Technical Assistance Grant -- where groups or, I guess, environmental commissions -- I think you have to be incorporated -- are allowed to apply for a grant for technical assistance, where you have scientists read your data and things like that. I think that's something the Legislature might look into. I'd tried a million ways to come up with some kind of criteria for it and I can't. It would allow some kind of legal assistance grant where a site that is being expanded and regulated by the State DEPE, which also has a score, although it does not meet the Superfund standard -- also has a score, and it is still being expanded. Something like that. Some

kind of criteria, I think, would benefit a lot of the people. Because although the MCUA has a lot of our money and can hire lawyers at will, and the DEPE has Deputy Attorney Generals at their fingertips, grassroot groups who spend their own money to do these investigations that someone else is supposed to do anyway shouldn't also have to bake cakes and sell tee shirts to hire a lawyer.

I think that the Legislature would do a great benefit to the people of New Jersey if something like this was instituted, but I can't help you out on the criteria because I've tried.

SENATOR CORMAN: Yes, I think it's an excellent idea, Susan. Staff advises me that there is some precedent for this, the statute which sets up a mechanism for trying to cite a hazardous waste incinerator, provides for legal assistance to community groups where it would be cited or potentially cited. I think we might be able to use that as a model, and I think that will be an excellent subject for legislation.

MS. BLUMIG: I think it would help a lot of groups.

SENATOR CORMAN: So I thank you for that. I will put that on my list.

MS. BLUMIG: I would like to say I'll help you with it, but I can't come up with any criteria other than I want a lawyer and I want him now.

SENATOR CORMAN: We employ staff to come up with criteria. Susan, you made a number of, I guess, criticisms. I don't know if the Department wants to respond. One thing that I think concerns me the most is this issue of methane migration. That's the reason that concerns me the most. That may very well represent an imminent safety threat if it is reaching explosive levels in certain areas and people are getting this in their basements.

MS. BLUMIG: Well, it's not confirmed. I mean, they have had odors in their basements, but it's not confirmed that there is methane. My latest understanding-- One of the

residents is here, and she said that she was contacted by Rich Hills, of the Middlesex County Health Department, and that he would be out, I think it's this Friday. I also believe John Castner or someone from your staff is going out to test the methane levels.

Since this document was written to us over a week ago that this Area VI was listed as or was classified as at an explosive level, I don't think it should have been brought up at a Fire Training Academy meeting last night. I think before the thing was even in print, someone should have been checking with the residents in the nearby area.

SENATOR CORMAN: Yes, I think there ought to be some kind of notification process for residents or property owners. Could you elucidate us on this?

MR. CASTNER: Okay, Senator, I'll try to explain as best as I can. There is an ongoing methane gas monitoring program. It starts at the perimeter of the landfill and works concentric circles outward to try to determine the extended methane gas migration. We've seen for many years now that the methane is clearly in the area where there is waste outside the cutoff wall along Edgeboro Road. This more recent information about the possibility of methane or at least odors in basements occurring in homes in the adjoining community in East Brunswick was just raised to our attention.

The first I had heard of it was at last week's public meeting. We were working with Assemblyman Warsh's office to try and obtain the actual reports, which proved to be newspaper accounts. I just received that information today. Luckily, one of the involved residents is listed in the telephone directory. We obtained his telephone number and as I left the office, one of my staff people was working on trying to set up an appointment. It sounds like it may already have been set up to perform a gas test within the home and in the soil surrounding the home.

I will personally work with Rich Hills, of the County Department of Environmental Health, to share any information that we find with him, and certainly with any affected residents. Based on what we find, we'll probably immediately gear up and expand the sampling program if there proves to be any relationship to methane gas and the landfill, or if there is methane gas from any source, whether it be sewer gas, swamp gas, or whether it be landfill gas.

I agree with you. It's an urgent problem that needs to be attended to irrespective of the source. We're going to work on that.

SENATOR CORMAN: Does the Department, the County Health Department, or the MCUA have some kind of protocol in place to notify residents that may have a problem with this?

MR. CASTNER: We don't have a protocol. This is often -- it's kind of a crisis management response. If we go out and we identify methane gas, we knock on doors and tell people. We explain it to them and try to provide them with the benefit of immediate on-site testing. We look for any possible entry points of methane gas into a home, any possible locations for ignition sources. We've done this quite a number of times. While there may not be a set procedure, we have quite a few people on our staff that know how to operate the gas equipment, and know where to look for the signs of methane gas migration.

SENATOR CORMAN: Is there some reason why there is a six and a half month lag, or was that--

MR. CASTNER: The six and a half month lag was a different episode. It was the gas that's in this area that contains the waste outside of the cutoff wall. There are some commercial buildings that were constructed adjoining these waste disposal areas. They're mostly trucking terminals. They're just by nature -- their nature of operation -- often the doors are open and they're aired out. The gas monitoring was being done that gave us a measure of whether or not the

landfill was having an influence on those buildings or not. We didn't see the immediacy of taking action there. I think this -- what is before us now may be something very different, and until we have a better understanding of what is going on, I don't want to wait six months, certainly.

MS. BLUMIG: But my problem with that is this letter that was typed to us in response to a question we raised at the May 18th meeting -- no, May 3rd meeting, the response was May 18 -- said that this had reached explosive levels. Yes, maybe no one told you that they had smells in their basement, but whose job is it to go out and see if there is somebody living there. It certainly isn't my job. I have a job, and this isn't it. Between the Health Department and the DEPE, when you understand that there is an explosive level at a landfill, I think it's your job to find out if somebody's house is right by it. It's not my job. If those people never brought this issue up, no one would be going out on Friday.

SENATOR CORMAN: Is this a case where the Department thought it may be the county, and the county thought maybe this is a case of overlapping jurisdictions, or is this something else?

MR. CASTNER: No, I don't think so, Senator. I think it's-- We expect to find methane gas in these areas where there is waste outside the cutoff wall.

SENATOR CORMAN: Do you expect it to be of explosive levels?

MR. CASTNER: What we didn't understand until more recently is what is the proximity of these areas of waste outside of the cutoff wall to the homes; what is the hydrogeology of the soil and water conditions between the waste and the homes. There are storm water drainage patterns through there that typically represent a block or a barricade to gas migration. We were relying on that in deciding whether or not a methane monitoring program should be expanded into this

community. I don't want to wait to have better information on that at this point in time. I want to go out and actually take the gas test now.

DEPUTY COMMISSIONER FOX: I think what he said was, "When he heard about it," and he's acting immediately.

MS. BLUMIG: Yes, but he said it. I mean, you people said it was an explosive level. I didn't say that, and that wasn't found out at the Fire Training Academy last night. You people put it in writing that it had reached an explosive level. So that's when he heard about it, not when we brought it up. But nothing was being done until we brought it up.

UNIDENTIFIED SPEAKER FROM AUDIENCE: If I am the resident in question -- one of the residents -- I resent the fact that you were not aware of it. I live a half mile from your landfill or less, and you have explosive levels of methane gas there?

SENATOR CORMAN: Could we-- I want to do this through the Chair. I mean, if you--

UNIDENTIFIED SPEAKER FROM AUDIENCE: That upsets me, Senator.

SENATOR CORMAN: Okay, I'll get a-- I'm going to get an answer to that.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Please.

SENATOR CORMAN: But through the Chair, go ahead.

MR. CASTNER: Again, I don't know how to better explain it. There are areas where I expect to find explosive concentrations of gas. Any area that has waste buried in it, I expect to find explosive concentrations of gas.

SENATOR CORMAN: So it's typical that there be explosive concentrations of gas in a landfill.

MR. CASTNER: Yes. It's how it can migrate as a function of geology, water conditions, and physical barriers such as storm water ditches that need to be factored in.

SENATOR CORMAN: Okay, now these--

MR. CASTNER: We are aware of where there are homes in proximity to the landfill. Please don't misunderstand that we don't think that there is no one living within a half of mile of the landfill, clearly there are homes there. There has been a monitoring program in place that has, as I said, gone in concentric circles away from the landfill, and it has been confirmed. Yes, there is methane gas outside of the cutoff wall in these areas of waste. It has not traditionally shown us that it's going to the extent that it may be, from what we're hearing now-- I want to investigate that information. That aspect is the new news to the Department; that there are now reports from the residents that they have -- they're detecting odors in their basements, and that may have some relationship to the methane gas.

DEPUTY COMMISSIONER FOX: The problem here also is that methane gas is odorless. So if they didn't have some kind of smell in their basement, no one would have ever checked. Methane gas is odorless.

MR. CASTNER: Methane gas is odorless. But methane gas, if it comes from a landfill, never comes by itself. It always comes with a lot of other compounds. One of them is carbon dioxide, which is also odorless. But there are also trace compounds of as many as 200 different other gases, many of which have odors at extremely low threshold levels. So they represent signal devices that you may have a migration of methane gas.

MS. BLUMIG: I appreciate that you're going out there. I certainly hope there are no methane levels at all in these people's basements, but I think that when you write down something, it should trigger another question, "Gee, it's explosive. I wonder if anybody lives right there? You know, I wonder if anybody has got a sump pump or anybody has got some type of drainage." It seems to me that somebody at the DEPE should have triggered something off and not left it up to the public.

That's it. Thank you.

SENATOR CORMAN: Okay, next is Frank Makransky, Councilman from the Borough of Sayreville.

UNIDENTIFIED SPEAKER FROM AUDIENCE: He stepped outside.

SENATOR CORMAN: He's out in the hall? I'll get back to him.

Next is Ken Olchaskey, Councilman from the Borough of Sayreville.

Councilman Olchaskey, I believe you were also a maverick MCUA Commissioner?

C O U N C I L M A N K E N N E T H O L C H A S K E Y: That's correct. I am an MCUA Commissioner. I want to make it clear that I am not here representing the MCUA tonight, neither am I here to bash the DEPE or the MCUA. But I'm not here to sympathize or apologize for them either, because I think they are professionals.

We have people that are making what I think is quite adequate compensation to do the job. Let's make it clear that we expect the job to be done. We have a serious problem at Edgeboro Landfill, much as we do at the MCUA facility itself, because while-- I want to talk a little bit about the landfill. I have just this week started to receive odor complaints from, apparently, the sludge-dewatering process -- again, from residents of the Melrose section of Sayreville -- with the warm weather.

SENATOR CORMAN: I received those same complaints.

COUNCILMAN OLCHASKEY: Okay, I've been in contact with Al Lach, Chief Engineer for the MCUA. He's checking them out. He's confirmed that they've received some too, as has the County Health Department.

So this is an ongoing process of problems. Sure, these are problems that we all create, we all contribute to with our waste of all kinds. The solutions aren't easy.



Nobody has got a magic wand here that they're going to come up with some solution to them. But I think it's important to recognize that we need to address the issues, and we need to address them day by day as they occur. We can't hide from them. They're not going to go away. I'm encouraged by the so-called progress we've made in getting attention to the current round of odor problems at Edgeboro Landfill.

I was the first to bring this up at a MCUA meeting back in the winter, and I brought it up as the result of a trip through South River and firsthand experiencing those odor problems. Then that same week there was an editorial in the local newspaper denouncing the MCUA for these problems and talking about how intolerable they were.

We had the next MCUA meeting and I brought up these odors. I was joined by Commissioner Nowicki in concern about them and what was going to be done to address them. Of course, everybody has a different reason; everybody has got a different answer. It's caused by methane. It's caused by the problems that occur from the old garbage that was dumped in the days when everybody practically in New Jersey and some people in New York used this landfill. It's a dump. It's always going to stink. I find that answer unacceptable, and I think what may be a little unique in my case, I look at it this way in some of this -- much of this has been addressed earlier tonight at these hearings.

We're proud of the fact that the tipping fees at Edgeboro are \$56 a ton, and some of my fellow Commissioners that sit on the MCUA are very proud of that. But many of them don't realize that they don't have the constituents here. They don't live here like some of these people do. They don't experience these problems day in and day out. If our tipping fee of \$56 a ton, which is wonderful, is the result of people suffering, that's a problem. That's something I think none of us can feel comfortable with, and none of us can tolerate. We

can't use these tipping fees as an excuse to write off certain people and say, "Hey, it's inevitable that this dump is going to stink. These people can suffer. It's okay for them not to use their backyards. It's okay for them not to be able to use their homes. It's okay for their children to suffer." That's not acceptable, even if it's only one person in that condition.

I think we've got to find a way to solve that problem. I don't have the answers. I don't sit here and portray that I do. But again, let me go back to the point: We're paying a lot of money for consultants at the MCUA. We're paying staff people a lot of money. We're relying on them to find answers. We're relying on you people to police the MCUA, because they need it. Everybody needs it. That's what you're here for. I've heard it earlier tonight, you're to regulate and protect the public.

Yes, there is a credibility problem. I think you know that. It's been well-addressed earlier tonight. It's been addressed at many of these other hearings that I've attended and you've attended. Sure there is a credibility problem. You can't turn your back. You can't turn your head and think this is going to go away; it's going to be all right.

I am encouraged by hearings like this one tonight and the meeting at the Fire Academy. I hope it's a new beginning. I hope it indicates that you are concerned, that you are interested. You didn't just dust off that manual and say, "We're going to come down here and pacify these people. We're going to go through the motions to make it look good," because that's no good. That's not acceptable. I take great exception with Mr. Miller from the DEPE coming to this South River meeting and writing an inter-house characterizing the people -- and it wasn't only South River, because there were people there from South Brunswick; there were people there from Sayreville; there were people there from Old Bridge.

Yes, he did insult them. I'm proud that he called me a maverick Commissioner. I'm very proud of that. I'm not upset with them. I'm not unhappy, but you know what I want? I want us to see some maverick Commissioners of the DEPE. I want somebody to take a stand. I don't want that same bureaucratic theme. I want you to go out there and do something for the people. I want you to recognize once in awhile that they've got a point. "Gee, this means something. That is a point. That's something we should look at; that's something we should fight for, after investigation, with my boss," with whoever. It is right on up the line.

We need renegade; we need maverick DEPE people that will do a lot to help us down here. It will do a lot to help your credibility. You've heard a lot of people in just these last two weeks speak. I think they're sending a message, and that message is, status quo is no go. It is not going to be accepted here. Those days are gone. People are going to fight. They're going to fight for their rights. They're going to fight for their family, because they do have a right to use their homes.

Make no mistake about it, we can't chase them away. We don't have a right to do that, not you, not me in government, not the MCUA. No one has a right to come in and chase people out of their homes. No one has a right to make living conditions intolerable for them. So I hope you've heard some of the people. I hope you listened to them. I hope you recognize what has to be done, and I hope you go back and tell the appropriate people.

Let's get this job done. Let's do what we're supposed to do. Let's join in in protecting the people. Let's regulate those who should be regulated. Let's give them that nudge when they need it. Let's tell them where they're wrong. Let's use the carrot; let's use the stick; let's use whatever we have to

to get the job done. Then you will be helping the people; you will be helping yourself; and you will finally make people recognize that the DEPE does have a purpose.

Thank you for listening to me, and I want to thank Senator Corman for conducting this hearing. I appreciate it very much.

SENATOR CORMAN: Councilman, thank you very much.

Okay, I see Councilman Makransky has returned to the hearing.

