

Town of Watertown
Planning and Zoning Commission
Public Hearing
Special Permit/#269 Echo Lake Brownsfield, LLC

Time: 7:38PM
Date: July 1, 2009
Place: Swift Middle School
Media Library Room
250 Colonial Street
Oakville, CT

1. Call meeting to order

The chairman called the meeting to order at 7:38PM.

2. Roll call

The secretary executed the roll call.

Members Present: D. Minnich, R. Russ, C. Mancini, D. George
R. Rondeau

Members Absent: G. Martin, J. Blais, G. Dupliesse, K. Demirs,
M. Masayda

Others Present: R. Mulcahy, Administrator of Land Use
C. Berger, Town Engineer

R. Rondeau sat in for G. Martin
D. George sat in M. Masayda

Mr. Minnich read the By-Laws.

Mr. Minnich read the rules for adjournment after 11:00 pm.

3. Hearing of applications

(Done verbatim)

- a. **Site Plan/Special Permit #269 from Echo Lake Brownsfield, LLC for placement of 212,000 cubic yards of fill including polluted soil as defined by the CTDEP for site restoration for future industrial use located at Echo Lake Road, Watertown, CT in an IR-80 zone.**

Mr. Minnich read the legal notice:

The Planning and Zoning Commission for the Town of Watertown, Ct. will hold a public hearing on Wednesday, July 1, 2009 at 7PM at the Swift Middle School. Media Library, 250 Colonial Street, Oakville, Ct., on the following:

Site Plan/Special Permit #269 from Echo Lake Brownsfield, LLC for placement of 212,000 cubic yards of fill including polluted soil as defined by the CTDEP for site restoration for future industrial use located at Echo Lake Road, Watertown, CT in an IR-80 zone.

Ed Hart – Professional Engineer – Malone & McBroom

I am here to present the site plan for the Echo Lake Brownfield project. Let me start right out the size of the property is 22 acres it is zone in an IR80. It is located in the eastern portion of Watertown and the north side is Echo Lake Road and approximately 2,000 feet to Route 8. The abutters are the Mattituck State Forest, plus a parcel on the northern boundary and on the eastern boundary is the Connecticut Resource Recovery Authority facility on the south is Echo Lake Road is the Capasio property. The project is for the filling and piping of a small water course as part of a remediation action plan that was developed to address the areas of contamination on the subject parcel. I think you probably know a lot of the history so I am not going through all of the old history on this. It was a number of times in the past in 1995 Watertown Inlands Wetlands Agency approved the project with the Army Core of Engineers approving the project and they reapproved the project on October 23, 2008 and then we just got a new Watertown Inlands and Wetlands approval February 12, 2009. The project consists of removal of tires and debris on site as part of the remediation action plan and the placement of 212,000 cubic yards of fill. We would be creating two large bio depression areas one on either side of the pipe, one at the inlet and one at the outlet. The inlet will be a design with an inlet control structure that will slow down some of the flows and keep the run off at the existing levels. We have also provided a emergency overflow pipe in case anything got blocked on this outlet structure and the water would go into a upper level pipe and then into a manhole and down back into the main 36" pipe. We have also provided a control plan and on site drainage swales to control all the runoff on site. In the end we proposed to have 1.6 acres building pad for industrial use. And the only other thing I wanted to add is that we did receive a traffic report yesterday afternoon with a number of comments that we will need to take some time to address we should have those next week but I do not want to go into all the traffic issues until we have had a chance to review those and with that I will turn it over to Joe Wellington.

Mr. Minnich asked if you have the public hearing green cards and the certification of posting.

Ms. Allen said we have those.

Mr. Minnich would also like to make note for the record in this proceeding is an invention under statue 22819 from Judith Capasio Perdue, and James Perdue and you are welcome to participate as that intervener in this process.

Joe Wellington

We are together once again and the purpose of this hearing today is for the public. You have heard us cover things before, we have addressed things in the context of Wetlands permits, and we have addressed things in the context of this application at different times, but the public has not heard where we are right now. Now as this Commission is no doubt aware this project requires approvals at the Federal, the State, and the Local levels. As I go into this and as I describe those various approvals, I will describe to you in my perspective as either of those have already occurred or those that I anticipate would incur if the other agencies exercise their jurisdiction. The purpose of this presentation though is to address the public's concern about the use of the phrase polluted fill. That is something that has caused a great deal of concern this community and well it should and I hope to address that this evening. Now what I did in the interest of making sure that everything was covered is I prepared a PowerPoint presentation which is in the Planning and Zoning Office for the public to view. I did this to make sure that I covered all the points and I covered them logically and effectively and quickly as I could. What I would like to do is go through those if you have any questions if you would please just mark on the documents and then I would try to answer them at the end. My purpose here is to address the environmental considerations that I anticipate would apply to this application for a Planning and Zoning permit for the Echo Lake Brownfield project. The presentation points will cover four different areas, the first will be **project overview** (what is the project), the second will be a description of the **historic site usage** (how has it been used historically and how it being used now), I then will discuss the **project environmental elements** (what has to be done to address the environmental concerns that are at the premise), and then I am going to address what I understand to be previously raised **potential environmental concerns**.

The project overview:

The project overview the project will involve the remediation of environmental contamination at the property and the risk of environmental contamination in a variety of sorts; it will be addressed in and transcribed. It will involve the closure of a permitted land fill; it will involve the closure of unpermitted solid waste disposal areas. What do I mean by that, I mean tires and drums that have been dumped there over the years and those have to be removed and disposal offsite. They will not be buried on site. That will also have a fourth element which will be the development of the site for future use by a third party. The site will not operate as a solid waste land fill. By that I mean it will not be accepting any waste from any source. It will be accepting soils and soils in some cases that you consider solid waste but it is not going to be operating like the land fill that one would normally expect in a municipal context. That is what I mean when I use the phrase solid waste it will not be operated as a municipal land fill.

The historic site usage:

The historic site usage the site was undeveloped prior to the 1970's. The site consists of two parts it is about an 8 acre area at the lower portion of property there is a sheer cliff that goes up to about 40 to 50 feet, 60 feet and beyond that there is a large portion 20 some acres of property they are inaccessible from anywhere except from the state forest that surrounds the property. The lower part of the property that abuts Echo Lake Road was used as a permitted construction debris landfill in the mid 70's. After that particular use was occurring unpermitted landfill materials were deposited there including over 200,000 tires and 100 plus drums and miscellaneous metal wastes associated with cars. I know it might surprise people but right across the street is a former car junkyard and it an amazing coincidence that it also happened that the owner of the junkyard also owned this property. The series of amazing coincidences but on the event it is there it has to be taken care of and it will be as part of this project. The site however is still undeveloped by that I mean there are no buildings, there are no structures, there is no streets, there is no other activity except the presence of waste right now. There is a trailer which will be used as part of the process of getting materials out and addressing materials when they are authorized to go in.

