

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON WATERFRONTS

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September 29, 2009

Start: XX:XXam/pm

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HELD AT: Council Chambers  
City Hall

B E F O R E: MICHAEL C. NELSON  
Chairperson

COUNCIL MEMBERS:  
Alan J. Gerson  
Gale A. Brewer  
Melissa Mark-Viverito  
Julissa Ferreras

## A P P E A R A N C E S (CONTINUED)

Roland Lewis  
President  
Metropolitan Waterfront Alliance

Edward Kelly  
Executive Director  
Maritime Association of the Port of New York and New  
Jersey

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CHAIRPERSON NELSON: All right.

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SERGEANT-AT-ARMS: Quiet, please.

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CHAIRPERSON NELSON: That's all

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right. We're commencing the Committee on

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Waterfronts. First, I would like to identify my

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colleagues: Council Member Alan Gerson, to my far

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left, Gale Brewer to my closer left, and I would

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like to thank Colleen Pagter, Policy Analyst to my

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left, and Jeffrey Baker, Counsel to the committee

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to my right, you're left.

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If anybody would like to testify,

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please contact the Sergeant-at-Arms, and, with

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that, I would say it's good afternoon and welcome

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to today's hearing on the Committee on

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Waterfronts. My name is Mike Nelson, I have the

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honor to Chair this Committee.

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Today we take up the issue and Reso

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1816-2009--it sounds something like [off mic]

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start of a country to where we are today--urging

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the state to reclassify clean or processed dredge

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sediment from a solid waste to beneficial use in

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order to increase its potential for beneficial

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reuse.

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The fortunes of New York City have

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1  
2 always been closely tied to its harbor in the 19th  
3 century New York lead the world in port commerce,  
4 shipbuilding, and industry, and today the Port of  
5 New York and New Jersey Port is the largest port  
6 on the East Coast and the third largest in the  
7 country, supporting over 230,000 jobs and  
8 generating 15.5 billion in GPD, and 5.8 billion in  
9 local, state, and federal tax revenues.

10           Additionally, the city's waterfront  
11 is not only an economic engine, it also provides  
12 venues and parks, transportation, and recreation  
13 activities including sailing, kayaking, fishing,  
14 and bathing. All the waterfront activities that  
15 we enjoy and rely on, however, are dependent on  
16 our access to the water and over time as mud and  
17 silt accumulated around our piers and in our bays,  
18 that access becomes compromised. Unfortunately,  
19 as the accumulation is underwater and not readily  
20 apparent to the casual observer, the threat of the  
21 accumulation of mud and silt is often not noticed  
22 until it becomes an expensive problem to fix.

23           The resolution that we are  
24 considering today asks the state to reconsider how  
25 it manages the reuse of dredge spoils, instead of

1  
2 uniformly treating dredge spoils as solid waste,  
3 the Council requests that the state permit a  
4 beneficial use exemption for processed and  
5 dewatered sediment and with its contaminants  
6 either removed or stabilized to be used to fill in  
7 accordance with the US Environmental Protection  
8 Agency regulations.

9           Our sister state New Jersey--which  
10 always gets me crazy, we're not the first with  
11 everything--has already created such an exemption.  
12 This exemption for the beneficial use of dredge  
13 spoils is an important step to maintaining the  
14 harbor in a condition necessary to support its  
15 commercial, transportation, and recreational uses.

16           And our first person or panel to  
17 testify, I think would be, of course, Mr. Roland  
18 Lewis, Metropolitan Waterfront Alliance, an old  
19 friend of the committee--hi, Ed, good to see you,  
20 unless you both want to come up together.

21           [Off mic]

22           [Pause]

23           CHAIRPERSON NELSON: Sure,  
24 representing a veritable dynamo of information  
25 about our harbors, right.

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[Off mic]

ROLAND LEWIS: I have on good information and belief, as we lawyers would say, I think I represent our friends over EDC, whether they come here or not, in addition to Port Authority. Right out front, of course, we fully applaud the effort to reclassify sediment as a beneficial use.