Councilman? Councilman, I believe you were one of those present at that meeting in South River that Councilman Olchaskey was speaking of.

C O U N C I L M A N F R A N K M A K R A N S K Y: I was fortunate to be there, unfortunately to be characterized. Good evening, everybody. Ladies and gentlemen, my name is Frank Makransky, and I am a Councilman from the neighboring Borough of Sayreville.

One of the things that upsets me the most is that I've been coming to these meetings for many years now, starting way back when the incinerator was proposed for the site in Sayreville, and it's an ongoing process. Lots of complaints you've heard today are old complaints. You ought to know more by heart. You ought to know who's going to give them, because it's been the same rhetoric that comes back and forth. You sit here and take your copious notes. I don't know what happens to them after you take them.

Now, unfortunately maybe some of these complaints could have been addressed earlier if maybe you were made to live under the same conditions that people in the towns have to live in -- the people in Sayreville, people in East Brunswick, people in South River. Maybe what you should do is rent the home, be on site here. Let that be your office. Let you get up in the morning; smell it. Let you have to close the door or

the windows; smell it. Try to go outdoors, eat at barbecues; smell it. Then maybe you would understand, maybe you would act a lot quicker than we've been doing to the thing.

A few other things upset me. You talk about other sludge-dewatering facilities having a product that's commercial and everything else like that, yet down here we can't get a product that commercially may be sold. Are we that much different or are we just looking the wrong way? You know, maybe the MCUA, in all its wisdom, is hiring engineering firms that are just looking to line their own pockets for profit. You know what they ought to do is give a grant to Rutgers or something like that. Let them engineer a process that would work for the betterment of everybody, or the benefit of everybody.

You know, those things upset me when I hear things like that happening. Nothing ever happens with these things.

The other thing, there was a Mr. Christianson, I think, who here from East Brunswick, that had a process that he thought might be viable. Has anybody talked to the gentleman to see if the process is, or if it would work? It might work on a small scale. I'm sure if you had the knowledge or you got the -- get the MCUA to give a grant to some other people like an engineering school, maybe they will be able to expand on the process and eliminate it.

You also made promises. I'm encouraged by Mr. Gable. You sound a little bit more convincing that some of these things might be -- some of these resolutions might be made on Friday. Well, we've heard that before, but there is a tone of maybe more certainty in your voice. I hope that's true, and I hope it becomes a reality. I think if that's the first promise that is kept by the DEPE, I think it will be a lot more encouraging to be able to come to these meetings and say, "Hey, we have finally gotten to first base. Now let's see what is

going to happen beyond first base." Because all we've been doing is sitting there looking and, God, we feel like losers in this whole process with the thing.

Once again, Senator, I would like to thank you for having this thing so people can air their complaints. Unfortunately, some of these complaints have been the same complaints we've been hearing time, and time, and time again without any resolution.

Maybe we need more resolutions; maybe legislation has to be passed; maybe our ECRA laws coincide or conflict with the DEPE. You know, maybe Cook College, with their infinite wisdom, can't come up with a process because there is a liability using this that hasn't been addressed. I don't know, but these are the things we have to take a look at. Let's get some relief to the people in Central Jersey, namely this area right here: Sayreville, South River, East Brunswick. We've had enough. Please help.

Thank you. Thank you. (applause)

SENATOR CORMAN: Okay, there was another official that was here, Mayor McGreevey from Woodbridge. Is he still in the building?

UNIDENTIFIED SPEAKER FROM AUDIENCE: He left.

SENATOR CORMAN: He's gone. Maybe he'll come back?

UNIDENTIFIED SPEAKER FROM AUDIENCE: He won't be back.

SENATOR CORMAN: Okay, two other people have signed up to speak: Julian Capik and Janice Shull.

Julian, why don't you start?

J U L I A N C A P I K: Good evening. Senator, thank you for having these hearings. I think they're very important.

The statements that I'm going to make tonight are prompted by articles which appeared in the News Tribune today. The caption on this one says, "Edgeboro Air Called One-In-A-Million Risk." The article starts out by saying, "Limited tests of emissions from Edgeboro Landfill in East

Brunswick show the air from the garbage dump poses a one-in-a-million health risk,' a State environmental official said last night."

Mr. Chairman, as you probably are personally aware, Edgeboro Landfill is surrounded by a densely populated area of homes, churches, schools, parks, and shopping malls; for example: Mid-State Mall, Route 18 Flea Market, and Lowmans Plaza, all of which are within a one-mile radius of Edgeboro Landfill. Thousands of people are impacted daily by odors and unknown contaminants in the atmosphere which emigrate from Edgeboro Landfill.

I was outraged when I read in the News Tribune today, Wednesday, May 26, 1993, that the DEPE -- Department of Environmental Protection and Energy -- did an in-house study of 11 carcinogens from the gas collection system using data provided by the owners of Edgeboro Landfill, when their own files are full of information of hazardous materials in Phase I. For example, in a brief dated July 5, 1991 from Ed Londres to Commissioner Scott Weiner, of the DEPE -- it states on page 6 of the brief:

"Contamination present in the Edgeboro Landfill Phase I is being addressed through the termination order and the NJPDES permit covering that site, as well as by the EPA and the Division of Hazardous Waste Management. MCEC's first argument that reconsideration and revocation of the permit is warranted is based on its contention that the Edgeboro Landfill Phase I is grossly contaminated with hazardous and toxic materials."

This is Ed Londres speaking, "There is no question that hazardous materials are present in Phase I. In making its argument in favor of reconsideration, however, MCEC totally ignores the fact that MCUA has been ordered to terminate operations at Phase I by December 31, 1991." That was two years ago. When we read this, we assume that when the DEPE issues an order, that order will be carried out. So here it is

1993, and the site has still not been taken care of. It says, "To monitor the site's impact and to engage in a full-scale remediation of the site, see Termination Order dated September 29, 1990, NJPDES permit number NJ0031071, part three DGW requirements, solid waste facility permit for Phase II conditions B9, 11, 14, 16, 19, 24, 25, 26, and 27. DSWM's response to comments at 356-8, 12, 14, 16, 19, 27, 34-35, 40.

Moreover, the extent of the contamination present, and appropriate response to it are and will be evaluated and further defined by the EPA, which is currently working in consultation with the DEPE's Division of Hazardous Waste Management and Division of Water Resources."

I have to ask now: Where is the EPA, which is supposed to be defining the working conditions that the DEPE is supposed to work under? They copped a sneak.

Finally, as is also set forth, "Contamination present in Phase I was considered by DSWM with input from DHWM, DHSM, and DWR in acting on the MCUA's permit application. The construction and operation of Phase II is not expected to aggravate it or to impede the remediation of Phase I. See response of comments at 6-8, 27, 34-5, and 0.3 infra."

Thus, the fact that contamination exists at Phase I does not warrant reconsideration of the permit for Phase II, and the crux of the matter is that DEPE knew there was hazardous waste. DEPE has records which I have seen, and DEPE should use their own records when they're evaluating something of the nature that I just read in the newspaper.

I was also disturbed by the fact that Sadat Associates (phoenetic spelling) was doing this study. Sadat Associates is the firm which was hired by the landfill owners to write their application for an excavation disruption permit. The citizens impacted by the landfill want an independent study by people that have not been continually hired by the landfill owners and the MCUA. I might add that the DEPE appears to act in concert with the landfill owners and the MCUA.



Mr. Chairman, Senator Corman, one need not be a technical, sophisticated intellectual to know when people have their quality of life impacted, or when they are sick. For example, from March 2, 1993 until March 31, 1993 there were 97 odor complaints. The comments which were made by the complainants to the inspector indicated that these people were sick. From the Middlesex County Health file -- and this is a copy of the file -- these are the 97 complaints. The complaints went something like this: It mentions the name of the street and the comments from the complainants.

It says, for instance: Route 18, Lowmans Plaza -- Lowmans Plaza is a shopping center and many people go to Lowmans Plaza. They put in a complaint. Marrion Street, East Brunswick, sick from bad odors; Ellison Avenue, sick from bad odors; Ellison Avenue, East Brunswick, nauseated; Mitchell Avenue, East Brunswick, disgusting odors; Marlow Road, East Brunswick, upset stomach; Pine Ridge Drive, East Brunswick, stomach sick from odors; Ellison Avenue, disgusting odors, nauseated; Marlow Road, sick from odors; Pine Ridge, foul odors; Lawrence Brook, East Brunswick, "Odor making me sick." These people know that they are sick.

These people are part of the one-in-a-million from Edgeboro Landfill. There are a lot of one-in-a-million people that are getting sick from that landfill. I think the DEPE should be cognizant of that.

One other thing which bothers me about what I read in the newspaper, it says, "Horgate, Burkowitz, and Environmental Scientists for Sadat Associates -- the firm hired to conduct the sampling for the State -- said the types of tests are so new that they're breaking new scientific ground. 'This isn't by the book. This is being developed as we go along,' Berkowitz said. 'Once this current assessment is completed, the State will know whether even more extensive air monitoring in areas surrounding the landfill is needed,' the State

official said. 'Because of the extreme expense of that type of air monitoring,' Atay said, 'that work only will be done if the current samples dictate it necessary.'

Knowing what I know from attending hearings and being on top of this landfill, I would say this: When the first part of this assessment is completed, the answer that will come from the assessment will be, "You don't need the second assessment." If anyone comes up with the idea that you do need a second assessment, they're going to say, "Because of the extreme expense of that type of air monitoring, that work will only be done if the current samples dictate it necessary."

So this is what we are faced with as residents. It also may be noted that the DEPE passed off the responsibility for odor complaints onto the Middlesex County Department of Environmental Health, which does not have enforcement powers against agencies such as the MCUA. I think that's a tragedy, because people are looking for someone who has authority. We can't find those people. We can't find the people who could go to an agency like the MCUA and make them stop if they're doing something wrong.

Mr. Chairman, the people who live near the landfill are sick from this landfill. They're also sick of the people who are paid to protect them telling them not to worry if they get sick, because they are one-in-a-million.

I would also like to talk about the sludge-derived product. I don't oppose sludge being used as landfill cover, but I do oppose sludge being used as landfill cover in a landfill which does not meet the criteria for a landfill; that's Edgeboro. Edgeboro is located on a water-scenic area. It has no liner in the landfill over aquifers. The whole quagmire of criteria is not there. The landfill does not belong there, and because of the permitting process and the DEPE giving this landfill permits, they stopped the process which was being looked at for acquiring two new landfill

sites. Now, if these landfill sites were not in a densely populated area, then the cover would probably not disturb the people in the area because the odors would not travel that far.

We also have a problem of run-off from the landfill and the waters along the landfill. I don't see any testing for coliform. The groundwater is being tested at levels or time frames which are not compatible for the kind of landfill which we have here. So what I would like to see is more cooperation, for one thing, between the DEPE and the MCUA in finding a purpose for the sludge -- a beneficial use. I believe sludge can have a beneficial use. It can be used for agriculture. When it's processed it may have an odor, but when any fertilizer is processed, fertilizer has an odor. I think people could get used to that if it's done properly, and if the product is processed properly.

One thing that the DEPE has to look for is the sludge which goes before the pipe. They have to remove the heavy metals and make it a Class A sludge. I believe that's an important thing. I think there is a laxity in following through. We had problems with companys in Old Bridge which had an abundance of zinc in the sludge or in their sewer process, and things like this must be eliminated. We really can find a beneficial use for the sludge. I firmly believe it.

SENATOR CORMAN: I believe that too, and I hope this Committee will be taking up some legislation to encourage that.

MR. CAPIK: Yes, that's all I have to say, Senator. Thank you.

SENATOR CORMAN: Okay. Thank you, Mr. Capik.  
Commissioner, would you--

DEPUTY COMMISSIONER FOX: Is it possible for Dr. Atay to address the air monitoring? I think the testimony -- he might understand it, but from what he said, I'm not quite sure if everyone else understands exactly what is behind this testing.

SENATOR CORMAN: Okay, sure.

Dr. Atay, if you'd like to address the issue of air monitoring?

I C L A L A T A Y, Ph.D.: Senator, I would like to make some clarifications, because I do believe that from the information I had provided last night there have been some misunderstandings.

First, I would like to address the concern with respect to that. There will be a first phase assessment, and afterwards the second phase assessment will probably not be done. First of all, I would like to clarify to you that the call of this study is to determine the air emissions from this site, and the effect of these air emissions on the health of the residents. That study will be done fully to completion until we determine the health effects on the people in the area. It will be completely done.

SENATOR CORMAN: So the first phase and the second phase will both be done?

DR. ATAY: Well, the degree of analysis you do, it depends on your findings. You stop your analysis; you find your goal. You make do with certain investigations. Then, as a result of those investigations, as a scientist you may find more questions. Then you will continue your investigation, but you will stop when you find what you're looking for.

SENATOR CORMAN: Okay, and in this case, we're looking for--

DR. ATAY: This is what we're going to do. We are going to go on until we find the results. That's one thing I would like to clarify.

The other thing in respect to -- is the one-in-a-million risk; that is, a cancer risk. Over 70 years exposure at the maximum location of impact altered one person. That's not your risk of discomfort, nausea, or other feelings of sickness because of odors. It's the risk of cancer due to

the exposure of carcinogens. There are other substances that are being emitted from the landfill. These are not really carcinogens. They are hydrogen sulfide, mercaptans. They give you a feeling of illness; however, as soon as you move away from the odor, that feeling of sickness stops.

However, there may be other substances that are being emitted that may cause serious illnesses even though you are exposed to them at various small quantities, like: kidney disease, heart disease, failure of lungs, or cancer. That's what we're trying to determine, more serious substances. What we are starting to do is really test the landfill; what is being emitted from the landfill.

We are assuming the worst is in the landfill -- the worst has been put into the landfill. We are not ignoring any information that was available. We are basing this analysis on all of the information that is there, addressing a long list of substances that cause cancer and other acute diseases.

Thank you for letting me--

SENATOR CORMAN: Okay. Doctor, if I could just ask a few questions. Would the air testing, I guess, test for 11 different carcinogens? Is that correct?

DR. ATAY: No. That's not correct, Senator.

SENATOR CORMAN: Is it correct? Does it test for--

DR. ATAY: We have currently issued four permits -- four air permits for the operation of the flares to the landfill. This is not an air permit for the landfill. That is a solid waste permit and there are air permits issued. Air permits are issued for each flare as the flare being the source. The whole emissions from the landfill are not addressed in that flare. A certain gas line is connected and directed to the flare from the landfill. Then in the flare most of the gas is burned; most of it is methane and there is some other--

SENATOR CORMAN: Residual.

DR. ATAY: --organics. They're burned off. Then you have certain emissions coming from the flare. So knowing the volume of gas that is coming in and they build it to test the gas, we know what is in the gas. Then from combustion calculations we can calculate what is coming out of the stack. Based on those emissions, we have done this assessment in-house, and we have found that with the operation of the five flares -- the four-operating-one plan -- the cancer risks would be less than one-in-a-million for those substances that we have done the calculations for.

SENATOR CORMAN: Okay. Now the substances you've done the calculations for, are these the substances that would be found in the emissions from the flares?

DR. ATAY: Yes, they are the substances that would be found from the emissions of the flares.