Environmental Elements:

The project has a variety of environmental elements these elements involve the removal of solid waste I talked about and offsite disposal. They involve an environmental investigation and remediation, there is contamination like I said and it has to be cleaned up. The onsite landfill will be closed, there is an onsite stream running from west to east this project involves the closure of that stream with a 36' concrete culvert. It involves raising the grade with fill materials and as that process goes on certain Wetlands areas will be filled, you will see in a few moments Federal and Local permits have been obtained for that. As the project reaches conclusion the Wetlands areas that have been filled will be mitigated by improving the Wetlands areas at both ends of the stream on the property. Then finally there has to be documentation of the property as built. It has design criteria, it has contours that are built into the design process and documentation of those will have to occur.

Turning first to solid waste removal and offsite disposal there are a number of state statues that apply including the Solid Waste Management Act, Connecticut Regulated Waste Disposal, and regulations and so forth and Hazardous Waste Management Regulations. Whatever the waste is that is found there is will have to be managed under the laws that apply to it. If it is a solid waste it will be dealt with in one way, if it is Connecticut Regulated Waste which means Connecticut Non Hazardous it will go another way, if it is hazardous it will go yet a third. Potentially DEP typically would be receiving and maintaining manifests of the shipments of wastes that our regulated. The DEP will have the opportunity to monitor the site as it chooses at any time. So there is nothing that is going to be hidden from the government they have the right to come there at any time and observe the area.

As part of landfill closure there will be a documentation of where the solid waste went. So when the construction debris landfill is finally closed there will be a final report, a portion of that report will document all of the surfical solid waste, where they went, they will have a manifest for each of the individual types of wastes to document their ultimate resting place. Particularly to

show that they were not buried on site it is our understanding that we are not suppose to do that and so we are not going to. Environmental investigation remediation will be performed under the Connecticut Transfer Act. There have been a series of investigations of this property as early as 1995, another in 2002, another in 2008.

Test pits were done and contamination was found, plots were found with petroleum creosol deposits, metals were found in the test pits. We have been asked to dig additional test pits by the DEP to get a sense of what is the depth between the surface of the soil and the surface of the construction debris down below. Test pits have been dug and contamination has been found it will have to be dealt with under the Connecticut Transfer Act. That process involves an investigation, remediation and a final report by licensed environmental professionals. That report will be subject to audit by the DEP and so ultimately it is not done until we are told it is done.

We previously provided a scope of investigations work to this Commission as one of the exhibits that I will touch on briefly in a few moments. There are DEP remediation standards called Remediation Standard Regulations, they pertain to soil, they pertain to ground water surface water and to soil vapor. They are standards that were established by the DEP in 1996 to help people determine when a piece of property is contaminated and what areas would have to be dealt with. If the contamination is below standards in a certain area then it may be possible not to have deal with that contamination. If it is above standards it will have to be dealt with unless there are other receptions such as the environmental restrictions that we really do not need to get into. The bottom line is that the Connecticut Department of Environmental Protection has done a risk analysis and has determined how safe is safe, how clean is clean. And they have done this by problem gated standards which criteria and they are out there for the world to see just as EDEA as done. So as a result of that I would anticipate that any remediation would be governed by those standards. Continuing with the investigation as I said there is a potential for an audit of the LEP final report and the clean up must be by DEP standards. The DEP can monitor the environmental investigation as it is going along if it chooses to do so. It could do so in person, it could do so by reports, it has any number of mechanisms to insure that the work is done in accordance with the desire of the department.

Landfill closure, the landfills had to be closed in the old days we had open landfills, as time went on it was determined you cannot have open landfills anymore under the Solid Waste Management Act is the requirement that you close the landfill. Closure of the landfill requires you to make sure that are not going to have explosion hazard, fire hazard, vermin hazard and that people do not come in contact with the waste. Water will not infiltrate the landfill pushing contamination into the ground water. So there are a number of different things that one has to do to close the landfill and those are covered in the DEP landfill closure regulations. I anticipate though we will apply to closing the landfill that is on site, so once again we will have to comply with state law.

One of the comments we have had when we have had the opportunity to meet with DEP asked us to minimize disruption. What happened as the landfill was filled over the years there was permitted limits. Debris was deposited outside those limits and over a stream. Some of those wastes will have to be disturbed that is what's called disruption. The object is to minimize

disruption because what you do is stir up materials that have been sitting there for 30 years. As we talk you may be creating more problems with disruption than tapping it and moving forward otherwise. So we have been asked to minimize disruption. However when we close the landfill we will close it in accordance with DEP approved closure plan. Let me make my comment right now here if I can I see we have two very important people from the DEP. I cannot speak for the DEP I cannot say what they will or what they will not do. I am speaking based on my experience as environmental attorney in the state for the last 19 years of what I expect to occur under the laws. Certainly the DEP will exercise its jurisdiction as it deems appropriate.

After the landfill is closed the people who perform before the closure have to submit a report to DEP of a post landfill closure report. That is also subject to review and approval. If it is not acceptable then further steps might have to be taken to close the landfill. Finally monitoring, during the closure will be as the DEP deems appropriate that could be in the context again of general reports, site visits, or whatever else the DEP deems appropriate in its discretion.

The onsite stream enclosures, the stream that go along go through three areas of wetlands; there is a set of wetlands on the west end of the property, the up gradient. There is a set of wetlands in the down gradient at the eastern end and a small set of wetlands in the middle. The wetlands in the middle are going to be destroyed if all the approvals occur as we think they would. As I said the stream will be culvert and the area will be filled. Those particular activities are subject to US Army Core of Engineers regulations and Water Inland and Wetlands regulations. My client has obtained the Federal US Core of Engineers permit for that activity, including approval of a mitigation plan to deal with taking care of the impact to wetlands. My client has likewise obtained an Inland and Wetlands permit with the Town of Watertown. Activities have already taken place obtaining Federal and local approvals with regards to Wetlands. Raising the grade with fill materials, applicable state laws I anticipate will be a Clean Water Act and Remediation Standard Regulations. DEP approved involvement nothing happens without DEP approval.

I said it before and I will say it again several times. I anticipate my client will have to submit an application for permit or some way shape or form to have authorization to take activities or do those activities necessary to raise the area with fill. That necessarily involves approval of a fill acceptance plan in other words what kind of fill can be used, where can it come from. These questions that yet have to be answered we have not had a conversation on that; those are matter that have to be addressed down the road. The best matter to be addressed is the state level we believe and the issues we are addressing by this Commission and under the Commission regulations. DEP involvement obviously would review any permit, approve any field acceptance plan, and review the record keeping that would be required. The fill material would not just come in and be deposited. It would have to be analyzed before it got there I anticipate. Records would have to be kept where it came from, records would have to be kept as to its quality and these have to be maintained for a period of time. They may or may not have to be submitted to the department, if they are submitted to the department that will also have to be submitted to the Town at the same time. The Town had total knowledge of the fill materials being used. I already talked about mitigating Wetlands impacts, the regulations that apply. We have had Federal approval of the Wetlands litigation impacts, and the local Town Commission has approved that permit including those activities. When we get done with the project, we have to document the

project as built. Any time you have project regardless of whether it involves fill of 4 feet or 44 feet the bottom line is that you have to document that final grade meets the plans that were approved. When this plan comes before the Commission, it comes before the Commission with grades and elevations. It has various things depicted on it, places where water can go through. For example if the pipe was clogged what would happen. There are designs in the program and in the project that would cause a bypass. Superficially that would allow the water to keep going in the event that pipe got clogged. I am not sure what it would take to clog it a 36" pipe but something might.