CHAIRPERSON NELSON: And what's your name, sir?

MR. LEWIS: Oh, Roland Lewis, I thought you--

CHAIRPERSON NELSON: Okay. Just for the record.

MR. LEWIS: You gave me such a nice introduction, President of--

[Crosstalk]

CHAIRPERSON NELSON: [Interposing] I know who you are, of course.

MR. LEWIS: --Waterfront Alliance. And I think this is an important step toward raising awareness about a problem that is literally creeping up on us. And as the example I always use for lay audiences that are not as

1  
2 familiar as the committee and my colleague Ed, is  
3 the Intrepid, we all saw that moment when that  
4 great ship was to be rehabbed and they had the  
5 brass bands and the politicians and she wouldn't  
6 move because she was stuck in the mud, and that  
7 mud is rising everywhere.

8           So in addition to the awareness and  
9 hopefully change in regulatory nomenclature to  
10 using beneficial use which, as you note in the  
11 statement that you were reading from, will not  
12 change the testing, the public will be just as  
13 safe environmentally as they would otherwise. But  
14 we will have more discretion as to how to use this  
15 material.

16           If I may digress to EDC for one  
17 second, EDC we have a wonderful event called City  
18 of Water a day, which happens on Governors Island  
19 and EDC actually last, this summer, just a couple  
20 of months, ago brought 3 cubic yards of material  
21 sand for beneficial use of being a sand pit for a  
22 tug-of-war for fun, for people to educate the  
23 public about what this stuff actually is and how  
24 important it is. It was a wonderful effort to  
25 show everyone that it's not toxic. And certainly

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2 once it's treated, it's not toxic.

3

4 In addition to the nomenclature  
5 change, I would also, as we always ask all  
6 government authorities, including Port Authority  
7 and EDC and the Council, to remember the cost  
8 issue, you recognize it in your statement. I  
9 actually, anecdotally, and Ed could probably back  
10 up or give specific examples of cost of well over  
11 \$100 a cubic yard. And, again, when it hits the  
12 little guy, it's a particularly tough, it's bad  
13 enough when the Army Corps has to pay and the Port  
14 Authority has to pay that higher level and it's  
15 making it more difficult, but now, if it's a small  
16 marine operator or the Parks Department or  
17 whomever to trying to keep up in Sheepshead Bay or  
18 79th Street Boat Basin, we will eventually use  
19 these important facilities.

20

21 And also coordination, I can think  
22 of one example were EPA is--I'm sorry, DEP is  
23 dredging on a combined sewer overflow outfall in  
24 Flushing Bay right now, a stone's throw literally  
25 from the marina. Why not use the money that's  
being spent and the effort being spent to do the  
entire area around that marina, so allow that



1  
2 marina to.... So it's coordination amongst New  
3 York City's own agencies when we are doing the  
4 dredging.

5 So, again, I applaud the  
6 resolution, we support it wholeheartedly, all 400  
7 members of the alliance and we'll work with you in  
8 any way to help pass it and get our state to catch  
9 up to New Jersey in this case.

10 EDWARD KELLY: Good afternoon, my  
11 name is Edward Kelly, I'm Executive Director of  
12 Maritime Association of the Port of New York and  
13 New Jersey.

14 CHAIRPERSON NELSON: Red light on?

15 MR. KELLY: I'm sorry, I said I'm  
16 sorry.

17 Good afternoon, my name is Edward  
18 Kelly I'm the Executive Director of the Maritime  
19 Association of Port of New York, New Jersey  
20 comprised of over 500 paid corporate and  
21 individual members, representing most of the  
22 direct maritime use on a commercial basis in this  
23 port.

24 We certainly applaud this movement,  
25 we think that this is an essential element toward

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moving toward a rationalization of the naturally recurring dredging requirements that happen in this port.