SENATOR CORMAN: Okay. Does that include any emissions that might just come from the sludge-derived product or anything under the surface of the dump? Is that included in those calculations?

DR. ATAY: No, they're not included, because those emissions would not have been emitted from the flares.

SENATOR CORMAN: Okay, so you were specifically looking at emissions from the flares?

DR. ATAY: From the tip of the flares.

SENATOR CORMAN: Okay. Now, there was a figure of 11 carcinogens that Mr. Capik mentioned. Where did that figure come from? Was that from the paper or somebody? There was a number given of 11 different carcinogens that were tested for.

DR. ATAY: Those were calculated from the composition of the gas that's being directed to the flares -- composition of the landfill gas that is being directed to each flare, and what will result as a combustion of that gas in the flare.

SENATOR CORMAN: Okay. Now, the way I understand the way risks are calculated in my unsophisticated, nontechnical way -- the way it works is that if there are--

For instance, if the risks for these 11 hypothetical or real carcinogens are-- If the total risk for all of them is one-in-one million risk of cancer, then I guess for any individual it would be somewhat less than one in ten million. Is that the way--

DR. ATAY: No, the risk is--

SENATOR CORMAN: Do you do one for each? Is there a calculation for each separate carcinogen and then you--

DR. ATAY: The calculation is for each separate carcinogen, because there is no scientific information whether you're exposed to both of the carcinogens, or if you're exposed to a single carcinogen on top of what you're exposed to in your lifestyle. What are the synergistic effects, like combined effects may be worse. Combined effects may be nullifying each other and may have no effects. There is no scientific information available for us to be able to evaluate something like this.

The only methodology available right now to evaluate them individually at this point in time-- How we do it is we put the person near -- if you assume the flare tip -- the emissions-- The smoke comes out of it. It's dispersed into the environment and falls off at one point in location. It falls off in many places, but at one point of location it has the maximum concentration. We use five years of data, so we can cover all possible weather conditions to find the weather condition that would generate the worst concentration. Then we put a person there for 70 years for maximum concentration. We make them breathe that concentration 24 hours a day at that location without moving.

What would be their risk of contracting cancer due to this exposure? It is a very conservative approach.

SENATOR CORMAN: Right, go ahead.

DR. ATAY: Also, the unit risk factors studies are obviously not done with humans because we can't inject humans with carcinogens and see with what concentration they'll

contract cancer. I don't think there is any legal system that would allow us to do something like that. So we do that with animals like rats. It's assumed that there is no allowable concentration of the substances even if you take 0.00001 -- very minute amounts -- you will still have a risk of contracting cancer. So in that information from the study, it's very conservatively done.

SENATOR CORMAN: Okay, just as to the results -- as to the results-- Is it the case that for each separate carcinogen the results were a one-in-a-million risk of cancer, or was it less than one--

DR. ATAY: There were less than one-in-a-million.

SENATOR CORMAN: Less than one-in-a-million?

DR. ATAY: For some of them one-in-a-hundred million, one-in-billion. You know, they were less than one-in-a-million because one-in-a-million -- above one-in-a-million you would look at seriously trying to find more mitigated measures.

SENATOR CORMAN: Okay, and just to get to the-- You indicated that the instances that Mr. Capik referred to regarding people getting sick to their stomach by smelling the aroma from the dump, that those were probably caused by hydrogen sulfide or mercaptans?

DR. ATAY: Yes, those are the substances that would normally cause odors. Hydrogen sulfide is formed by anaerobic digestion of organic substances--

SENATOR CORMAN: That's the smell you get from rotten eggs.

DR. ATAY: --to bacteria. That's what causes it to decay.

SENATOR CORMAN: That's the rotten egg smell, and mercaptans, if I'm not mistaken that's the--

DR. ATAY: Organic sulfurous--

SENATOR CORMAN: That's the chemical substance that makes sewage have it's particular smell?



DR. ATAY: Yes, basically they're organic substances that have sulfur in them.

SENATOR CORMAN: Okay.

MR. CAPIK: Senator, that's the substance that they inject into natural gas in order to cause an odor so you would know that natural gas is present, because the gas itself has no odor.

SENATOR CORMAN: Right. Okay, but you did indicate that prolonged exposure to these gases could result not necessarily in cancer, but in other health problems. Is that not correct?

DR. ATAY: Prolonged exposure-- We have a list of substances that we provided to MCUA for them to test the landfills. This is a very comprehensive list. We provided them with a list of all the substances that we have unit risk factors for that would be emitted from the landfill, because there are other substances that are in solid form. They would not be emitted, of course. Any volatile substances that can be emitted from the landfill that we know of either cause cancer, kidney damage, or other kinds of acute diseases.

SENATOR CORMAN: I mean, I would think if somebody had to breathe hydrogen sulfide and mercaptans on a regular basis for a long time, it might not cause cancer, but it would cause something else, I'm sure.

DR. ATAY: I understand that. I won't be able to respond to your question very adequately, but I would believe that if you're exposed to hydrogen sulfide constantly below a certain concentration, it would have no effect. If you're exposed to it for, let's say, a year above a certain concentration, you would get a certain effect. If you go into a room that has only hydrogen sulfide, you would die.

SENATOR CORMAN: So it's a sliding scale.

DR. ATAY: It's the concentration issue. But, however, you will smell hydrogen sulfide at very, very low concentrations with no effect to your health other than

discomfort, because it has a very low odor-threshhold limit.

SENATOR CORMAN: But you will smell this in your household. But the question is the amount that people are smelling and the fact that some people are getting sick. I just want to make clear for everyone that the one-in-a-million was a risk of--

DR. ATAY: Cancer.

SENATOR CORMAN: That was a risk of cancer. It was attached to chemical compounds other than hydrogen sulfide and other than mercaptans.

DR. ATAY: That's correct.

SENATOR CORMAN: But one thing I want to point out to you and the other people from the Department -- just the feeling from the public that I have gotten, and the one-in-a-million figure is one that is often thrown around -- anybody that wants to cite some new industrial process will often say, "Well, your risk of cancer from this will be one-in-a-million." That was a figure that this very Committee used as a standard for ECRA cleanups, I think, for the first time.

That's always a figure that is thrown around in hearings such as this by people, and I'm not picking on you, but other people who are defending projects, whether it be an incinerator or garbage dump. The average person, when they hear all this talk about a one-in-a-million risk of cancer, they always say, "Well, why is it that the average person's risk of cancer is one in four?" And of course the reason is because there are so many different environmental effects. It could be power lines. It could be what you eat. It could be pollution from automobiles and a lot of other things.

But I just want to sensitize the Department to the fact that a lot of times when people hear someone say, "Oh, your risk of cancer is one-in-a-million," immediately that provokes a lot of skepticism on the part of the public. So I just want to sensitize you to that. I'm not telling you not to

adhere to scientific protocols, because I would expect someone with the DEPE to do nothing but adhere to proper scientific protocols. I want to let you know when you're speaking to the public, that will be a reaction that you sometimes get when that figure is used.

DR. ATAY: Thank you very much, Senator.

I would just like to clarify one point. That one-in-a-million risk is not a person's total risk of contracting cancer, it's incremental risk -- additional risk of contracting cancer just being exposed to this. One-in-a-million risk, as you yourself said, has been used nationally by everyone who does risk analysis. I am not personally a risk expert, but I will speculate right now, personally, to tell you why it has been chosen is because of the comparative risk reason of many other things we do everyday, like think about the risk of not making it home every time you go on the highway you drive. It's a lot higher one-in-one-thousand range compared to 70-year exposure and one-in-a-million.

So that number was probably chosen by national risk experts to be a negligible risk compared to all the other risks that we normally are exposed to in our lives.

SENATOR CORMAN: Okay. Thank you, Doctor.

MR. CAPIK: Senator, I liked to ask the Doctor a question?

SENATOR CORMAN: Mr. Capik, go ahead.

MR. CAPIK: Doctor, if there are drums buried that have benzene, and these drums break and that benzene percolates into the atmosphere, couldn't that combine with hydrogen sulfide and on a long-term basis cause something like leukemia?

DR. ATAY: Well, benzene in itself is a carcinogen. It can cause cancer even without being combined with hydrogen sulfide. I don't believe that under those conditions -- the temperature and concentration conditions -- benzene and

hydrogen sulfide would react with each other. You would just get benzene and underground you would get decay products because benzene is an organic substance. There are bacteria who eat organic products and turn them to other stuff. Some of the stuff you want them to go all the way, to go to hydrogen sulfide because that's the least health-- It has an odor, but it has the least health effect. It's not a carcinogen. You can tolerate a lot higher concentration of hydrogen sulfide without having a severe illness other than a discomfort from odors.

MR. CAPIK: But a high concentration of hydrogen sulfide really could kill you. I worked in a refinery--

DR. ATAY: But you cannot get concentrations from a landfill to the degree that it would kill you, because there is -- you know, a landfill is an open space and the environment is a sink. It will evaporate slowly. It will not form a high concentration very quickly because you will have the benzene in there. It would take several months and years for that to decay, and will slowly get formation of hydrogen sulfide.

MR. CAPIK: Couldn't that do it-- Excuse me. Couldn't that happen if you have an inversion of air?

DR. ATAY: Not even with air it cannot reach the concentrations that would kill you. It may reach concentrations-- I'm totally speculating right now, because I haven't read or done any analysis of how much hydrogen sulfide could be formed at a given time and what maximum concentrations it could reach. But I could speculate only -- please, don't take this as factual information, just speculation -- the only concentration maybe it could reach-- If you have some health susceptibility to it, maybe it can aggravate that a little bit. But other than that, it won't reach the concentration that would kill someone.

MR. CAPIK: Thank you, Doctor.

SENATOR CORMAN: Okay, Dr. Atay, could I just interject? If there is-- I don't want to make you give a definitive answer, or put you on the spot here and now, because you haven't had an opportunity to necessarily research this. But there must be in the scientific literature some kinds of studies that were done with respect to long-term exposure to high amounts of hydrogen sulfide or mercaptans. If you could research that literature and make that available to myself and Mr. Capik, I would appreciate that.

DR. ATAY: Yes, there is such information available. We have scientists who do health risk assessments in our Department. We could provide that information to you.

SENATOR CORMAN: Okay, we would appreciate that. Thank you.

DR. ATAY: I can also provide you the maximum concentration for hydrogen sulfide and mercaptans you can expect. The EPA has done some studies over all the landfills in the United States; that information we also can provide you.

SENATOR CORMAN: Okay, that will be helpful.

Mr. Capik?

MR. CAPIK: Thank you, Senator.

SENATOR CORMAN: Janice Shull is next up.

J A N I C E S H U L L: It's after 11:00, and usually after 11:00, you've had it. So I'm going to do it quickly.

My name is Janice Shull, and I live in the affected area of Milton Avenue. I live above Westons Place. I want my home tested because now I found that -- I hear that there is a level of explosive -- explosion that you're going to come and test other people's, and I would like my home tested also. I have between eight and twelve boys playing basketball everyday in front of my house. They come in and smell the smell. They're unhappy. They want to be outside; they want to enjoy the day. They know inversion now because we've gone through that about 50,000 times.

I have made numerous complaints. I haven't heard anything about any of them. I have at one point gone to the administrative law and sworn a complaint. I didn't hear anything, didn't hear how much money was to be -- you know, what the fine was. I would like to know what the DEPE does about fining Edgeboro and where does the money go. Also, I asked Mr. DeWeese if he would give me a call during the week, and I haven't heard anything about the complaints yet. I know that you're probably still looking into it, because you're new at this.

**C H A R L E S D e W E E S E:** I did call, though.

**MS. SHULL:** You did? Well, I have an answering machine, maybe it didn't go on?

**MR. DeWeese:** I talked to a young gentleman.

**MS. SHULL:** Oh, you did. Oh, good. You should have asked for me at work, then. I will give you my work number; it will be easier. He was out playing basketball probably, or wanting to go out, anyway. The things I-- I know you've really been patient, listening and everything.

**SENATOR CORMAN:** And we'll all stay here as long as we need to. Go ahead.

**MS. SHULL:** Pardon?

**SENATOR CORMAN:** We'll stay here as long as we need to. Don't feel rushed.

**MS. SHULL:** Oh, I know, but I've got them. They're probably watching the basketball game, or something like that, or not going to bed.

My question is, do you have any questions for us? I wish you'd write them all down and have them ready for us, to ask the audience or the participants. We seem to be giving you all the questions, and I feel that maybe you have some that you need to ask us. So if you do, there is a task force meeting on the 22nd of June, and either that or, you know, we could meet again before then. We need to hear from you. You're being very patient, listening to us.

The next time, I think, for a forum or anything else it should be only questions. There should be no long, drawn out statements. One, two, three, four, five, six questions, that's it. You have five minutes to do it and that's-- You know, it would be a lot quicker and I wouldn't be here until 11:10.

I would like to know about the testing of my home, if it can be done. What happens to those homes on Mitchell Avenue that back the landfill? They are backing the landfill. How long will it take to get the results? Do you have a map of the area? You can stop at my house, you know. I will be glad to take you all over down there. I know where it is.

SENATOR CORMAN: Okay. Could the Department respond?

MR. KASTNER: I have maps of the area. I don't know exactly where your home is--

MS. SHULL: Oh, it sits right on the edge.

MR. KASTNER: --but we do know most of the roads. The tests results are immediate.

MS. SHULL: Oh, good.

MR. KASTNER: I'll have them right before your very eyes.

MS. SHULL: I do have a well. We don't use it anymore because I was afraid of it.

MR. KASTNER: My question, which I can speak to you separately, is there someone home at anytime to do--

MS. SHULL: Yes, but I can come home. I only work five minutes from my house. That's the other concern.

MR. KASTNER: Okay, you gave me two numbers. I'll try both numbers to schedule--

SENATOR CORMAN: Okay, you'll make an appointment. The Department will test your home. Good.

MS. SHULL: Absolutely. I have a very nice boss. She'll let me come home anytime. Will the results of the test be only for this period of time, since Edgeboro II will be

expanded into Sections V and VI? Will it be ongoing, once a month, once a week, when the explosive level gets high? Is that the only time that we're going to hear about it or, you know--

MR. KASTNER: The test results are an instantaneous test result. We can make some projections based on what we find in testing in your home, the soil surrounding your home, and doing some additional tests in the vicinity of the landfill. We can make an educated projection as to whether or not there is a likelihood that there would be future changes. Certainly, if we detect gas, whatever the source may be, there will have to be some follow-up testing to find out whether it's a continuous problem, how extensive it is, what kind of corrective action has to be taken, and by whom.

MS. SHULL: Okay, I do have a neighbor that has a working well and she uses it to cook with. There's no smell. There is nothing, no -- what is the thing that gets hooked into clothes, in the whites -- brown stains -- you know, no sediment in the well, but she still uses it. And you know, I'm afraid for her. So if you want, you may contact her. She lives fronting Edgeboro. We're all on Milton Avenue -- front, our houses -- not Milton Avenue, Ellison Avenue fronts the landfill. I am on the corner, so my house is on the side; so it faces it.

I do hope that next time we meet you'll have lots of questions for us.