Potential environmental concerns

There was some press coverage that our client deals with medical waste. I responded to that by pointing out that is true our client has a permit. Our client has manifests showing that those medical wastes were sent to New York or other places as required by law. The inference was that our client was going to send medical waste to that area it is not going to happen.

The press also said well this company deals with contaminated soils in New Jersey. Raising the inference that our client was going to bring contaminated soil all the way from New Jersey up here and dump them in the landfill with nobody knowing about it. That is not going to happen.

So part of the expressed concern to the public by the press to use the site has a landfill. There is a concern about the extent of the construction debris, as I mentioned DEP would like to get a better handle on where is the edge of the body of the landfill. There is concern about disruption of the waste over the stream. There is a concern about PCB soil contamination. PCB soil contamination has been detected on site. I will cover more of that in a few minutes in a little more detail. It will be dealt with my understanding is a part of the Transfer Act cleanup if not there as part of the landfill closure, if not there as part a separate PCB cleanup on all three areas of the DEP.

Potential Wetlands and in stream impacts I have talked about the quality of fill material and I will go into a little more detail, potential ground water impact that is associated with the question of the quality of the fill material. There has been a concern about the use of the word polluted soil. I will mention that in a minute as what the definition of polluted soil is.

There also has been an issue raised with regarding to tree cutting on neighboring property since that is part of the record by the intervener and I will be addressing that as well. For those who were not in attendance at a meeting on May 20th before this Commission, the Town Attorney advised the intervener and this Commission, that the Commission does not have jurisdiction over tree cutting matter, it is a private matter but that particular issues has been raised in the press on two or three occasions, so I will be addressing it.

Now as I said the first point the site will not be used as a landfill, I will not labor on that. The extent of construction debris we are going to have document that to the department, I am not going to labor on that anymore we will be doing that by test pits. The disruption of the waste material over the stream, we were asked by the public at prior hearing what can't you take the soil and take it back, the debris and take it off the stream. Yes we have to, to a point, we have to get a pipe in but otherwise we are going to minimize disturbance of the landfill body. PCB soil

contamination I am going to touch on some documents in a minute that I have given to the Commission and they are also available in the P&Z office. In 1998 there was a DEP investigation of an anonymous report of a large volume of PCB contamination at the property. An investigation was conducted, it was found not to be substantiated, the department determined at that time and I have the reports available that the matter would be addressed later as part of landfill closure. Going to the private sector in 1995 there was a PCB investigation and there were some soils found that was confirmed in 2002. The contamination was found to be in an area of approximately 30' to 40' wide and 50' long and six inches below the surface and approximately 6" deep, this is not a love canal situation with PCB, the investigation disclosed isolated location with limited PCB contamination. However the site is going to be investigated thoroughly to see if there is any other PCB contamination there has been interface and the DEP knows about the PCB contamination at the site. There was a 2008 investigation once again some limited contamination was found and this will be addressed as part of the site cleanup.

The intervener has raised issues about potential impacts to Wetlands and water courses apparently both on site and off site; this is addressed by two permits issued by the Federal and local Inlands and Wetlands. Those permits were final in February of 2009 for both local and federal.

Now I am going to start talking to you about quality of fill material. The question of what materials could be used as fill in the state of Connecticut is in flux right now. There is a series of questions about what is the best thing to do with soil that has a potential for beneficial reuse. The DEP has a program that which I elaborated on I have more detail, it has I understand it three general permits that are anticipated. The first one I believe has been issued for staging and transportation of polluted fill or contaminated fill. The second would be where can you bring it and the last one is if you are going to treat it. The latter two have not yet been problem gated. The word polluted soil before I became an environmental attorney and before I started reading the law left me with the impression of soil with contamination oozing out of it. Under the remediation standard regulations polluted soils means that if you test it with the appropriate and analytical methods and you find anything at all it is polluted. So that means any amount of contamination that is there which is not natural is pollution. Remember earlier when I talked the remediation standard regulations which set the criteria the detention may be far below the criteria, which means all though you could detect contamination it does not necessarily mean that it is harmful to the environment or to human health. When the word polluted soil is used it is not meant in the context for this is soil with contamination actually oozing out of it. It rather means as the phrase says soil that has been analyzed by appropriate methods and any contamination has been detected. Either of the detection limits of the machinery used or it could be of certain standards problem gated by the DEP whichever is lower. The DEP has control over soils in the state of Connecticut and they can decide where they go and where they do not go. I know that will be the case here as well. Now I am going to give a quick example: the remediation regulations regulate total petroleum hydrocarbons and they say at any level above 500 parts per million is a level of contamination that would have to be dealt with. Below 500 parts per million generally speaking you don't have to deal with it. By not dealing with it I mean you do not have to excavate it. Now 501 vs. 499 it seems like the number has to be somewhere. So those are the numbers that are in the regulations, so what the determination is as I understand it is that

petroleum contamination below 500 parts per million is unlikely to represent a risk to human health or the environment otherwise the standard would be lower. If this project goes forward as anticipated which we certainly hope it will, the DEP will review and approve any soil acceptance plan. That is a matter for State Government; it is a matter under their jurisdiction, and a matter that we suggest best be best dealt with in this application by a permit which required compliance with state laws. Simply making that a condition of the permit as opposed to the Commission getting into the position of trying to approve or disapprove individual permits or soil acceptance plans. That is my recommendation on that. In the context of soil contamination and migration, there are two things that we would be looking at in particular. Gluten mobility criteria talks about soil with enough contamination that if rain water infiltration is pushes contamination leaches it out and makes it migrate. Another criteria is called direct exposure criteria, what this says is that if outside around it long enough, if you get enough of it on your hands and if you eat it or ingest it or inhale it you could have medical problems. Direct Exposure Criteria involves human contact; Gluten Mobility Criteria involves ground water. In an example I am going to explain in a few moments DEP has approved a soil acceptance plan for a particular site.

It does not mean that it is going to be the plan approved for this site, but they have already done it somewhere else for good reasons somewhere else. Soil may contain contaminates below the remediation standards. As I said the DEP is presently looking and I am certain our guest can clarify it better than I that you look at four levels of contamination. Clean fill no contamination, your contaminated fill means that it is below standards but it has something in it. Regulated fill and this manufactured fill an example of that would be Phoenix Soil where they take petroleum contaminated soils they heat them in furnaces with a lot of heat and they burn up the petroleum component. Contaminates may be in soil and so therefore the soil maybe polluted but they may be below the criteria which would mean that it would not represent a threat to human health or the environment again depending on the circumstances. Regardless of what happens DEP will require record keeping I have no doubt about that. If things go as they did with other site soils could be accepted from multiple locations. As you read the background material for the new DEP proposed regulations, they are running out of places to put soil. If soil is not significantly contaminated and could be used for structural fill it makes sense to use it that way to get a beneficial reuse.

I am going to talk briefly about a site called the tire pond. The tire pond is a location where there are a lot of tires, there was an old clay pit, a lot of water and a lot of tires and the DEP ultimately approve the closure plan and soil acceptance plan for that site. It authorized the acceptance of soil from locations across the state as long as they met particular criteria. That is why I say the DEP would have approval of fill acceptance plan before we are allowed to except the fill.

The next point I would make is that I anticipate the fill acceptance plan would be based on remediation standard regulations because they are designed to avoid impacts to the environment. Tree cutting situation is a private matter outside the jurisdiction of this Commission but it has been raised by the intervener. It was an inadvertent action by an independent contractor because the same waste piles were on both properties. Trees were cut in the spring of 2008 to gain access to the tires, gain access to these waste piles of drums and other materials. The neighbors claimed 2.5 million dollars in damages in a request for restoration of wild trees under 0.6 acre lot. They wanted us to plant 350 eight, nine and ten inch trees assuming a 20% failure rate. Connecticut

Planning and Zoning Commission

Wednesday, July 1, 2009

Echo Lake Brownfield

Page 10

Supreme Court has said the value of cut trees is as fuel; however this particular matter has been raised both in the Wetlands matter and this matter and with the DEP with notice of violation contracts.

In conclusion with regard to project oversight, if I were a citizen in this town I would want to know that the government is going to be looking at every single step of this process to make sure that environment is not adversely affected. Soil contamination, the DEP will be looking at that in the context of the Transfer Act as well as ground water contamination. Solid waste the DEP will be looking in overseeing that. Landfill closure the DEP overseeing that. Fill quality I anticipate the DEP will be overseeing that. Ground water protection the DEP will be overseeing that. We are seeing a pattern here. Fill placement that will be both the Wetlands Commission, the Planning and Zoning Commission and the DEP. Surface water protection has already been addressed by the various the Core of Engineers permits. Wetland mitigation will be addressed by the Town Wetlands Commission and the Army Core of Engineers.

I will briefly address my qualifications only because it is important when you are talking to a body, you're talking to a jury you are trying to lay a foundation it is nice to know a little bit about the person that is making the statements. So you can decide whether or not to give them any way. I have been in practiced in Connecticut and Massachusetts. I have practiced Federal and State environmental laws for approximately 18+ years. I was a JAG in the US Marine Core and Environmental Attorney for the Marine Core for 3 years and I served as a military trial judge.

I have provided certain documents to the Commission which again these are available to the public. I am going to touch on them very briefly for their significance. I know I have taken a lot of time but this is a very important matter and I do have to create a record because there are interveners and I have to create a record for future consistencies. The **first document** you'll see in these particular materials is a **DEP Transfer Act form 3**. You see that our client has committed to investigate and remediate contamination of property to the extent required by the Commissioner of the DEP. The **second document** is a document I submitted to this Commission previously. It is the **investigation plan** and scope of work that my client has provided with regards to its initial round of investigations at the site. Environmental investigations are necessarily interim, we go out you look if you find something you keep looking some more. This talks about the initial steps and it includes a portion on PCB investigations. The **third document** is the **Inlands and Wetlands permit** that we received for the Town of Watertown. The **fourth document** is the **Army Core of Engineer permit** that we received. The **fifth document** is the **e-mail from the Core of Engineers** approving the Wetlands mitigation plan. The **sixth document** down is the emergency incident report from the DEP from anonymous informant concerning PCB contamination at the site. The **next document** down is extract from a report called the **remedial action plan** which addresses the PCB contamination. In this particular document what you will see is the physical depiction of the contamination. You will see its horizontal and vertical extent, its limited at least in the area it was identified. The tire closure plan this is a plan that was reviewed by the DEP. I have to emphasize this is unique to this site. I am not saying that the DEP would approve the same thing at our site. I don't know what the DEP approved, we have had preliminary discussions with the DEP, and in fact they were very preliminary

discussions as to how this thing will move forward. The reason that is important paragraph 3.6 it talks about acceptable fill material which is the document that is next in order, where the DEP has said these are the things that you can accept as fill at this particular tire pond site. They concluded addressing petroleum, PCB's, metals, organic compounds is says what you have address and it also includes limits and what can be accepted. I would expect nothing less in the event that this matter goes forward with a soil acceptance plan. The **next document** is the **depiction of the property**, this is important because the upper area that I talked about is up here, it is surrounded on all sides by state forest. There is no way to get to it from the lower area unless there is a hole blasted through the wall that is not contemplated. The lower area that I talked about is done in here; the land fill is up in this area. This small little notch out here is the intervener's property. The **next document** you will see a **photograph** that was taken of the property after the tree cutting which contained a large pile of 55 gallon drums, rusted drums and tires. The independent parties that cut the trees saw that pile of materials just like the other piles on the properties and cut the trees in the access areas. The **next document** is a letter from the **intervener's attorney** in August, demanding the damages be rendered or paid. The **next document** down is a discussion and the **Town Times** about the 2.5 million dollar claim saying that is the value of the trees. The **next document** down is my letter to the editor explaining why that is wrong. Attached to that is the **proposal from the arborist** who said it was to restore the site to its original wooded condition and make it woods again. Off course all the trees would have to be cut down if the property was ever to be developed 2.5 million dollars later. The **last document** is simply my biography once again to create the record.

Mr. Chairman I appreciate the opportunity to go through all of this material, I thought it was appropriate to give the public and a general review and I know the Commission has heard most of this before. I will make myself available for any questions from the Commission or through you for from the public.

Mr. Minnich asked if members of the Commission had questions now or do we wish to wait. I guess we will wait. If I may I would like to ask the folks that are here from DEP if they might be able to give us some brief understanding of where things are with this project and our focus quite frankly as you are well aware, you have all the work here. Our concerns are I think Ruth has relayed them to you, is what the soils are that are going to be brought here, how they are going to be brought monitored, because in the end our concern is real simple. It is also their goal is that when this is completed their will be a site to which can be used for what it is intended purpose of zoning was which is an IR80 zone and bringing in some sort of industrial uses for that property. So we want to understand if we can where we are in all of this process as you can well imagine it is complicated for us and no doubt it is for you. Would you mind helping us with that? Thank you.

Diane Duva – Assistant Director of the Waste Engineering Enforcement Division & Materials Management Compliance Insurance – Connecticut DEP

I have worked with the department since 1992 in the areas of waste management and environmental cleanup. I currently responsible for programs that include overseeing the permitting and enforcement of solid waste, recyclables, beneficial use of solid waste, hazardous waste, as well as pesticides management. The reason I am here tonight is not to testify as to the pros or cons of the application that is before the Commission. But in response to the Commission's request for accessibility to the department in the forum that includes the public and to address any questions that Commission members may have as to regulatory definitions that are involved with the project that is before you and to maybe clarify some questions that imagine that are on your mind.

I think what may be most helpful is to break down the project into a couple of its different phases. Specifically you have a phase that involving the closure of the permitted landfill that was permitted back in 1973 to another party. You have the unpermitted disposal areas that surround that permitted landfill. Then you have another phase which is the site development phase. If you think of it in 3 different ways that may help to understand the role of the quality of the fill material needed. You had also asked about where the department issuing the notices of violation in 2008 to the former property owner and the permitte. Through other litigation it appears that resolution as to who will take responsibility for resolving this violation is close at hand. We anticipate working with current property owner to actually address the closure of the land fill that was permitted in 73, the areas around it and the actual questions of what the quality materials going forward.