MR. KASTNER: Let me just point out methane gas being lighter than air will not migrate through water. Water represents a barrier. It's also not soluble in water. One of the other gases, carbon dioxide, when it's filtered through water can produce some degree of carbonic acid. The exact chemistry that's involved I'm not 100 percent sure on, but typically the methane gas will occur above the water level, so



it's not normally associated with a water contamination question. It's an air contaminant. Its biggest concern is that of a fire explosion hazard.

MS. SHULL: A lot of people have french drains and the drainage systems under, you know, the street. I would assume that the methane collects there, then that would be the place.

MR. KASTNER: It can, and that could be from an entirely different source. Leaves and vegetation that wash into storm sewers can decompose and produce small concentrations of methane gas. Typically, when we find landfill gas, it's in much higher concentrations.

MS. SHULL: Okay, thank you very much.

SENATOR CORMAN: Okay, thank you.

Is there anyone who would like to speak who has not signed up?

Yes, could you identify yourself for the record?

**R O S A L I N D M c B R I D E:** My name is Rosalind McBride, and I am a member of the Middlesex County Environmental Coalition. I really wasn't going to get up tonight to speak because most of these people sitting here have heard me numerous times, including yourself, Senator. But I'm listening all evening, and I'm hearing that it's just like this hearing is a first for Edgeboro Landfill.

Edgeboro Landfill was the first to get a cutoff wall. Edgeboro Landfill was the first to be permitted as a double-decker dump, and now Edgeboro Landfill is the first to be studied to set some protocol for air monitoring. I'm sitting here wondering why. I think someone earlier said that's the question, why? Maybe these people here can tell me why a landfill that we were led to believe a long time ago -- and I think I was maybe three when this started, you were about that age too, I think, Mr. Kastner -- we were led to believe that this was an environmentally sound facility.

There was no hazardous waste there; there were no problems there. The cutoff wall completely surrounds the site. The cutoff wall is working. There are no problems at this landfill. The EPA studied the landfill even though it had seven different scores, and only two of them that didn't qualify the site were released to the public.

Now we're doing all of this studying and remediating. My question is, why? Can anyone answer that for me?

SENATOR CORMAN: Does anybody from the Department want to respond?

MR. GABLE: Well, I think what gives Edgeboro its character and the special attention that it gets not only from us, but from the public really, I think, is a compounding of different issues. First, there is the preexistence of Phase I, the dumping that on went outside around the perimeter of the landfill that makes it unique; brings about a series of remediation questions that you wouldn't have in a new landfill. The fact that we -- MCOA proposed and we authorized the use of sludge-derived product on the landfill brings another series of questions--

MS. McBRIDE: It certainly does.

MR. GABLE: Finally, when you look around the State of New Jersey, there is really no landfill that exists in an area of such high population density as this landfill.

MS. McBRIDE: And in such a sensitive area.

MR. GABLE: I probably only touched on three unique issues, but if you compound those things, I think you very quickly come to see all of the complexities.

MS. McBRIDE: All right, my question then is, why was a permit granted for this site just because we were backed into a corner? The State not only allowed us to be backed into a corner, but the State backed themselves into a corner on this issue, and doesn't know how to get themselves out now.

MR. GABLE: I mean, you've got to separate-- It's difficult; it's difficult for us. The siting of this landfill and the construction of this landfill happens in a very careful, very different type of process than anywhere else in the country, because you have individual counties vested with the responsibility of making a siting decision. And having made that siting decision, that's different than the permitting decision. That's different than the way it's done everywhere else in the country. So Middlesex County makes a siting decision that this location--

MS. McBRIDE: Right, but they still need your approval.

MR. GABLE: Absolutely. And then comes the second question: Is a landfill permitable on that site? Phase I was not permitable on that site. That was the subject of all the different closure orders over the years.

MS. McBRIDE: Yes, I know.

MR. GABLE: Phase II was a separate but related evaluation under our landfill regulations, as to whether it could be our regulatory--

MS. McBRIDE: It was not separate at the time, though, Mr. Gable. You know that it was submitted as a expansion of the landfill.

MR. GABLE: I understand that. Well, in terms of--

MS. McBRIDE: The Department determined at the end of the application review that they were going to close Edgeboro I and have a new landfill site.

MR. GABLE: I agree with you. I said separate but related.

MS. McBRIDE: Yes.

MR. GABLE: I didn't want to get-- That's another complication that I probably could have added onto the compounding issues. I'm only making the point that the decisions -- the way that the decision-making process works in New Jersey is unique, and it's a siting decision. Then there

is a permitting decision that is made under our regulations. I know we have some debates about whether we properly applied our regulations.

MS. McBRIDE: Yes, we certainly do.

MR. GABLE: But it was made under our regulations as to whether the Phase II landfill was properly designed and protective of the environment. So it was really two layers of decisions that led us to where we are.

MS. McBRIDE: Right, and there are arguments about whether it can protect the environment, because just the way that landfill was sited in that area, and then the wall was built through the garbage-- We have always had the ongoing battle of-- The contamination is from the garbage outside the wall. It may be coming from inside, but it's probably outside.

Now, we have another landfill that is supposed to be a "state-of-the-art-landfill," and if this landfill should leak, how would you know it? Because then you are going to have the same argument, the landfill -- it's coming from the old section; it's coming from the outside. I think that it's just a dirty trick that was played on the residents of Middlesex County. That's what I say.

MR. KASTNER: Senator, if I may respond, the type of monitoring that we're going to be doing in Phase II is substantially different than what will continue for Phase I and for the waste outside of the cutoff wall. The first tool that we're going to rely on for monitoring for Phase II is what shows up in the leak detection system. In addition to having a collection system immediately underneath the garbage, below that liner system is a whole other collection system that we can use to do two things: We can look at the quantity of leakage -- and there will be, we expect, some degree of leakage even through a perfect liner -- and we can look at the quality of that leakage.

MS. McBRIDE: After how much time do you expect leakage from it, that first liner?

MR. KASTNER: A long time.

MS. McBRIDE: A long time?

MR. KASTNER: I'll be a very old man.

MS. McBRIDE: You don't think that first liner will leak for a long time?

MR. KASTNER: We'll find something in the leak detection system immediately, because during construction it rains, and there is water stored in the collection zones. That should analytically look like rain water. If it doesn't, then we have the first immediate signal that there is something wrong. So we look at the volume of water that comes out of the leak detection system and we look at the chemical quality of the water that comes out of the leak detection system. Once we find it there, we have an additional capture capability.

The capture capability of each of these collection systems is over 90 percent. The initial collection system is probably about 97 percent efficient. Below that, we have another ability to catch over 90 percent of the 3 percent that may leak through. So there is a very, very small possibility, or a small volume that could ultimately leak through. Then we go to the outside monitoring well system and look at the groundwater controls, the hydraulic measurements--

MS. McBRIDE: Will you do split samples there? Do you take split samples of the monitoring wells?

MR. KASTNER: We reserve the right to do it. We have done it in some landfills. I believe split samples were conducted at Edgeboro some years ago. How long ago I really don't remember, but--

MS. McBRIDE: But not too recently?

MR. KASTNER: We have limited capabilities, and we try to exercise those where there is some serious question about the data or the information that's being provided.

MS. McBRIDE: At the present time, are there exceedences in the monitoring well test results?

MR. KASTNER: I don't know because I don't have the test results. I've been trying to get my hands on them so that we can pass them on to you people.

MS. McBRIDE: When was the last time you saw test results?

MR. KASTNER: Sometime last year.

MS. McBRIDE: Okay, could you tell me how much leachate is generated at that site and how much is collected?

MR. KASTNER: I can tell you how much is collected. It runs about 400,000 gallons per day are removed and discharged into the sewer system. I don't remember, unfortunately, the amount of predicted leachate generation, and the predictions are changing based on the construction of new line cells. So the figures that were historically on our file are probably diminishing.

MS. McBRIDE: So there is no typical amount for-- There is no typical amount that would be generated from a site that size?

MR. KASTNER: There is and I just don't remember. I haven't committed the chart that we have to memory. The last time I threw a number out at this meeting, I made a gross mistake.

MS. McBRIDE: Okay, so I understand you're reluctant.

MR. KASTNER: I had to follow up with a letter. I can get that information to you.

MS. McBRIDE: At the present time, they're testing the integrity of the wall, and you have seen some data come in on that?

MR. KASTNER: I haven't seen any data come in on the present testing of the integrity of the wall

MS. McBRIDE: On the present testing, based on what was submitted to you, do you see that that wall is working, or are there problems?

MR. KASTNER: From what I see, the wall is doing something. How much -- what its significance is; how extensive its significance; and whether it has the proper continuity is the question that has remained to be measured here. We need to find out through these additional studies that are going on. It's pretty obvious from what we've seen through the groundwater flow measurements -- the elevations that have been measured through the permitting process for the Phase I/Phase II application.

The wall is doing something. There are some fairly distinct or abrupt changes in groundwater elevation in the vicinity of where the wall is supposed to be. So it's apparently, in my opinion, doing something. How significant it is, I think, is going to be studied--

MS. McBRIDE: You don't know whether it's functioning as intended, though?

MR. KASTNER: Well, whether it needs to be supplemented, I think, is more the key. Whether there's something different that needs to be done in respect to additional groundwater controls, which we believe are indeed necessary; and whether or not there should be some consideration to maybe putting another cutoff wall in, or maybe in the future considering putting another cutoff wall in, or some other control technique--

MS. McBRIDE: Okay, I just have one more question, through the Chair, naturally. I didn't get an answer yet about that EPA evaluation and who's responsible. Do you have that yet for me?

MR. GABLE: I think we gave ourselves two more weeks. So you can expect that next week.

MS. McBRIDE: Okay, two more weeks. I've been asking that question for nearly two years, you know.

MR. GABLE: I understand.

MS. McBRIDE: One day I called one person and went full circle. I called and this one said call this one, and I ended up where I started. No one could answer the question.

MR. GABLE: I understand the experience, because we're trying to make sure we give you a comprehensive answer. My Division wasn't the primary in that area. It's the Site Remediation Division that would have primarily worked on that, and I want to make sure when I give you an answer, it's the right answer.

MS. McBRIDE: All right, based on that letter that John Trela wrote to the EPA, they obviously looked at something.

MR. GABLE: Right.

MS. McBRIDE: Some sort of package -- scoring package -- for him to say that they agree with the documented package.

MR. GABLE: Right, but I have to determine--

MS. McBRIDE: If they did at that point, then someone had to look at the final package, I would assume.

MR. GABLE: Well, I'm trying to determine exactly what was looked at; when it was looked at; how it was looked at; what we said to the EPA.

MS. McBRIDE: One more question, and this may take some time to answer also. A consent decree was entered into in 1989 -- August '89 -- for Middlesex County to utilize Edgeboro Landfill as a sludge depository for-- I know you don't like to hear that, but that is what is going on here -- sludge depository. Now, Edgeboro Landfill is a site that was on the CERCLA list. It was a suspected site at the time of the State surplus, right. It was a suspected site. Why would the Department and the EPA enter into such an agreement to allow a site to be utilized? The thing is, it was for a long-term -- for at least 10 years. They had to name a site that they would use for at least 10 years. Why would the Department enter into such an agreement on a site that was a suspected site at that point?



MR. GABLE: I think the agreement -- and I haven't looked at the agreement in probably about a year, so I'm going from deep memory here -- I think the agreement between EPA, the Department, and the Middlesex County Utility Authority in Federal court provided that the Middlesex County Utility Authority had to find a long-term solution for sludge disposal issues. It might have specifically identified the landfill, but it--

MS. McBRIDE: It did.

MR. GABLE: If it did, it provided for the full opportunity for the Department to use its authority to determine whether that was an appropriate site for using the sludge-derived product. That kicked it over to the Division's permitting responsibilities. If you recall now, about a year and a half ago we gave the Authority approval to use the material under very strict conditions. So it was a--

MS. McBRIDE: And they were contingent on them getting permits.

MR. GABLE: Right, it was a conditional authorization.

MS. McBRIDE: And why no alternative, though, since that was a period of time where the Department was reviewing the application for expansion? You know what I'm saying? Yet there is no alternative mentioned in that document -- in that consent decree.

MR. GABLE: I think our view has always been-- Regardless of whether there is a specific alternative mentioned in that document, we've always encouraged MCUA to find alternative beneficial use sites for the material.

MS. McBRIDE: Have they ever done that?

MR. GABLE: They have some small percent of material going to beneficial use. I think in the last year it's been in the range of 1 to 5 percent of the material. We're hopeful that the actions that I talked about earlier would, to say nicely, "Encourage them to find other uses for the material."

MS. McBRIDE: I don't want you to misunderstand our position here. We do want to see this sludge used in a beneficial way. The people of this area are opposed to incinerating it, but the thing is, there are obvious problems there. You put certain requirements on that modification to the permit, certain testing that was suppose to be done.

The question is, has that been done and have they reported back to you with the final results of the testing? Have they done that?

MR. GABLE: I think we've gotten some data in from them on some of the requirements put into that permit. We haven't gotten all of it in. I think what swamped all those considerations was the odor consideration, which obviously is paramount. It is really what is driving us to take some action by this Friday.

MS. McBRIDE: Immediate action, yes. Well, the people here do need some immediate relief from the problem. There is no doubt about that.

I thank you, Senator, for having this hearing. Thank you.

SENATOR CORMAN: Is there anyone else that would like to address this hearing? (no response) There being none, I would like to thank everyone who testified. I would like to thank the members of the Department who came here. And I would just like to, by way of closing-- I think this was a positive meeting. I think it was constructive. I think there were some specific proposals for legislation that came out of it.

I hope that the Department will work with the Committee on developing them. I see the Department is cognizant to the fact that they're going to be judged on their future actions, and then it's going to take a long time to build up credibility with the community. I think you did a pretty good job today. There were no major public relations disasters, so basically that's a good day for the DEPE.

Just one thought I'd close with is that, obviously, there is going to be -- this is going to be a long process. There will probably be-- You know, as Susan Blumig said, she has been to a gazillion MCUA meetings on Edgeboro Landfill, and there will probably be a gazillion meetings down the road in the future before everything is resolved. I would just hope that those of you who are here, you know, every time you come down here and face us angry residents, that you get a little bit more sensitized to where we're coming from and why people are angry.

I just want to make my pledge to you-- Of course, any politician worth his salt has gotten publicity by denouncing bureaucracy, and I have done my share of that. But I would much rather get publicity from solving problems and helping to solve problems. I can tell you, if the Department lives up to its commitments and deals with the public in a forthright manner, I won't be out there to denounce you. I'll be out to help, cooperate, and facilitate things. Of course, if you deviate from that path and go to the ways of old, I'll be back issuing excorating press releases. I would rather not do that. I would rather get these problems solved. I would rather there not be any odor complaints or any health concerns about migrating methane.

With that, I would like to thank you for being here. I'd like to thank members of the public and the staff for sitting this out. I'll call the meeting adjourned.