With respect to the roles of the department and the local Commission the department's role is to review the closure plan and to essentially serve in a regulatory capacity overseeing the cleanup of the property as a whole. The site is enrolled in a environmental cleanup program known as the Property Transfer Act. In that program licensed environmental professional has been delegated to take on the daily oversight role of insuring that environmental investigation of the whole parcel is conducted and a review action plan is put into place. So you have a combination of department approving the closure plan for the permitted landfill and the licensed environmental professional ensuring that the environmental investigation and cleanup of the property as a whole is carried in accordance with guidelines and practices and cleanup is in compliance with remediation's or the regulations. Before I go on with the definitions involved was there a question in terms of the roles of the department.

Board Members Concerns

Mr. Minnich said you have answered mine.

Ms. Mulcahy asked that would mean that the DEP is not going to be on the site, this would be left to the individual hired as the licensed environmental professional by the applicant. You would just add the documents coming in; you would never be out there.

Ms. Duva replied the progress statements it is not that we would never be out there. It is not the role of the department to physically be there. We want to see the sight cleaned up, a licensed environmental professional has been specified as being the quality professional to work as this site and the department's role is essentially an auditor and overseer. In fact we specifically requested that we actually have an opportunity to go to this local board that's been prepared for the remedial investigation and remedial plan for the site. Personnel and remediation has actually taken off with a plan that is in the process of getting comments for the licensed environmental professional. So there is a little more involvement than there might be for your standard transfer act site simply because of the scale of the project in terms of the long standing solid waste disposal area concerned to the Town and Town's current applications that are before you that I know that are causing some questions and concerns, so we are a little more involved than we might be had another site. There are literally hundreds of thousands of sites that are undergoing that we cleanup everyday and so our role is not actually to be there but to answer the questions to the professionals and the property owners.

Ms. Mulcahy asked I know that Attorney Wellington corrected me he said that you don't need to approve these plans you just giving them some comments.

Ms. Duva replied we ensure that the plans are in conformance with the prevailing standards and guidelines and that they put into place a path for achieving compliance with the regulations so we are working in the sense of making sure that it is on the path of compliance. Part of the purpose of delegating the site to licensed environmental professional is to keep the process for the cleanup moving in a timely fashion.

Mr. Rondeau asked the environmental engineer that is going to be overseeing this, that is going to be hired and paid by the applicant who is actually doing the work and I am sure people are probably thinking there is a conflict of interest there, what type of oversight is this occurring to make sure there are not any improprieties going on and I don't mean any disparaging details to anyone but I know that is a potential concern.

Ms. Duva replied it is a real prominent question and it is really a common concern. The way to look at it is not to treat a person that has been hired surely they must not be interested in doing the right thing and interest in what the client wants. But that is not actually the scenario that is being conditioned when licensing of environmental professionals occurred. Just as with Professional Engineers, Medical professionals, Plumbers any skilled trade or professional trade that has a licensing involvement that professional involved has is part of their license the obligation to essentially ensure that human health environment is protected through their actions

and their verifications and their insurances that compliances with environmental standards are achieved. So whenever a licensed environmental professional is specified or delegated the department relying on that person license to ensure that they meet the ethical standard spelled out in the regulations for licensed environmental professionals. So it is a very common question, people ask that all the time, they ask that when people pay for the laboratory testing and the laboratory is going to ensure the integrity of the reputation for the licensed environmental professional, ensures the integrity of their reputation it's a small state and people aren't doing the right thing is pretty well understood.

Mr. Rondeau said thanks for clearing that up.

Ms. Duva explained the **definitions** I think are probably at play and the last thing would be sort of what as you as a Commission in terms of what is your ability to control. The definitions that important here is **Polluted Soil** which is a regulatory definition. Another definition that is really important to understand that has a meaning is **Clean Fill**. That definition is spelled out in this management regulations and the current definition says that **clean fill** consists of natural soil which is soil that doesn't have any detectable contaminate in it. Things like concrete, brick, asphalt that does not propose any sort of ground water threat or fire hazard or anything like that. This is the important one **Polluted soil** that meets the remediation standard regulations for the location that is being used and that meets the reused requirement of the remediation standard regulations. So that definition is what is at play here. When you talk about soil be part of the plan. That is also where you as a Commission have the ability to safeguard what goes into use at this site. Because the department will as part of the approval of a landfill closure plan we will specify the level of quality that is needed for the cover materials for the landfill closure.

Attorney Wellington used an example from that pretty unique plan health situation in the other part of the state to get the department to get involved in place of the property owner. That closure plan specifies what cover materials will be used essentially with grading materials and the cover materials will be used to close or to be used in the implantation of the closure plan, so one time that you might be using clean fill that you might be using something that is approved for reuse is in the conformance of the closure work for the landfill which actually creates the landfill forum. With respect to this property those cover materials and qualities the department would have a say in what quality that is. But the cover material is really limited to the land form of the old permitted landfill. That is not the whole property that is a central portion of the property it is not a whole parcel. The material used to close the landfill has to be specified in the closure plan. That has not yet been submitted to the department so we are not reviewing that but we will review that and we will need to approve the quality of the cover material that used in the closure the permitted landfill. That portion in 1973 that footprint that we are asking to get better definition on and it does not apply to the rest of the property. The rest of the property has to essentially undergo sight investigation and cleanup. That scope of work has been prepared by the licensed environmental professional, any materials that are in excess of the cleanup standards have to be removed, all of the waste has to be removed, the tires have to be removed, any of the wastes that are currently at the site outside the footprint of the land will have to be removed. As part of the remedial action plan decisions related to how clean is cleaning up that rest of the concrete will be made in context of that remedial action plan. The remedial action plan will be

one discussed by what the quality of the material is. That is overseen by the licensed environmental professional who submits the verification at the end of the day to be audited by the department. This department has a role in the role of an auditor. We also look over the shoulder during the process as we are doing now by looking at the scope of work. I think that this is what is really before you, the quality of the material that would be used as fill material to prepare the site for development.

Now we have to back up and say that is why it is important to understand the definition. Is that really not an environmental issue it is not part of the landfill closure, that where we say it is important to understand the definition of landfill? You do in that sense have an ability to safeguard what the quality of the material is coming at this site. You can specify that a permittee shall receive that are clean fill as defined by Connecticut's regulations and any materials that are solid waste shall not be received. Although it is true that the department is looking to revise the definitions of clean fill it is possible for you to have some control even today under the existing definition of clean fill what that means though is that remember the definition of clean fill includes soil that has something in it as long as you reuse it in accordance with reuse rules. That's where you would have a ability to say either we want it to be clean fill and it's good enough for us that is has to be reused in accordance with the reuse rules and from a remediation standards those will have to say it is has to be clean enough as if you were doing a cleanup here or you could be more specific. You could say the only materials allowed to be used are fill or something else. Soil that is reused in accordance with the reusables is essentially considered safe enough for the location that it is going to. Your role and application consideration is really more about whether or not you want to specify that material has to be clean fill level or has to be essentially approved for use by the department. So that is where you have some ability to safeguard things by putting some specific language in your permit, if you issue a permit.

The other thing is you can do something maybe you have done in other situations, I know it is common in many different local aspects which you can require either the permit applicant or another party to hire a third party licensed environmental professional to monitor the filling activities. So essentially if part of your concern is how will we ensure that the logging of where the material is coming from and what the material is, there is a concern to you then you can essentially ask for a third party oversight, if that is something that your Commission is going to consider. It is something we have seen before, but again this is really about having the quality of the material and the quantity of the material when used for site development is not something that the department really is in. The department is looking at the material used in the closure of the landfill. That is not a whole lot of material it is just whatever is needed to close and create that land form. The material coming in as fill has to have a purpose remember because otherwise it is not a beneficial use of a material if it does not have a purpose. So it has to be being used as essentially an effective use as a grading material for fill material, it has to have a purpose. That is really important in distinguishing what is solid waste, what is beneficial use of solid waste and solid waste itself is really broad definition, anything that is abandoned or discarded. Even excess soil from a construction contract that is going on is essentially a discarded material and therefore if you want to use it beneficially you need to ensure that you are using it. The activity has to be a purpose, it has to be a grading purpose, filling purpose, not a disposal purposes to speak. So that is the fine line if you are struggling with it, I think that is what you are really focused on. So you

could have a third party oversight, you can essentially specify the quality of material by saying it has to be material that is approved for use the department or clean fill material and you can require the logging of the material just a standard what material is being used. You can essentially refer to the definition in the state regulations to help you be specific. If you have words like materials, that does not have a regulatory definition but if you use the definition clean fill it has a meaning. If you say approve reuse by the department that has a meaning. Those were two of the essential questions that we have. Are there others?

Board Member Concerns

Mr. Rondeau asked is it not true there is a quality of the fill you can have. In essence you could have a dump truck show up that has all natural soils in it in two cinder blocks in it and that is considered clean fill or you could have a truck pull up with entire thing with crushed cinder blocks with no “native soils” in it and they are both considered clean fill is that correct.

Ms. Duva replied under the current definition that is correct. Clean fill could contain natural soil and it also includes concrete.

Mr. Rondeau asked of grading that 50% in other words...

Ms. Duva replied I think there is a way for site specific situation and in the example that Attorney Wellington was introducing and other examples we used reporting cover materials, we can be specific and say no asphalt, no this, no that, just soil, just sediments, be specific in what kind of cover materials you are willing to have used. In the case of the filling operation you might be specific in saying no asphalt, just soil something like that. So you could be specific, because the current definition of clean fill is very broad. You can be more specific in what mean for material that is going to be used.

Ms. Mulcahy asked this relates directly to our regulations in the Town of Watertown Zoning Regulations under filling of land it requires that the fill material shall consist of a minimum of 80% of earth fill with remainder of woody vegetation and masonry only. Then it goes on to say no trash, garbage, filling materials, or junk of any nature shall be permitted. Do you think that this proposal is going fit into that definition 80% of earth fills?

Ms. Duva replied essentially soil is an earthy material; sediments are an earthy material, so I think that the earth material percentage that is in regulations is useful to you. Because then you can actually specify that the soil is an earthy material and the definition of natural soil essentially...

Ms. Mulcahy replied so you think the type of what they are calling polluted soil and your clean fill would fit as the same definition as earth fill that we allow, we have other applications that come in for filling and anything with a certain amount that comes before the Commission and we usually require 80% has to be earth fill meaning your first definition in clean fill, natural soil. So I am just wonder in this particular case would they have to do an 80% natural soil and then 20% of the contaminated, if we require that I am not sure how they...

Ms. Duva replied that is an essentially good thing to be thinking about because you are working with definitions that exist in your regulations and avoiding terms that do not have definitions that is useful to you so you have an definition of earth material perhaps or least have a definition of fill that needs to be 80% of earthy material essentially you could do it but use different words like there can't be more than x percentage of polluted soil, it has to be a combination of natural soil and polluted soil, I only caution you on that is that natural soil is pretty extreme, I think if I dug in my yard I would not find natural soil there, polluted soil begins at a laboratory detection level. The important thing about it that you use it in a way that matches with the property use, so you could use a percentage you know that has to be at least percentage of natural and no more than a percentage of polluted soil that is being reused. I think that using those terms is what is important. Having those percentages you may need to consider an ability to meet this that if it is not workable.

Ms. Mulcahy replied I am just wondering in future projects and subdivisions all of them use a fill and many people come in for fill applications and I am wondering if they did use the polluted soil they would have to go through DEP as well or no.

Ms. Duva replied it the definition of clean fill that is at play someone representing that their providing clean fill for a filling operation is essentially representing that the soil is natural soil and that any soil that has to detectable contaminates they have gotten approval from the department for reuse under the current regulatory structure. How much that the case is a really good question. Using the terms natural soil & polluted may be useful.

Mr. Mancini asked as far as the polluted for reuse that we are all concerned about I guess it comes from Phoenix Soil that soil that would come from that plant that came here, polluted soil for reuse that is the type of soil that we are talking about.

Ms. Duva replied that could be a broad variety because the definition of polluted soil is not specific to any treatment facility or anything else but the example you are using soil that goes to Phoenix is treated has to be treated in conformance with that facility permit. Then when it gets reused it has to be subject to the department approval of either goes to a landfill as cover material or goes a beneficial use...

Mr. Mancini said my concern has there been any documentation or any problems like for example we are using 200,000 cubic yards in this one area would there be a difference from using the same type of soil say 10,000 yards in an area compared to using 200,000 yards in an area. Is there any difference because you are using a lot more of this soil would there be more of a problem with it.

Mr. Duva replied I think that is something that you can ask the license environmental professional in terms of what is the range essentially what you are asking is how much soil do you need, and the effect of greater volumes and how I can speak for that because you have to have that specific numbers that you were looking at.

Mr. Minnich asked are there any other questions from the Commission. We do as a process have an intervener; they have a right to ask questions. Are there any questions of Diane, or any members of the Commission from the intervener?

Interveners Concerns

James Brideau – 0 Echo Lake Road

One of the questions I have is you are asking for a blanket permit to bring the soils, is that something that DEP usually gives out or is that something out of the ordinary or...

Ms. Duva replied the department typically provides a blanket approval currently at this time we don't because our regulatory structure is site by site specific approvals. We have been finding that somewhat unworkable. So we are looking at revising it but currently it's essentially a change in protocol that would be necessary, there are other aspects of the department that get involved with this in the remedial programs in the department and what the authority to approve the use of polluted soils lies. We are also looking to approve problematically to address it by providing a general permit for beneficial use of soil and this brings you back to the main point. It is about a use of soil that the soil is performing a function as a fill or grading material, the purpose of the soil and activity and if it is then that specific approval can be made. So right now we have case by case specific approvals but to be clear we are in the process of developing and as a public process those permits that were developed they have not gone through public notice yet we are getting to them but essentially it is project approvals and the blanket of approval would need to be in the form of specific request for that.