**(HEARING CONCLUDED)**



## APPENDIX



New Jersey State Senate Hearing - Edgeboro (May 26, 1993)

1986 - NJ DEP Division of Solid Waste Management completes "Preliminary Assessment" of Edgeboro Landfill for US EPA. "Preliminary Assessment" details numerous instances of hazardous waste dumped at Edgeboro. For example, the PA includes a copy of a 1981 confidential memorandum concerning a report by the Office of Cancer and Toxic Substances Research which lists various hazardous wastes dumped at Edgeboro (e.g. 9,900 lbs. of formaldehyde, 15,768 pounds of trichlorethylene, chromium, etc.) The PA states that the [hazardous] waste in the landfill can possibly contaminate groundwater, soil, and surface water."

DEPE denies the existence of hazardous waste at Edgeboro in a May 1989 report entitled "Responses to Questions from the Middlesex County Solid Waste Advisory Council" signed by John Castner, Chief Engineer DEP DSWM and, John Czapor, Director DEP DSWM, in a June 7 1989 letter of transmittal to then Director of SWAC, Robert McCarthy, states that "This report is intended to provide factual responses" and further states that the report "represents a significant commitment of resources" and a "detailed review." The report states:

"A question of the potential for hazardous waste being deposited at the Edgeboro landfill has been raised. -- The Department is not aware of hazardous waste as defined pursuant to state and federal standards having been disposed of at the Edgeboro landfill."

In an August 24, 1989 meeting with the MCEC, John Castner again states that there is no evidence of hazardous wastes dumped at Edgeboro.

Fred Kurtz, Executive Director of the MCUA, states in a March 13, 1989 report on Edgeboro replies to questions asking if hazardous wastes were dumped at Edgeboro.

"Edgeboro Landfill, as a municipal solid waste landfill, was not legally permitted to accept toxic waste. It may, at one time, have received sludge. In the course of Malcolm Pirnie studies, no evidence has been revealed to suggest that toxic waste was deposited at Edgeboro, or that sludge was a significant concern."

So the MCUA--the applicant-- claims it knew nothing of hazardous wastes dumped at Edgeboro.

Therefore No mention of hazardous wastes appears in the EHIS for the MCUA's application to expand Edgeboro.

NJAC states that if a site adjacent to a site already used for solid waste is to be used for a landfill, the applicant must detail all the kinds of wastes dumped in the previously used site.

(c) The EHIS for all solid waste facilities ...shall contain the following:  
If the site, any portion of the site or any areas adjacent to the site was previously used for waste landfilling, information relating to depth and area of

deposition, type of material landfilled, gas concentration and migration, settling and other factors which may potentially affect construction and operation shall be provided. [NJAC 7:26-2.9(c)(5)(i)]

In addition, NJAC states that the DEPE must accurately describe the site proposed for a landfill in the statement of facts prepared for the public meeting. No statement concerning hazardous wastes appears in this statement of fact for the public meeting. Therefore DSWM blatantly violated NJAC 7:26-2.4(g)(16) which states "A fact sheet concerning the proposed facility must be prepared by the Department... The Fact Sheet shall include the following: (i) The principal facts and the significant factual, legal, methodological or policy questions considered in granting the tentative approval; (ii) a description of the proposed facility... and (iv) a brief summary of the impacts and bases for tentative approval." DSWM violated this regulation. Nowhere in the Fact Sheet does DSWM admit that it was aware of or considered the massive amounts of hazardous wastes dumped at Edgeboro. Nowhere does DSWM admit that Phase II will go physically on top of Phase I. Why did DSWM decline to include this information to the public--even when it is required by State regulations to do so. Since the public was denied accurate knowledge of existing conditions both by the MCUA and the DSWM to reveal this critical information--the public hearing was held in violation of State regulations.

The MCEC in 1991 is invited by Commissioner Weiner to submit a "Motion to Reconsider" over the permit issued by the DSWM. In this Motion, the MCEC informs the Commissioner that the DSWM did not consider the hazardous wastes dumped at Edgeboro. In its reply brief dated July 5, 1991, the DSWM states that it knew all along about the hazardous wastes dumped at Edgeboro and therefore it did not require the applicant to submit this information. (p.8) Concerning hazardous wastes "[The] DSWM considered and evaluated the information in the EHIS as well as other available information concerning the types of wastes deposited at Phase I before issuing the permit for Phase II. Because DSWM has such additional information, it concentrated on obtaining from MCUA information that DSWM did not have..." Thus, the DSWM did not apply its own regulation which requires MCUA to include this information in the EHIS--and--NJAC 7:26-2.4(f) states "Any failure to submit such information shall constitute cause for denial of the permit."

- Just as astonishingly, on p. 6, the DSWM states "In making its argument in favor of reconsideration, however, MCEC totally ignores the fact that MCUA had been ordered to terminate operations at Phase I by December 31, 1991, to monitor the site's impact, and to engage in a full-scale remediation of the site." Rather it was DEPE who totally ignores this fact because it is May of 1993 and Phase I is still being allowed to operate and accept sludge by the DEPE.

However, if the DSWM knew all along that hazardous wastes were dumped at Edgeboro, the DSWM therefore knowingly admits that the three TCAO's issued to Edgeboro were issued in violation of NJAC 7:26-1.7(c)(2) which states "No exemption shall be granted to permit an operation which will pose a threat to public health or the environment." I contacted Herb Gross, then engineer for DSWM assigned to Edgeboro concerning the second TCAO issued



to the MCUA to operate Edgeboro. I asked Mr. Gross how the DSWM could state that Edgeboro posed no known threat to the environment or public health. Mr. Gross stated that the DSWM knew this statement was not true, but that NJAC required it to include the statement in the TCAO or the permit could not be issued. Therefore all three TCAO's were issued in violation of NJ state regulations since DSWM knowingly denied its knowledge that the landfill was grossly contaminated by hazardous wastes. For if the DSWM admitted at the time it knew this information, the TCAO's legally could not be issued and Edgeboro must close.

And indeed, contrary to all known facts, the Third Illegal TCAO, issued September 28, 1989 states "continued operations will not pose a threat to public health and the environment." The statement conflicts with a January 30, 1975 document by Mr. Frank Coolick, Environmental Engineer, Bureau of Solid Waste Management, which states it is "the Department's option that the above referenced Solid Waste Disposal Area [Edgeboro] poses a real or potential threat to the quality of the ground waters of the state." and a September 15, 1981 memorandum by Dan Toder of DEP which states

"Edgeboro Disposal has been taking several different waste types for many years including hazardous chemical wastes and various types of septic and sewage sludge. The site is located on the banks of the Raritan and South Rivers and overlies a very environmentally sensitive area. There is great potential for contamination of the underlying strata which contain large amounts of potable water serving a large portion of the State of New Jersey."

The public therefore loses--the DSWM knowingly jeopardized the health of thousands of residents by concealing information on hazardous wastes at the landfill and allowing the landfill to remain open without remediation.

In the Final Draft of its Site Inspection Report, dated March 30, 1990, the EPA states that the known amounts of hazardous wastes dumped at Edgeboro amounts to 4,389 tons or 8,778,000 pounds. It further states (p.2) "No enforcement or removal actions are known to have been taken regarding these wastes nor are any known to be scheduled. Potentially affected media include soil, groundwater, and surface water/sediment."

And (on this EPA report) in a June 22, 1990 letter to the EPA, Mr. John Trela, then DEPE Assistant Commissioner states that the DEP knew Edgeboro's preliminary Superfund score was 51.99 (well above minimum Superfund qualifications and that "The information in the report is well documented and is consistent with information provided by Department staff and within Department files."

The fact that the information on hazardous wastes does not appear in the EHIS means that the public hearing held by the DEPE on Edgeboro's permit was held in violation of NJ State regulations--the public was never given the opportunity to review and comment on this information. It also means that the DEPE and any other agency (e.g. the EPA) does not have access to accurate information on the site. Mr. Castner recently confirmed that the DEPE

still does not know what types of hazardous wastes were dumped at Edgeboro. For example the applicant never fulfilled NJ regulations to explain what effects the hazardous waste would have on the liner and other environment controls for Edgeboro II. Ultimately, the public loses for this information was never considered in the expansion. (What contribution does the hazardous waste make towards air pollution, are the rivers and aquifers being damaged by these dangerous chemicals, etc.)

Nevertheless, the Commissioner ignored the MCEC's objections and issued the permit stating that the DSWM had somehow considered information that it admitted it did not have and the applicant--the MCUA-- did not submit. By this action, the Commissioner violated NJAC and thereby encouraged other applicants to submit incomplete or bogus applications for permits. The Commissioner states in his decision dated July 26, 1991

- it is my "conclusion that the Coalition has submitted nothing with has not already been considered by the agency and that the Division correctly concluded...that neither Phase I nor Phase II causes an adverse impact on the other." The Commissioner thereby sweeps all valid objections aside and never deals with any of these issues--which is why we're still discussing these issues today.

In summary, the permit issued by DSWM-- and confirmed by Commissioner Weiner--to the MCUA to operate Edgeboro was knowingly issued in violated of state regulations. When this was brought to Assistant Commissioner Sinding's attention last week, Mr. Sinding stated that if we want action, we must sue the DEPE.

#### Points to Consider

1. An invalid process leads to an invalid result.
2. Public safety and protection of the environment was compromised by the DSWM in allowing Edgeboro to remain in operation.
3. Why doesn't the DEPE give grants to the public to take legal action against such decisions. (During the "Motion to Reconsider" process, the Commissioner privately recommended to a member of the MCEC that we should sue the Department to block the permit? Is this an admission that the DEPE would not take the enforcement action the public expects from it. Why should the DEPE be content for grass roots groups to take the action instead? But it's the DEPE's job to protect the public.
4. All too often, DSWM works with the agency it is supposed to be regulating--to the detriment of the public. It is in the interest of the DSWM to issue a permit--valid or invalid--because if it doesn't it must come up with an alternative --the garbage has to go somewhere.

Robert DeMartino  
MCEC  
908-613-1644



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF ENVIRONMENTAL QUALITY  
JOHN FITCH PLAZA, P. O. BOX 2807, TRENTON, N. J. 08627

January 30, 1975

Mr. Stanton L. Levy  
Counsellor at Law  
505 Hwy 18 at Milltown Rd  
East Brunswick, N.J. 08816

Dear Mr. Levy:

Re: Edgeboro Disposal, Inc., East Brunswick Twp., Middlesex County, NJ.

Enclosed is the basis for the Department's opinion that the above referenced Solid Waste Disposal Area poses a real or potential threat to the quality of the ground waters of the state.

If you have any questions regarding this matter, contact me at 609-292-7645.

Very truly yours,

*F. L. Coolick*

Frank Coolick  
Environmental Engineer  
Bureau of Solid Waste Management

ENCLOSURE

### The Department of Environmental Protection (DEP) Also Questioned Safety

The Edgeboro Disposal, Inc., landfill is constructed in marine tidal marsh over most of the site. Underlying the marsh is the Farrington Sand which is a prime potable water aquifer in the area and the state. In the northern section of the site, the Farrington Sand outcrops, thereby becoming a recharge area. Boring data shows that up to 15 feet thick of solid waste at the bottom of the fill is in the ground water. The bottom of the fill is thus a large pool of leachate mixed with solid waste. Additional leachate is being generated and added to the groundwater-leachate pool at this site since permeable sandy soil is used for daily and intermediate covers and since the grading is poor for effective surface run-off.

The ground water flows, passing the bottom of the landfill, toward the South River and Raritan River. This operation is thus also posing a real threat of carrying the leachate into the rivers.

The site is located adjacent to the South River and the Raritan River. It is subject to the tidal action of the river water, thereby generating and carrying more leachate into the

rivers.

Part of the site is situated within the floodway. The landfill operation must be controlled so as not to fill within the floodway. Demarcation marks are needed to clearly indicate the limits of the filling operation.

The Federal Environmental Protection Agency has established criteria for classification of solid waste disposal facilities and practices effective October 15, 1979. This criteria includes the protection of flood plains, wetlands and the surface and ground waters. Each state shall use this criteria to evaluate all present and future solid waste disposal facilities and practices within the state, including the Edgeboro Disposal, Inc. landfill.

In view of the above, the operation of the Edgeboro Disposal, Inc., landfill is found in violation of N.J.A.C. 7:26-2.5.4. Furthermore, it must also conform to the Rules and Regulations of Federal EPA, 40CFR, Part 257.

Further, Edgeboro Disposal, Inc. is operating a landfill without an approved engineering design in violation of N.J.A.C. 7:26-2.2.3 and N.J.S.A. 13:1E-1 et seq.

MEMORANDUM

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

TO: Mike Winka

DATE: September 15, 1981

FROM: Dan Toder

SUBJ: ENVIRONMENTAL CONTROL AT EDGEBORO DISPOSAL, #1204A

The Edgeboro Landfill is located in East Brunswick, Middlesex County, New Jersey.

BACKGROUND

Edgeboro Disposal has been taking several different waste types for many years including hazardous chemical wastes and various types of septic and sewage sludge. The site is located on the banks of the Raritan and South Rivers and overlies a very environmentally sensitive area. There is great potential for contamination of the underlying strata which contain large amounts of potable water serving a large portion of the population of the State of New Jersey.

GEOLOGY

The geology of the area is shown in detail on sheets 11 of 18 and 12 of 18 of the engineering design dated May 1981. The landfill is immediately underlain by marine tidal marsh deposits consisting of peat, sand, silt and clay. Beneath the tidal marsh deposits is the Farrington sand which is one member of the Raritan Formation. This sand member is a prime aquifer in the State of New Jersey. The sand member outcrops in the northern section of the property and is a recharge zone for this aquifer. Underlying the Farrington sand is the Raritan fire clay and then the Brunswick formation consisting of red shale (bedrock).

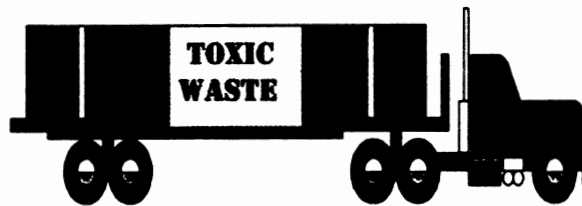
RECOMMENDATIONS

It is imperative that precautionary measures be taken to reduce the threat of contamination to the Raritan and South Rivers and to the Farrington sand aquifer. All of the environmental controls shown and detailed in the revised design dated October 1977 and May 1981 should be implemented. These include an extensive leachate collection system and an impermeable cut-off wall totally surrounding the site keyed into the Raritan-Fireclay member. Even though the landfill lies in a very environmentally sensitive area, it is fortunate that the "bathtub" approach can be applied to this site. Using the natural clay underlying the site as a bottom liner and the impermeable cutoff wall all around the site cutting off any lateral migration of pollutants, contamination can be reasonably contained.

# ***You're Invited to a Public Meeting About the Edgeboro Dump!***

**That's Right! Share YOUR concerns about Edgeboro with top State DEPE officials. Find out why:**

- ☐ Edgeboro stinks up our air and pollutes our water, **and** when the DEPE either will correct this or close Edgeboro,
- ☐ millions of pounds of toxic chemicals & other hazardous (including nuclear) wastes were dumped at Edgeboro,
- ☐ the MCUA wants needlessly to dig up 738,000 cubic yards of old, rotting wastes,
- ☐ the DEPE allows sludge ("SDP") to be dumped at Edgeboro, even though the stench sickens thousands of area residents,
- ☐ the DEPE ignored State regulations in order to give approval to expand the leaking, contaminated Edgeboro site,
- ☐ the DEPE fails to enforce State environmental regulations against Edgeboro,
- ☐ Governor Florio and DEPE Commissioner, Scott Weiner, refuse to come to Middlesex County to hear residents' concerns about the Dump,
- ☐ Edgeboro's owners are about to unload Edgeboro on the County demanding a "sale" price of \$155 million of your tax dollars (!!!),
- ☐ and more!



**When: Tuesday, May 18; 7 to 10+PM**

**Where: Middlesex County Fire Academy, Main Street  
extension in Sayreville**

**For more information/directions, call Richard Sinding, DEPE Ass't  
Commissioner at (609) 292-1254 or the Middlesex County Health  
Department at (908) 745-4351.**

FROM: SOUTH RIVER, EAST BRUNSWICK

GO OVER VETERANS BRIDGE INTO SAYREVILLE. TAKE THE JUGHANDLE BEHIND WAWA CONVIENIENCE STORE TO CROSS OVER ONTO MCCARTHUR AVE, CONTINUE TO THE END. MAKE LEFT ONTO MAIN STREET CONTINUE UNTIL THE THIRD TRAFFIC LIGHT (APPROX. 2 MILES) MAKE LEFT ONTO FIRE ACADEMY DRIVE.

FROM: SAYREVILLE

MAKE RIGHT ONTO MCCARTHUR AVE, CONTINUE TO THE END. MAKE LEFT ONTO MAIN STREET CONTINUE UNTIL THE THIRD TRAFFIC LIGHT (APPROX. 2 MILES) MAKE LEFT ONTO FIRE ACADEMY DRIVE.

MIDDLESEX COUNTY FIRE ACADEMY (908) 727-0008

10X

1993-151

**RESOLUTION URGING GOVERNOR JIM FLORIO TO  
DISMISS DEPE DIRECTOR OF LEGISLATIVE AND  
INTERGOVERNMENTAL AFFAIRS, NORMAN MILLER**

*norman  
miller  
4-23-93*

**WHEREAS, the residents of the Borough of Sayreville and surrounding communities have long suffered from the horrendous odors, potentially life threatening pollution and enormously heightened traffic emanating from the Edgeboro Landfill; and**

**WHEREAS, DEPE and the MCUA have greatly increased the odor problem victimizing the Borough of Sayreville and other surrounding communities by experimenting with the use of sludge as its daily landfill cover; and**

**WHEREAS, the Borough of Sayreville has substantially benefitted from, and is most resolutely proud, of its many resident watchdogs, including those who belong to the Middlesex County Environmental Coalition, who have dedicated their lives to developing the considerable expertise necessary to provide the critical oversight of the EPA, DEPE, MCUA and other governmental entities who have miserably failed in their mandate to protect the public health, safety and welfare of the residents of Sayreville and Middlesex County; and**

**WHEREAS, in a secret DEPE memo, dated March 15, 1993, made public by State Assembly Members Harriet Derman and Jeff Warsh, from Norman Miller, DEPE, Director of Legislative and Intergovernmental Affairs to Scott Weiner, DEPE Commissioner, Director Miller referred to residents of Sayreville and Middlesex County as "non-technical and non-intellectually sophisticated"; as "unable to fathom the bureaucratic process"; "low socio-economic status"; and**

**WHEREAS, the same secret DEPE memo admitted that the DEPE and Governor Florio have declined repeated invitations to meet with citizens concerned about the Edgeboro Landfill, and that the Commissioner must "preserve some distance from the Edgeboro problem" and that a manual on how to deal with the public must be "dragged out of the storage closets"; and**

**WHEREAS, the secret DEPE memo offers a brief glimpse speaking volumes to the autocratic, patronizing, callous attitude of the DEPE towards the public in general, and Edgeboro impacted communities in particular, and demonstrates continued tragic DEPE incompetence;**

20X



STATE OF NEW JERSEY  
DEPARTMENT OF TRANSPORTATION

CN 601  
TRENTON, N.J. 08625-0601  
609-530-3535

THOMAS M. DOWNS  
COMMISSIONER

April 15, 1993

Robert DeMartino, Chair  
South River Environmental  
Commission  
P.O. Box 226  
South River, NJ 08882

Dear Mr. DeMartino:

Your letter concerning trucks using the Edgeboro facility in South River has been forwarded to Scott Weiner, Commissioner of the Department of Environmental Protection and Energy, and Skip Lee, Director of Motor Vehicle Services for review and response. I appreciate your taking the time to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Tom Downs".

Thomas M. Downs  
Commissioner

c: Scott Weiner  
Skip Lee

35X





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**South River Environmental Commission**  
**P.O. Box 226**  
**South River, New Jersey 08882**

March 22, 1993

Mr. Thomas Downs  
Department of Transportation Commissioner  
1035 Parkway Ave.  
Trenton, NJ 08625

Dear Mr. Downs:


We are concerned about the truck traffic entering and exiting Edgeboro Dump. The smoke, odor, and noise of the trucks has surpassed acceptable levels.

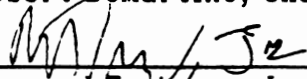
Since all other vehicles in New Jersey are required to pass an annual emissions inspection, we would like to know the status of emissions testing for trucks entering and exiting the Dump.

Would you please inform us or our Mayor on this matter as soon as possible.

Thank you for your consideration.

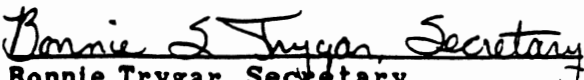
South River Environmental Commission:

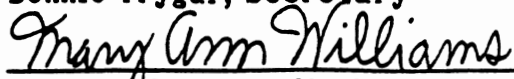
  
Robert DeMartino, Chair

  
Raymond Eppinger, Jr., Vice Chair

Barbara Buchanan, Member

  
William Lounsberry, Member

  
Bonnie Trygar, Secretary

  
Mary Ann Williams, Member

cc: Mayor Tom Toto and South River Town Council

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# PRESS RELEASE

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## **South River Environmental Commission**

64-66 Main Street

South River, New Jersey 08882

Contact: Bob DeMartino

Phone: (609) 225-6249 or (908) 613-1644

Ray Eppinger, Jr.

(908) 257-1626

FOR IMMEDIATE RELEASE

**SOUTH RIVER DEMANDS APOLOGY FROM GOVERNOR AND DEPE COMMISSIONER FOR INSULT: CALL FOR HIGH-LEVEL TASK FORCE TO ADDRESS ENVIRONMENTAL PROBLEMS AT EDGEBORO**

### **Memo Reveals Governor's and DEPE's Mismanagement of Edgeboro Issues**

South River, New Jersey, April 13, 1993

In a recently released internal memorandum to DEPE Commissioner, Scott Weiner, Norman Miller, DEPE Director of Legislative and Intergovernmental Affairs described a meeting he attended in South River on March 11 concerning on-going environmental problems and the proposed exhumation of 738,000 cubic yards of old waste at the Edgeboro landfill/hazardous waste site. Director Miller represented Commissioner Weiner at this meeting, which was attended by State, County, and local public officials and about 90 South River residents. The Governor, who was invited to attend the meeting, declined either to attend or to send a representative.

In the memorandum, Miller used derogatory language in describing South River residents as "an interesting lot" having "low socio-economic status" in addition to being "non-technical, non-intellectually sophisticated people." Miller characterizes the public officials who attended the meeting as "mavericks," "renegades," and certainly "no friends of the department." Miller then goes on to admit that Governor Florio and Commissioner Weiner have failed for four years to come to the area to address the serious environmental problems due to the DEPE's approval of Edgeboro's expansion. Miller also cautions Commissioner Weiner to keep his "distance" from Edgeboro's problems and the understandable public outcry. Miller concludes with the recommendation to Weiner that the DEPE drag "out of the storage closets" its manual on improving public relations with communities and proceed with a PR campaign (i.e. snowjob) concerning the DEPE's inaction over Edgeboro's problems.

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For once and for all, a top DEPE official has put into writing what the public in Middlesex County has suspected all along--that the Governor and the DEPE have ignored public concerns over Edgeboro's continued operation while choosing to treat its environmental problems as merely public relations problems. The environmental problems caused by the continued operation of the Dump are real: Edgeboro is located in environmentally sensitive wetlands, in an aquifer used for drinking water, on a flood plain, between two rivers used for fishing and recreation, in a highly-populated area, and contaminated by millions of pounds of hazardous wastes. The 75,000+ local residents suffer from the horrendous odors created by the DEPE's "experimental" use of sludge (SDP) as landfill cover at Edgeboro. The Federal Agency for Toxic Substances and Disease Registry twice last year declared Edgeboro to be "a potential threat to public health." Edgeboro I, with an outward gradient (i.e. leaking), has no liner and was "ordered" by the DEPE to close by the end of 1991. Edgeboro II is designed to go on top of the old, leaking site. Both dumps are still in operation. One high-ranking DEPE official who attended the meeting in South River subsequently has stated that Edgeboro will be in "chronic noncompliance with its permits [issued by the DEPE] for the foreseeable future." Yet, at no time in his memorandum does Miller recommend that the DEPE take effective action to address the very real environmental problems Edgeboro poses to area residents.

#### **Florio and Weiner Must Issue Apology and Commitment to South River Residents**

The South River Environmental Commission finds the sneering indifference towards public concerns displayed in Miller's memo by state officials-- whose job it is to serve the public--unacceptable. Accordingly, the Commission finds the DEPE's acceptance of a state of "chronic noncompliance"--rather than enforcement of environmental regulations designed to protect the public--equally unacceptable. Surely Governor Florio and Commissioner Weiner should agree and pledge to do better.

We therefore issue a challenge to Governor Florio and Commissioner Weiner to come to South River to apologize to our residents for the bureaucratic arrogance revealed in Miller's memorandum and to set up a high-level Task Force immediately to address the many outstanding public health and environmental concerns at Edgeboro as well as DEPE shortcomings also revealed by the memorandum. Additionally, the DEPE must reject the pending exhumation application. The Governor and Commissioner must: (1) assure that either Edgeboro is being operated safely or, if it cannot be operated in compliance with state regulations, securely closed, or (2) suspend environmental regulations in order to allow Edgeboro to remain in operation "as is". Since the latter has no precedent, the Governor and Commissioner must take decisive action now if the DEPE is ever to regain the public confidence Miller states it has lost because of its mishandling of Edgeboro.



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**South River Environmental Commission**  
**P.O. Box 226**  
**South River, New Jersey 08882**

March 18, 1993

Mr. Steven Gabel  
Director  
Division of Solid Waste Management  
N.J. Department of Environmental Protection  
and Energy  
CN 414  
840 Bear Tavern Road  
West Trenton, New Jersey 08625-0414

Dear Mr. Gabel:

Please be advised that the South River Environmental Commission is unanimously opposed to the November 1992 Application for Solid Waste Facility Disruption Permit prepared by Sadat Associates, Inc. for Edgeboro Disposal, Inc.

Our opposition is based upon a careful review of the application and upon information supplied by Mr. John Castner, Chief, Bureau of Landfill Engineering, DSWM, at the March 11, 1993 Public Forum held at the South River Municipal Building. The Commission notes that the large number of State, County, and Municipal officials and local residents who attended this Forum all raised serious concerns and voiced strenuous objections to the proposed disruption of the Edgeboro landfill/hazardous waste site. Since, regrettably, none of the Department's policy makers, (i.e. Commissioner Weiner, Assistant Commissioner Sinding, nor you yourself) attended the Forum, some of these objections raised at the Forum are included on the attached summary. The Commission further notes that the proposed disruption has received extensive negative comment in the local press. (Please see the enclosed newspaper articles). A video tape of the Forum, aired on cable television, has also served to focus public opposition against the proposed disruption, and the Borough Councils of South River and Sayreville are both proposing to pass resolutions against the disruption application.

Additionally, it is critical to point out that the application presents absolutely no information or rationale as to why EDI/MCUA proposes to exhume and rebury 41 acres of waste outside the wall when there is no plan to exhume and rebury

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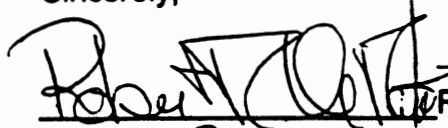
an additional 100 acres of waste remaining outside the wall. No information is offered as to why this particular method of "remediation" would be necessary nor are comparisons with other possible "remediation" plans discussed. The proposal to disrupt approximately 738,000 cubic yards would only further degrade an environment already over-stressed by Edgeboro's pollution and pose a serious threat to the health of thousands of area residents by the potential for additional release of contaminants to the air, water, and land. The disruption therefore would offer no benefits and numerous, serious disadvantages.

Finally, the application provides no measures for air monitoring to protect South River residents from the potential release of dangerous gases from volatile hazardous chemicals dumped at Edgeboro. This serious omission, coupled with the fact that falsified monitoring reports of Edgeboro by a consultant firm paid by EDI and false information on the expansion application prepared by the MCUA's consultant have been supplied to and accepted by the Department in the past, clearly shows that the proposed disruption poses too many risks to the community and no real safeguards. The Department has neither revoked nor suspended the permit it has issued to MCUA to dump SDP (sludge derived product) at Edgeboro, despite the fact that the horrendous stench from the SDP has nauseated thousands of area residents and generated hundreds of complaints—therefore meaning that the MCUA is in chronic violation of its sludge permit. Every local resident knows that the DEPE approved "experiment" of dumping SDP at Edgeboro is a disaster. Since the Department to date has not enforced the sludge permit it has issued, what guarantee therefore would the community have that the Department would use its regulatory powers to control problems that would result if a disruption approval were granted?

The Commission therefore believes that it is of the utmost importance that the Department reject the application to disrupt Edgeboro, and requests that the Department responds to all issues and concerns raised concerning the proposed disruption. Should you have any questions on the above, please contact Dr. Robert DeMartino, Chair of the Commission, at (609) 225-6249.

Thank you for your attention to this important matter.