Mr. Brideau asked they only need 4' to cap the landfill and not 60'.

Ms. Duva replied the question is what is needed to cap the landfill. That is why have the closure plan going through because of the landfill and forum that is needed for it. It is probably pretty specific volume that has not been calculated for the closure plan that has not been submitted. Your question is, is it a little or is a lot and the closure plan is just for that reason.

Mr. Brideau asked can they close this landfill without coming to the board here and asking for approval for a redevelopment, bringing all the other unnecessary soils for closing the landfill. Can they do that?

Ms. Duva replied the question is that can you independently ask the department to review a closure plan or if you are required by the department to submit a closure plan after being approved and approved independently. The answer is yes, the closure plan is an entity unto itself. The permitted landfill portion is simply related to the landfill.

Joseph Dienkowski – 403 Long Hill Avenue, Shelton

I would like to ask does your department have a higher standard for application protocols for this magnitude polluted soil to be deposited in the stream valley less than a quarter mile from the fourth largest river in Connecticut.

Ms. Duva replied the question is what level of quality is required in sensitive receptor areas vs. others or is there consideration for environmental settings. There is consideration for environmental setting and it the form of the Remediation Standard Regulations which has two components to it. Direct exposure criteria and that is to protect people from soil that blows in the wind and the air they breath. The component that is mentioned is ground water and that is mobility criteria and that is based on the environmental setting. So that the area where the ground water classification is reflected of the fact that people can presume the water is drinkable without any treatment which is known as a GA quality area has a higher quality than a GB area which is an area where you don't presume the water is drinkable without treatment it could be because you don't make that presumption and there is a mapping that is available in a lot of town halls, so you could see what the water quality classification is. Essentially the idea is that an area GB ground water quality area that level of soil quality has to be clean enough that it will not cause contamination of drinking water and the GA areas there extra buffer a safety net of more stringent safety level. So it would be a mistake to think that the GB quality soils are not protected with ground water, it is more that they are protected and that is the baseline in the GA areas there is an extra level of safety provided to ensure that any soil that has reached the end of the remediation process is clean enough. So there isn't a specific analysis as to the proximity to the specific river or anything else at the time but the soils being reused system is considered is translated by does the soil meet remediation standard cleanup criteria for that site. So there is two considerations is at the level of standards, whether or not it effects the hydrology is really is to the wetlands does it affect water courses or wetlands functionally or physically is really more of a wetlands permitted process.

Mr. Minnich asked if there are any more questions.

Board Member Concerns

Ms. Mulcahy asked following on the question about closure of the landfill would this land owner regardless of what this Commission decides, the land owner would still be responsible for the closure and that would proceed forward is that correct.

Ms. Duva replied correct.

Ms. Mulcahy asked it does not matter what this board decides their closure procedure, they are going to close the landfill.

Ms. Duva replied right the property owner is compelled by state law today to both close the landfill and investigate and remediate the rest of the parcel. That is independent of any land use decisions.

Mr. Wellington said I would like to make 3 points. **Point One** - First of all the landfill has been there for 30 years and nobody closed it, the tires has been there for 30 years and nobody has closed it. This property was not purchased to close the landfill this property was purchase and this application was filed to develop a property for use as part of the taxable tax base of this town. **Point Two** – I ask you to recall what Ms. Duva said if you dig in my front lawn you probably find polluted soil and what that means is definition is very strict and so what I would encourage you to do is the third point. **Point Three** – Is to consider the comment that the approval would be required in accordance with the reuse rules as approved by the DEP that would get this particular Commission out of deciding how clean is clean when the state has already done that. I would encourage you to consider the state regulations that have already been developed and let the state experts revolve it in the context of the soil. I also what is going on the top of the landfill is probably clean enough and I would expect the same would be above it. I would encourage those three points.

Mr. Rondeau asked 212,000 cubic yards of fill that are being brought in.

Mr. Wellington said yes that includes the fill for closing the landfill.

Mr. Rondeau asked based on that number how much of that soil is being used to close the landfill vs. how much of that soil is being used for site development.

Mr. Wellington replied I would have to ask the engineers, the bottom four feet are being used to close the landfill, everything above that is being used for development. Let's take a hypothetical if the top of the landfill is at 4 four then 8 feet would be the top to close the landfill anything above that up to 32 feet would be additional fill for development by way of example.

Mr. Rondeau said it was pointed out that the actual area of the property that is being covered for landfill purposes is small in relation to where the soils would be distributed. Is that not correct.

Mr. Wellington replied and I would ask you to go back to my third slide that says that the project has four components, remediation, closure of the unpermitted landfill, closure of the solid waste areas, and the development for the site for future use. So the closure of the landfill is a parcel of this project but it is only one element.

Ms. Mulcahy asked you said develop the property for use and I am just wondering in terms of the IR80 zone district which use were you thinking of in terms of you said develop for use.

Mr. Wellington replied whoever buys it next and appears before this Commission. We are developing the property for future development and use by a third party. We are not actually going to build the structure on top of it. We are providing the fill is being used for a purpose which is to make the site useful for industrial and commercial purposes.

Ms. Mulcahy asked the amount of fill that you are bringing in it justified by making it useful in what capacity.

Mr. Wellington replied if you stopped right now and you go on the site and look down the hill looks like that if going to use to develop property you have to bring the back side of the hill up level and so fill will not be added near the road that is already at level. So the back area is going to have 40 foot of fill, the middle area will have 20 feet of fill, the front area will have 3 feet of fill and the right of the road will have 0 fill.

Ms. Mulcahy asked getting back to the use aspect usually you show some feasibility or when a subdivision comes in, they show whether they could put a house on site after they have finished filling and re grading and they also show on other sites the proposed to have development they show where they are going to have utilities and that type of thing and I understand what you are saying is that you are bringing in this fill to create that but the feasibility is that going to be shown.

Mr. Wellington replied the feasibility is not relevant to this project in that this project is designed to develop the site for someone else's use. If I am not mistaken your regulations say that an industrial and commercial property has to have a minimum of one acre, this site would will have more than one acre it will have 8 or 9 acres available. How it will ultimately be used by someone or maybe two people I can project how they are going to use it down the road. But it cannot be used in its current condition by anybody or anything. When the landfill is closed it can't be used for anything else both because it will have the steep bank, the only way that the property will be developable and useable and part of this tax base as productive property is to raise the back side of the property to make it level.

Ms. Mulcahy asked I am just struggling with how to write a motion for what particular part...

Mr. Minnich said at the next public hearing obviously you are going to have some issues you are going to deal with traffic perhaps your engineer could help us to understand this concept of how the soil needs to be compacted so indeed can have a property that is going to have some sort of buildings and parking lots and so forth. I been well aware of landfills being put in where there are leaves and whatever and you cannot do them for the purpose to which you have intended. So if we could understand the compaction should be that would be helpful to us.

Mr. Wellington replied it would be covered.