Sincerely,



Robert M. DeMartino  
Chair



Raymond Eppinger, Jr.  
Vice Chair

56X

## SOME REASONS WHY THE DEPE SHOULD REJECT THE APPLICATION FOR THE PROPOSED DISRUPTION OF THE EDGEBORO LANDFILL/HAZARDOUS WASTE SITE

- In both 1992 health consultations, the Federal Agency for Toxic Substance and Disease Registry (ATSDR) declared Edgeboro to be a potential "threat to public health" and recognized water and air as two pathways for Edgeboro's hazardous wastes to reach the public. An ATSDR official stated that a disruption of Edgeboro could have a significant negative impact on public health by exposing thousands of area residents to volatile gases from the millions of gallons/pounds of hazardous chemicals known to have been dumped at the site. According to the application, the disruption would take five months to complete!
- DEPE Commissioner Weiner, as head of the BPU, along with then DEPE Commissioner Judith Yaskin signed the September 1990 Closure Order of Edgeboro Phase I which stated that no more garbage can be dumped in the contaminated Edgeboro I site after December 31, 1991 because **Edgeboro I is environmentally unsafe and not fit to operate under New Jersey's environmental regulations.** Therefore since Edgeboro Phase I is not environmentally sound to operate or to accept garbage, by approving the proposed disruption Weiner therefore would be violating not only the closure order he himself signed, but also State regulations and presumably even Federal environmental laws.
- Some sections of the land being proposed to be disrupted are owned neither by the MCUA or by Edgeboro Disposal but by private owners. Why is the DEPE even considering an application to use **public funds** to "clean up" privately owned property? The application should be rejected on this fact alone.
- The disruption proposes to move waste from outside Edgeboro's "underground slurry wall" to inside the wall. Yet the testing of the wall's integrity has not been completed. What would Commissioner Weiner do if and when the testing of the wall is completed it is shown that the wall is not sound? Would he then require that the waste be moved again to somewhere else—a second move paid for by the public and one that would again expose the public needlessly to hazardous substances? In any event, regardless of the integrity of the wall, Phase I has no liner, sits in a Federally designed sole source aquifer (the Farrington Sand Aquifer) used for drinking water by South River residents, and has been declared unfit by the DEPE because the shale underneath the dump is cracked and leaking. Furthermore if the disruption is allowed, contaminated leachate released by the digging would be washed by rain into the Raritan and South Rivers.
- The MCUA for years has claimed that the millions of gallons/pounds of hazardous wastes known to have been dumped at Edgeboro—which includes heavy metals, acids, carcinogens, mutagens, medical waste, toxic chemicals, pharmaceutical wastes (drugs), and even nuclear waste—have been dumped outside of the wall.

Although the MCUA's claim—that the hazardous wastes were dumped only outside of the wall—has never been proven, neither has it been challenged by the DEPE. In fact, the DEPE's approval of the MCUA's application for Phase II (inside the wall) is based in part on this claim. If, however, the MCUA's claim is correct, then if Commissioner Weiner allows the waste outside of the wall to be dumped inside the wall, **he then would be directing hazardous wastes to be dumped at Edgeboro.** As a "sanitary" landfill, it is illegal to dump hazardous waste at Edgeboro—whether Phase I or Phase II. Conversely, if the wastes are not hazardous, then there is no reason to dig them up in the first place!

- Last year, the MCUA violated the Closure Order of Edgeboro by dumping garbage in Phase I after the December 31, 1991 closure date. The MCUA did not have Phase II open on January 2, 1992 as required by its permit so it kept using Phase I without DEPE approval. Since Phase I was ruled to be unsafe by the DEPE, Commissioner Weiner originally directed that all garbage dumped in Phase I after December 31, 1991 must be dug up and dumped again in Phase II as soon as it opens. After considerable protest by area communities (several towns passed resolutions against the idea), Commissioner Weiner rescinded his original directive on the grounds that digging up old garbage would expose area residents to horrendous odors and place a needless expense on residents. **If Commissioner Weiner agreed that digging up old garbage only to dump it again was a bad idea in 1992, what could possibly make him think it was a good idea in 1993?**
- Upon contacting DEPE officials to ask why they would even consider approval of such a plan, MCEC representatives were told that removal of the wastes now outside Edgeboro's underground wall to inside the wall could protect some small animals (e.g. rats, mice, and rabbits) which might dig into the dangerous substances contained in the waste. Since the wall, if it exists, is underground, this line of reasoning makes no sense at all as the animals would go wherever they please. Also, in December 1992 the MCUA was caught by the DEPE illegally digging in these areas outside the wall in order to pave the way for a new "executive administrative headquarters" for the dump. Is this the real reason for allowing the disruption—so that the MCUA can have a new, executive office building—and that there is no real environmental reason at all for digging up the waste? In any event, why should a dump need a new "executive" office building?
- And finally, the proposed disruption would affect 41 acres outside Edgeboro's wall. Yet according to Mr. Jack Whitman, Edgeboro's operator who made a presentation before the County's Solid Waste Advisory Council in February 1993, there actually is approximately **140 total acres** of old waste outside the wall. Mr. Whitman further stated that he knows of no plans to disrupt the additional 100 acres—indicating that the proposed disruption is being done for no environmental reason whatsoever (after all if it were, why not address the whole 140 acres of old waste outside the wall?). Is it a coincidence that the site for the new office building just happens to be the same site for the proposed disruption? Is the real reason the public would be exposed to toxic gases and odors from the disruption so that the MCUA can build a new palace for its richly-paid officials and high-priced consultants? And is the disruption being proposed so that the MCUA can build a recycling center—for which it does not even have approval-at the Edgeboro site?

Pages Excerpted from:

HOST MUNICIPALITY AGREEMENT

THIS AGREEMENT made this      day of      , 1988 by  
and between the MIDDLESEX COUNTY UTILITIES AUTHORITY, (herein-  
after "MCUA"), a body corporate and politic of the state of New  
Jersey, having offices at Chevalier Avenue, Sayreville, New  
Jersey, and the TOWNSHIP OF EAST BRUNSWICK (hereinafter "Town-  
ship"), a municipal corporation of the State of New Jersey,  
having offices at 1 Jean Walling Civic Center, East Brunswick,  
New Jersey.

W I T N E S S E T H:

WHEREAS, the MCUA was duly organized pursuant to the  
Municipal and County Utility Authorities Law, N.J.S.A. 40:14B-1,  
et seq., and operates in accordance therewith; and

WHEREAS, the Middlesex County Board of Chosen Free-  
holders has adopted a resolution authorizing the MCUA to under-  
take the provision of solid waste services for Middlesex County  
solid waste, a copy of which is attached hereto; and

WHEREAS, by letter dated November 20, 1987 and trans-  
mitted to the MCUA on November 29, 1987 the New Jersey Department  
of Environmental Protection ("NJDEP") has approved and certified  
the Solid Waste Plan Amendment submitted by the Middlesex County  
Board of Chosen Freeholders designating the MCUA as the imple-  
menting agency to provide solid waste services to Middlesex  
County residents only; and



WHEREAS, on November 24, 1987 the MCUA established a solid waste division in order to provide such solid waste services as are necessary and appropriate for Middlesex County solid waste; and

WHEREAS, the MCUA has entered into a one year lease ("Lease Period") with the present owners of certain property located in East Brunswick, which property is more commonly referred to as the Edgeboro Landfill, ("Landfill") located at 39 Edgeboro Road, which leased property consists of approximately 308 acres and is presently the site of an operating sanitary landfill, while the land intended for purchase by the MCUA includes the Landfill plus additional adjoining acreage between the Landfill and the Raritan and South Rivers; and

WHEREAS, the MCUA has also entered into an operating agreement with Edgeboro Disposal, Inc. ("Operator") to operate said landfill during the period of the lease; and

WHEREAS, pursuant to N.J.S.A. 13:1E-28, the MCUA is obligated to annually pay to the host community certain sums and may pay other benefits in consideration of the host community's hosting of a solid waste facility; and

WHEREAS, the MCUA has the power of eminent domain and is now studying acquiring the Landfill and operating same as a landfill for an extended period of time ("Ownership Period"), and the parties wish to come to an understanding with regard to the Host benefits in the event MCUA acquires the landfill; and

WHEREAS, the Township has identified the following actions at law or equity as all of the proceedings where it is challenging the continued use and operation of the Landfill:

- (1) Township of East Brunswick, et al. v. Middlesex County Board of Freeholders, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-5738-87E, filed May 1987;
- (2) Township of East Brunswick, et al. v. Middlesex County Board of Freeholders, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-7357-87E, filed September 16, 1987;
- (3) Township of East Brunswick et al. v. Middlesex County Board of Freeholders, et al., in the United States District Court for the District of New Jersey; Civil Action No. 87-3662 (DRD), filed September 8, 1987.
- (4) In the Matter of Edgeboro Landfill, Middlesex County, New Jersey, Superior Court of New Jersey, Appellate Division, Docket Nos. A-48-46-86T7, A-5748-86T7, Notice of Appeal filed June 16, 1987.
- (5) In the Matter of Certain Amendments to the Solid Waste Management Plan of Middlesex County, New Jersey, Superior Court of New Jersey, Appellate Division, Docket No. , Notice of Appeal, filed December 30, 1987; and

WHEREAS, the foregoing actions seek to restrict the size and/or stop the use and operation of the Edgeboro Landfill based on allegations, among others, that the continued use of the Edgeboro Landfill creates a health hazard, constitutes a nuisance, disrupts normal traffic patterns and violates the New Jersey Environmental Rights Act, N.J.S.A. 2A:35A-1 et seq., the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Solid Waste Utility Act, N.J.S.A. 48:13A-1 et seq., the New Jersey Air

Pollution Control Act, N.J.S.A. 26:2C-1 et seq., the New Jersey Pollutant Discharge Elimination System Regulations, N.J.S.A. 7:14A-10.12, the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the New Jersey Environmental Health Act, N.J.S.A. 26:3A2-21 et seq., the Clean Water Act, and the Resource Conservation and Recovery Act; and

WHEREAS, based upon the agreements of the MCUA set forth herein, the Township has agreed to immediately terminate the Township's participation in the above mentioned causes of action with prejudice, and further agrees not to undertake, participate in or initiate, in any manner whatsoever, any action at law or equity, any administrative proceedings, or arbitration the purpose of which is to challenge, block or impede the MCUA's use, operation and expansion of a Landfill at the Edgeboro Landfill; however, the Township reserves the right to oppose a solid waste facility in the Township of East Brunswick other than a Landfilling Facility.

NOW, THEREFORE, in consideration of the mutual covenants undertaken and promises as set forth herein and the undertakings of the Township and the MCUA, the parties hereto, as by themselves, their successors and assigns, do mutually covenant and agree as follows:

1. Odor Control Equipment

(a) During the Lease period, the MCUA will use its best efforts and good will to cause the Operator to continue the

installation of the gas collection/venting system in order to attempt to mitigate any potential odor problems at the Landfill. It is the understanding of the parties that there are existing funds available in an escrowed closure/environmental account to permit the Operator to extend the gas collection/venting system. The Township and the MCUA agree to either petition or file such other documents as are appropriate with the Board of Public Utilities to request immediate release of the necessary funds from the escrowed account in order to have the Operator complete the installation of the gas collection/venting system. During the Lease period, the MCUA agrees to engage an engineering consultant to study any potential odor problems at the Landfill and possible solutions for the correction of such problems. The parties agree to take such actions as may be necessary along with the Operator to secure NJDEP design approval for the gas collection/venting system.

(b) Within four (4) months of acquiring title and NJDEP approval of the design of the gas collection/venting system, the MCUA agrees to begin to undertake such improvements to the gas collection/venting system as are recommended by its Consultant and as are required by the NJDEP pursuant to Condition 7 of the Temporary Certificate of Authority ("TCOA"), a copy of which Condition is annexed hereto.

(c) Within thirty (30) days after acquiring title, the MCUA agrees to:

(b) During the Ownership period and starting within thirty (30) days after the MCUA acquires title, MCUA agrees that it will continue closure operations in the area shown on Exhibit A in accordance with the requirements of the NJDEP.

8. Leaf Composting Area

During the Ownership period, MCUA agrees to lease to the Township for a period of 25 years with an option to extend for 25 years at no lease cost to the Township a permanent area of approximately 3 acres to be used by the Township as a leaf composting area for East Brunswick residents only. The area leased shall be satisfactory to MCUA and Township and shall be an area which does not interfere with MCUA's Landfill operations. Any improvements required to make the leased area suitable as a leaf composting area shall be the responsibility of the Township. The Township agrees to make available to the MCUA any final composting product that is on the site to the extent MCUA wants the product at no cost to MCUA. MCUA shall be responsible for removing the final composting product at no cost to Township.

9. Host Community Economic Benefit

(a) Lease Period

(1) MCUA agrees to pay a host community benefit of \$3.00 per ton in 1988 for all solid waste as weighted and accepted at the Landfill. At a minimum, MCUA guarantees to pay to the Township the sum of \$1,980,000 during 1988.

(2) MCUA agrees that it will pay to the Township a yearly payment of \$950,000 in equal quarterly installments of \$237,500 with the first quarterly payment being made on March 31, 1988 and the last being made on December 31, 1988.

(b) Ownership Period

(1) Assuming MCUA acquires title to the Landfill as of January 1, 1989, and MCUA is operating the Landfill, MCUA agrees to pay a host community benefit as follows for the years 1989, 1990, 1991 and 1992:

1989 - \$3.60 per ton for all solid waste

1990 - \$3.75 per ton for all solid waste

1991 - \$3.90 per ton for all solid waste

1992 - \$4.15 per ton for all solid waste

The above tonnage payments shall be based on solid waste as weighted and accepted at Landfill during that year. At a minimum, MCUA guarantees to pay to the Township during 1989, 1990 and 1991 the sum of \$2,000,000 per year.

(2) It is contemplated that MCUA will have a Resource Recovery facility in operation in the County in 1992/1993. Therefore, the parties agree that when either the resource recovery begins to receive solid wastes for processing or in 1993, whichever occurs first, the Host Community Benefit set forth in Paragraph (b) (1) hereof and the payment set forth in Paragraph (b) (3) hereof shall be renegotiated. In no event,

however, shall the per tonnage payment set forth in Paragraph (b) (1) hereof be lower than \$4.15 per ton.

(3) MCUA agrees that it will pay to the Township a yearly payment as follows for the years 1989, 1990, 1991 and 1992: a base payment of \$950,000 increased by the percentage increase in MCUA's tipping rate in that year over base year 1988 (excluding statutory taxes) for normal solid waste [i.e., if the MCUA's tipping rate (excluding statutory taxes) increases by 6% in 1989 the payment will be \$1,007,000]. The yearly payment for 1992 will only be made by MCUA if the resource recovery project is not receiving solid waste during 1992. Such payments shall be made in equal quarterly payments with the first quarterly payment being made on March 31 and the last on December 31 of the appropriate year.

10. Covenant Not to Sue and Releases:  
Limitation On Consultants

(a) The Township will, immediately upon execution of this Agreement, file Stipulations of Dismissal with prejudice and without costs to terminate the Township's participation in each of the five actions identified herein, and the Township further agrees not to undertake, participate in or initiate, in any manner whatsoever, any action at law or equity, any administrative proceeding, or arbitration the purpose of which is to challenge, block or impede the MCUA's use, operation of and expansion of the Landfilling facility at the Edgeboro Landfill;

however, the Township reserves the right to oppose a solid waste facility in the Township other than the Landfilling facility.

Consistent with the previous paragraph, the Township will not provide financial support for any of its consultants or permit its own Employees, including any legal or technical advisors to appear or assist in any lawsuit, administrative hearing or arbitration, to request or give evidence or consultation on behalf of any objector or challenger to the MCUA's use, operation, and expansion of a Landfilling facility at Landfill.

The MCUA has specifically relied upon the Township to identify any and all pending actions at law or equity, administrative or arbitration proceedings wherein the use, size or operation of the Landfill is at issue. Such actions are:

- (1) Township of East Brunswick, et al. v. Middlesex County Board of Freeholders, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-5738-87E, filed May 1987;
- (2) Township of East Brunswick, et al. v. Middlesex County Board of Freeholders, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-7357-87E, filed September 16, 1987;
- (3) Township of East Brunswick et al. v. Middlesex County Board of Freeholders, et al., in the United States District Court for the District of New Jersey; Civil Action No. 87-3662 (DRD), filed September 8, 1987.
- (4) In the Matter of Edgeboro Landfill, Middlesex County, New Jersey, Superior Court of New Jersey, Appellate Division, Docket Nos. A-48-46-86T7, A-5748-86T7, Notice of Appeal filed June 16, 1987.
- (5) In the Matter of Certain Amendments to the Solid Waste Management Plan of Middlesex County, New



Jersey, Superior Court of New Jersey, Appellate  
Division, Docket No. , Notice of Appeal,  
filed December 30, 1987.

In the event the Township has failed to list an action, the Township agrees that the unlisted action shall also be dismissed with prejudice and without costs, in accordance with the terms of this agreement.

(b) The Township further agrees to promptly execute releases in favor of the MCUA and/or the Middlesex County Board of Chosen Freeholders, as the case may be, releasing any and all claims or rights which the Township may have against the MCUA or the Middlesex County Board of Chosen Freeholders relating to the use, size, operation and expansion of the Edgeboro Landfill from the beginning of time to the date of this Agreement.

(c) Nothing herein shall limit the right of the parties to seek to enforce the terms of this Agreement.

11. MCUA Termination As Lessee and Owner/Operator

(A) In the event MCUA decides to terminate its lease agreement with the existing Owner or in the event any court or administrative agency enjoins the use of the Landfill during the Lease period causing MCUA to terminate the Lease, MCUA may terminate this agreement upon 30 days notice to the Township whereupon all obligations of MCUA pursuant to this Agreement shall terminate as of that date, including but not limited to the payments set forth in Article 9 (i.e., if the Agreement is

terminated as of July 1, the yearly payment set forth in Article 9(a)(2) shall be \$475,000).

(B) In the event MCUA decides not to purchase the Landfill, all of the obligations of MCUA set forth herein relating to the Ownership Period shall be deemed null and void.

(C) In the event that during the Ownership Period, any Court or Administrative Agency permanently enjoins the use of the Landfill, MCUA may terminate this agreement upon 30 days notice to Township, whereupon all obligation of MCUA during the Ownership Period shall terminate as of that date, including but not limited to the payments set forth in Article 9 (i.e., if the Agreement is terminated as of July 1 of any year, the yearly payment set forth in Article 9(b)(3) shall be one half of the yearly payment).

## 12. Breach

In the event either party breaches this Agreement and does not cure same within 14 days of notice of the breach, or in the event it is not practical to cure such breach within 14 days, or shall fail to take reasonable action to cure such breach within such time, the non-breaching party may terminate this agreement whereupon all obligations of the parties pursuant to this Agreement shall terminate.

## 13. Effective Dates

This Agreement shall become effective upon approval by the Commissioners of MCUA and Mayor and Council of Township of



COUNTY OF MIDDLESEX, NEW JERSEY  
DEPARTMENT OF HEALTH  
DISTRICT OFFICE  
CYKTOR BUILDING, THIRD FLOOR  
629 AMBOY AVENUE  
EDISON, NEW JERSEY 08837  
(201) 738-8780/8785

STEPHEN "PETE" DALINA  
CHAIRMAN

BERNARD G. MIHALKO  
DIRECTOR

April 24, 1991

U. S. Senator Frank R. Lautenberg  
Hart Senate Office Building  
Room 717  
Washington, D. C. 20510

Dear Senator Lautenberg,

We are writing to you in reference to the Edgeboro Landfill expansion (Edgeboro II) as Chief Inspectors, for the Middlesex County Health Department.

The following are our comments and observations as Public Health Officials of Middlesex County.

While in the performance of our duties for Middlesex County Health Department, we were involved in the surveillance of toxic and hazardous waste allegedly being disposed of at the Edgeboro Landfill in East Brunswick. David Papi, Principal Inspector at that time, in cooperation with other enforcement officials did, in fact, stop and prohibit suspect toxic waste haulers from entering the landfill. In addition, trucks with liquids or semi-solid loads, as well as drivers who could not identify their respective chemical waste or did not possess and I.D. manifest were stopped from entering the landfill.

As these truck checks were being conducted, a State Enforcement Official authorized a letter on behalf of the Department of Environmental Protection to allow truck drivers to enter the landfill with chemical waste even though the chemicals were not listed on the authorized Department of Environmental Protection list as approved for Edgeboro Landfill. Therefore, because of the poor monitoring, we have good reason to believe that large quantities of unapproved hazardous and toxic waste was being disposed of at that time.

Soon after, Inspector Papi was ordered removed by Laszlo Szabo, Middlesex County Health Director, from the East Brunswick Health Department supervision and replaced by Steven Stankovits, Chief Inspector. Szabo informed Stankovits that Papi was too aggressive on his enforcement performance and therefore had to be transferred.

A check was made of the East Brunswick Natural Resources Inventory maps which indicated that Edgeboro Landfill does indeed lie over the recharge of two (2) sole source aquifers. Pollution of this underground potable water supply was our primary concern. In the performance of his duties for the Middlesex County Health Department, Stankovits became concerned about the

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chemical contamination of the groundwater (Farrington Sands and Brunswick Shale Aquifer) and the absence of Edgeboro Landfill monitoring well reports in both the Middlesex County Health Department and the East Brunswick Health Department files. In addition, inquiries were made and letters were sent to the Department of Environmental Protection and the New Jersey State Department of Health for copies of the missing lab analysis reports.

A conference was held with Szabo and John Runyon, East Brunswick Business Administrator and Chairman of the South Middlesex County Water Commission. He advised Stankovits that Edgeboro Landfill was protected by an impervious clay layer and no contaminant could possibly be entering the aquifer from which East Brunswick, South River and Sayreville receive their drinking water. Szabo concurred with Runyon's position on the matter.

At an East Brunswick Advisory Health Council Meeting, Szabo released a report concerning the Edgeboro groundwater contamination which contained the Stankovits letter to the New Jersey Department of Environmental Protection and the New Jersey State Department of Health. Prior to forwarding said correspondence to Department of Environmental Protection and the State Department of Health, Health Director Laszlo Szabo, refused to approve this letter for forwarding to State officials.

Prior to this meeting, Stankovits was warned by Szabo's Executive Secretary Jeanne Miller that if "you go to the East Brunswick Advisory Health Council Meeting (on groundwater contamination) tonight, you will be suspended." Stankovits did attend the meeting and confronted Szabo on why he used the letter in the report when he did not forward it to the Department of Environmental Protection and the State Department of Health.

Within two (2) weeks, Stankovits received an indefinite suspension for not keeping accurate records and having dust on his pager. Upon his return to work, Stankovits was ordered out of the East Brunswick Health Department and into the Highland Park main office where David Papi was already assigned. Both Papi and Stankovits had their work assignments removed as well as their county vehicles. While at the main office, both attempted to continue the investigations and enforcement actions at Edgeboro Landfill.

Our actions were thwarted by the County in the following manner:

Numerous air pollution complaints were being logged by the Middlesex County Health Department from residents of Pine Ridge and Lawrence Brook sections of East Brunswick. During this time period, we had occasion to speak with Mrs. Lester, a resident of Branco Place, one of the complainants. We conveyed her concerns, as well as her neighbors, to Szabo and Deputy Director Bernard G. Mihalko and the New Jersey Department of Environmental Protection.

We informed Mihalko that the landfill odors were horrendous and nauseating and that we must immediately institute legal action. Mihalko stated that the complaints of Mrs. Lester were not sufficient and that he now required Mrs. Lester to secure a petition with additional complainant signatures before any enforcement would be initiated.

We informed Mrs. Lester of Mihalko's new requirement for filing an air pollution complaint. We specifically told her that our Department was inhibiting our efforts to investigate the complaints. We told her that if she could get the necessary petition, we would again try to institute action on her behalf and on behalf of the other residents.

Mrs. Lester did contact us with a petition containing 100 signatures. We informed her not only to give us the petition but to mail it to local officials and the New Jersey Department of Environmental Protection to insure her complaint was officially submitted and documented.

We then took the petition signatures and informed Mihalko that David Papi intended to sign summonses against the landfill owners for the air pollution violations. An argument ensued in the main office hallway at which time Mihalko stated "you and no one else in this Department is going to sign complaints against the landfill or the Herberts." Papi then stated he would "go to the Attonrey General" being Mihalko was interfering with his right to enforce the law. Mihalko then stated, "you are off the landfill. Don't go back." Stankovits then told Mihalko that he would then have to sign summonses since Papi was removed. Mihalko then said, "No, you're not, you're off too!!!" Stankovits then asked, "Who is going to enforce the law at Edgeboro?" Mihalko replied, "I'll take care of it."

During this time period, we were stripped of our duties as supervisors, ridiculed, demoted, suspended, threatened with termination, had our county vehicles removed from us and lost all supervisory capabilities over the entire staff.

While this harassment continued, Szabo and Mihalko were establishing environmental divisions based on falsified environmental reports and actions used to illegally extract monies from the Department of Environment Protection Funding. Newly hired, Harold Hershey, Environmental Health Coordinator, head of the Middlesex County environmental divisions began covering up the complaints and violations. He also cooperated with "fixing" fines imposed on landfills at the request of politicians and Szabo. All environmental matters concerning Freid Industries, Monroe Municipal Landfill, JIS Landfill, etc. were transferred to Harold Hershey.

The duties of Chief Sanitary Inspector Steve Stankovits were being audited by the New Jersey Department of Civil Service since the County of Middlesex and Middlesex County Health Department had illegally promoted Dino Zarrella into the position of Chief Sanitary Inspector, the position held by Stankovits since 1970. After making formal complaints to the New Jersey Department of Civil Service, Szabo told Stankovits and Papi, "I will get you for this, you wait." He further stated that "your problem is that you are not flexible. I will only have people in supervisory positions who will show their loyalty to me."

Horrendous odors were repeatedly pouring out of Edgeboro Landfill. We informed Hershey that we went out to the Pine Ridge section of East Brunswick and were inundated with disgusting, putrid, noxious odors from the landfill. Hershey stated "It's supposed to smell, they are digging the garbage out to install a clay containment wall. In fact, Szabo told me he intends to go on vacation until the wall is complete to evade all of the air pollution complaints."

We then informed Harold Hershey that we wanted to inspect the installation of the wall. Hershey replied, "No, you are not permitted on the Edgeboro Landfill." Then he said, "you are not engineers and would not know what you are looking at." We stated "We are New Jersey licensed Health Officers. We are required to investigate what goes on at the landfill, we want to check the wall." He again said "Neither of you are going, no one is." Stankovits then said, "Shouldn't we check to see why they are digging into garbage when the wall is supposed to be on the outside of the landfill." He said, "No, it's none of your business."

A new re-organization was made of the Health Department placing Dino Zarrella into the Chief's position as Interlocal Service Coordinator, demoting Stankovits and Papi to Senior Sanitary Inspectors.

All files and records in the main office were then heavily secured with dead-bolt locks to prevent access to them by Stankovits and Papi. A purge of all toxic waste records was ordered and all such records vanished from East Brunswick, Highland Park and Perth Amboy Health Department files. The Witco Chemical, Dwaine Marine, Edgeboro Landfill, Freid Industries and Cromlin Court, to name a few, were destroyed. Orders were issued by Szabo to begin "dumping files" as he stated "there was inadequate room to keep them in the office." Numerous irreplaceable files were destroyed in violation of the New Jersey retention schedule on public health records.

Szabo and Mihalko then issued a directive that Middlesex County Health Department Inspectors will double the number of inspections on all Retail Food Establishments thereby creating the appearance of a shortage of sanitary inspectors, so that Edgeboro could not be monitored by them.

In 1986, a Home News reporter uncovered the fact that all Edgeboro groundwater monitoring well reports were being falsified and some were missing from the local files. Subsequently, the New Jersey Department of Environmental Protection ordered the laboratory closed and the records were never found. We believe that since the 1970's, all water data at Edgeboro was falsified and therefore our access to any pertinent information was impossible.

A series of Administrative Law Court hearings were conducted by Administrative Law Court Judge David Monyek. The basis of these court cases were: we were demoted, suspended, forced to do out of title work, harassed on a daily basis and continually threatened with termination.

At a hearing in 1989, Szabo, under oath, refused to testify. While on the witness stand Szabo stated that he will not talk because he "feared for his safety and the safety of his family." In addition, he later broke down in the hallway of the State Court and began to cry. Within a few months of this occurring, Szabo was placed on terminal leave and had submitted his resignation. Even Freeholder Stephen Caestro, in a news account, categorized Szabo as "a sick man with mental problems."

Despite the fact that the Middlesex County Health Department established the environmental divisions to provide solid waste monitoring and inspection under an interagency agreement with the Department of Environmental Protection there was no Middlesex County Health Department monitoring of any trucks for hazardous and toxic materials at Edgeboro, except for that which we previously mentioned was done by us.

In March of 1990, Middlesex County officials along with Mihalko again circumvented our authority in the Middlesex County Health Department by giving the duties of Chief Sanitary Inspector to Patrick O. Hanson. Mr. Hanson was appointed to a political non-Civil Service title called Division Head Interlocal Services.

At the same time, Rich Hills, was rewarded for his loyalty in the Edgeboro quagmire by being placed into a politically appointed title Division Head Environmental Services. Hanson, who is the former Princeton Health Officer is embroiled in a controversy with abuse of employees as well as alleged illegal and improper enforcement of Public Health laws. In addition, Hanson ran for the Democratic

Council position along with Mary Crabiel, wife of Freeholder David Crabiel. In looking at Hanson's political election contribution forms, it should be noted that among his contributors were Freeholder Crabiel, Freeholder Director Stephen Capestro, Jack Whitman, Manager of Edgeboro Landfill, son-in-law to the Herberts as well as Daniel and Harold Herbert, owners of Edgeboro Landfill. It seems quite obvious to us that Hanson was given his position in the Health Department due to his political influence with the Freeholders as well as his associations with the owners and operators of the Edgeboro Landfill.

How convenient for the owners and managers of the Edgeboro Landfill that this person they gave money to for his campaign is now second in command of the Middlesex County Health Department.

Therefore, in conclusion, we feel that the landfill should not be expanded because of the conspiracy amongst enforcement and political officials to keep the true operation of Edgeboro hidden from the public and the press.

We base this conclusion on the facts that are reintereated in this letter to you. Until such time that an investigation is conducted by an impartial body, doubts of the integrity of this entire matter will remain. We would hope that you, as a United States Senator, will seek and clarify all the information that is provided to you. We have serious doubts that the location of the Edgeboro monitoring wells indicate the true readings of contaminants entering the aquifer beneath since few or no working wells are downstream from the landfill. We also question the integrity of the Edgeboro Clay Pollution Containment wall constructed in the wet marshlands of the Raritan River.

We have provided you with a brief background of our experiences and dealings with the Edgeboro Landfill as Public Health Officers. We hope you will share our concern in this matter and advise us as to what your office can do to initiate an investigation into this entire matter.

Very truly yours,

Very truly yours,

Steven Stankovits  
14 Ogden Court  
East Brunswick, New Jersey 08816  
(908) 390-0182

David A. Papi  
23 Ten Eyck Place  
Edison, New Jersey 08820  
(908) 321-0377

cc: George Gussis, Esq.  
Raymond Gill, Esq.