Mr. Minnich asked we are going to ask the public and I just want to make the comment we are going to continue this public hearing because there are some issues but before hand do you have a question for Diane. I know she is anxious to return home as she wants and you are welcome to stay and I do want to thank you on behalf of the Commission and thank the department for your coming here. So many we hear things in bits and pieces and it has been very beneficial for this whole picture to be put together. So thank you very much.

Ms. Duva said I will not go on but two these two last questions reminded me of quickly. Is the post closure use approval is a standard part of landfill post closure, monitoring and maintenance so any post closure uses does have the department's approval required. So whether someone uses

Planning and Zoning Commission
Wednesday, July 1, 2009
Echo Lake Brownfield
Page 22

it as a parking lot or as something else that always requires approval. There is a variety of post closure uses that have been approved but it essentially it does require approval and the environmental protection agency has a role in reviewing the cleanup of the PCB's.

James Brideau – 0 Echo Lake Road

If I could have Mr. Minnich read this into the record because it would go along with what Mr. Wellington was just saying.

Mr. Minnich said I will be happy to read it but it is not from me.

The Town of Watertown
Planning and Zoning Commission
July 1, 2009

Re: Echo Lake Road, Brownfield non conforming expansion of land use

Echo Lake Brownfield presents their project as future industrial development, however they are not showing utilities including septic or well with a feasibility of putting the building there, nor do they have a project plan for the site. Echo Lake Brownfield is not just closing the landfill it appears they are expanding the landfill which is a non conforming use. The original landfill permit was only for 2.1 acres according to their fall financial reports from 2008 this Brownfield site is to generating to come to dispose of the soils from their transportation disposal segments. Definition of a landfill is to dispose of waste material. According to Watertown zoning regulations under non conforming uses of land section 6.6.1 states such non conforming uses shall not be enlarged or increased nor extended to occupy a greater area of land that was occupied with effective date of adoption or amendment of these regulations. It appears obvious that the amount of polluted soil that they are bringing in is more than needed to close the landfill, thus appearing to be an expansion of the landfill use. Also they have shown no feasibility that this land can be used for any building. Has proof been shown that the soil will be compactable so that a building could be constructed? This project can be called industrial development but to quote the president John Adams "facts are stubborn things and whatever maybe are inclinations or the dictates of our passions they cannot alter the state of facts and evidence". The fact is bringing in 212,000 cubic yards of polluted soil which translates into over 14,000 truck loads does not appear to be simply capping the lot. The fact is only one out of every 20 truckloads will be sampled and the sample taken will be very small. The facts is, is it necessary to pipe a running stream in three foot casing and bury it up to 70 feet of polluted soil. The fact is that expansion of a landfill is a non conforming use. From what I understand from the DEP whether this project is approved or not by the town, Echo Lake Brownfield will still have to close this landfill property. The applicants began clear cutting their land while still did not have their final approval from the town to begin work according to the cease and desist order dated April 28th 2008. They are continuously challenging authority of the Planning and Zoning Commission to pass history as any indication of what lies ahead there could be a great challenge in the future for the town.

Judith Brideau

Mr. Minnich asked if someone could make a copy for the applicant and send it to them. I know we have a lot of other issues and we are going to continue this so I am not trying to cut anything off but we have advertised this as a public hearing is there any members of the public who would like to speak on this topic tonight.

Public Concerns

Bob Grigorski – President of the Naugatuck River Water Association

As one of the one thousand members that has volunteered to clean up the Naugatuck River. The concern here is once they put this pipe in the ground they are going to have to start filling over it. Depending of what type of soil they put in it you have a heavy rain like we had this afternoon that is going to wash downhill and end up into the brook. We have tried to stop siltation in the Naugatuck River we have done a pretty good job. We have also reduced the odor in the river which comes from chemical and biological pollution. So I would like to please the board to be extremely careful for that first 20 foot gulley right now that will be filled first. What is the protection in the melting of the snow or heavy rain problem? To answer a question before will it clog a 36” pipe probably two beavers working in one day? I have seen it happen.

Steve Rosignoll

But I fish in that Naugatuck River whatever fill they are going to put in there could be polluted and they don't say what they want to put in there according to what it said in the Town Times. So anything could run in there and run down that pipe and into the river and then the river is all gone again. It took 47 years to clean up that river and we don't want to pollute it again.

Margaret Miner – River Alliance

I am really coming to make somewhat of the same point that I made with the Wetlands Commission and I spoke up at the DEP that certainly ideally you would want to see at least closure plan approved before proceeding at the local level to give permits. I regret that we missed Army Core thing I have to read my e-mails more carefully. The plan for closing this has not yet fully submitted much less approved so I do feel the cart has been before the horse in these two Commissions. One point I wanted to make is in the Wetlands Commission when there was a great deal of emphasizes as the Chairman had said the DEP will be looking over the people shoulders the whole time. The DEP has outstanding people and very good goals they do not have resources to come down and look over people shoulders. They basically are lucky if they could get through the paperwork and I particularly with other groups work on sewage issues and it could be many months and even years of an excedence before it is really possible for the department to prioritize things gear up and take action. So I would recommend anything you want a belt and suspenders approach if you want the soils sampled, what you want try to get it in, I am sorry there was not more on the Wetlands permits from your point of view. The DEP feels frustrated that they dealing with 169 different towns but you also have the ability I think and Diane Duva was giving you very good clues to set standards and I said I think if it is legally possible I would try to duplicate what the DEP says they are going to do, they will try to do but you might want to be sure your are doing the same thing watching the same steps and same outcomes so have you have an ability to take action and for some reason DEP can't get there is unable to take timely action. So that just my recommendation and I would like to congratulate

Planning and Zoning Commission

Wednesday, July 1, 2009

Echo Lake Brownfield

Page 24

our River People they have done a great job of cleaning the Naugatuck and I think there are better things coming down the river.

Susan Kouhia

I am concerned about the safety of the Echo Lake Brownfield project. I do not want pollution from other states deposited in Watertown. In considering the extremely hazardous materials on the old landfill I am not comfortable with them willing to clean up on this site so close to the Naugatuck River. Contamination in the Naugatuck will become everyone's problem as it flows through the Housatonic, Long Island Sound and the Atlantic. I have attached a brochure from the Connecticut Environmental Review Teams could they or the regional Brownfield partnership of the Valley Council of Governments be consulted for input. The Connecticut Environmental Review Team provides comprehensive technical assistance as a public service free of charge to all towns. I have also attached the names of 32 Watertown residents who are also concerned.

Phil Ceptein, 403 Longhill Avenue, Shelton

Over 212,000 cubic yards of polluted soil is a tremendous concentration of pollution to be located in a small community like Watertown with a limited municipal staff and resources. This is an extremely large amount of polluted to concentrate in a small geographic area. The ramifications of this massive concentration of pollution may result in unforeseen environmental hazards and liability for the town of Watertown for the future.

Mr. Minnich I am sure the applicant has much more to say but if you would indulge us for another evening. Let us then have a motion to continue this public hearing on Wednesday, July 15, 2009 at 7Pmn here in this room.

Text of Motion: Continue public hearing to July 15, 2009

Motion made by: C. Mancini

Seconded by: R. Russ

Aye: 5 Nay: 0

Michael Masayda _____
Secretary