The natural average depth of the Hudson River is 18 feet, needless to say, that's not very conducive to almost any type of commercial activity. However, we're here today, not just on commercial activity, but because of many of the smaller operators, whether they be ship repair yards, tug and barge operators, recreational marinas, or even actual beachfronts, the dredging of waterfront property is an essential part to the proper usage for whatever type of water use will take place, whether that be recreational or commercial.

We certainly support this, we look toward, as has been mentioned by the Chair, a parity with what is done in other states so that we can dredge effectively and in a cost effective basis in this port. We have several facilities here that compete with other ports for business and, because of the high cost of dredging in this port, much of it unnecessarily high cost because of the classification of the dredge materials, we

1  
2 are unable to compete with other ports. We have a  
3 shipyard on Staten Island that has lost a contract  
4 for the Staten Island ferry to be repaired, it  
5 will now move to Norfolk, Virginia, not very good  
6 idea for the city of New York--it takes the jobs  
7 and the revenues with it.

8           The commercial maritime industry,  
9 just to remind people of the scope, the latest  
10 study released by the New York Shipping  
11 Association for 2008 shows that there are over  
12 270,000 direct and indirect full-time job  
13 equivalents in this area with \$11.2 billion in  
14 personal income, 36.1 billion in total business  
15 income, 1.6 billion in total state and local  
16 taxes, and that this represents a total growth of  
17 over 16% since the last study in 2004 and a 62%  
18 growth since 1993.

19           If we are hoping to continue the  
20 continued expansion of this port, not only for  
21 commercial, but also for recreational and other  
22 habitat issues, it is essential that we come to  
23 grips with the proper and rational dredging  
24 program in this port. Many other ports have done  
25 so, we are at a competitive disadvantage by not

1  
2 doing so. This is an essential first step toward  
3 creating a rationalized dredge material plan.

4 Of course, many people will be  
5 aware of the 50 foot dredging project that is well  
6 underway and nearing completion and this port that  
7 will preserve access for deep water commercial  
8 vessels and for perhaps the next 30 to 50 years.  
9 Those people don't have a real problem with  
10 disposing of dredge material, they're the Corps of  
11 Engineers, there are billions of dollars involved,  
12 large-scale state environmental organizations are  
13 inspecting and coordinating. It's the little  
14 people that get hurt by the lack of an ability to  
15 dredge in this port. As we say, it's the local  
16 marinas, it's the ferry operators, it's the tug  
17 and barge people, it's the ship repair facilities-  
18 -of which are essential underpinnings to a  
19 successful commercial operation in this port and  
20 to allow the ability of recreational use of our  
21 waterfront, which is sorely lacking.

22 This is a city of water, it's a  
23 water port, it's an estuarine port, which means  
24 it's fed by rivers, those rivers are a tremendous  
25 source of biomass life activity, a natural

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2 flushing and cleansing program, but,  
3 unfortunately, it also results in accumulated  
4 silt, which is here and has to be dealt with every  
5 single year.

6 Small-scale operators without the  
7 ability to perhaps use beneficial use of clean,  
8 responsible dredged materials, find it's  
9 economically not possible for them to dredge their  
10 facilities, thereby frustrating their ability to  
11 invest in waterfront properties that will make our  
12 city a much better place to live.

13 So, in summary, representing all of  
14 our commercial members, and I believe also most of  
15 our recreational, commercial fishery, all people  
16 in this port that use this water, we have to come  
17 to the recognition that silting is a natural  
18 condition, dredging is a mandatory operation, and  
19 that, where it is possible with clean, reusable,  
20 viable dredge materials, it's a win-win situation  
21 when the community can find a good, profitable,  
22 viable use for clean dredge materials instead of  
23 treating it as a contaminated substance, which it  
24 is not. Thank you.

25 CHAIRPERSON NELSON: Well thank you

1 [off mic] and always impress me when you're  
2 sitting there warehouse of information. And I  
3 just don't understand why sometimes people in  
4 government don't really take up your findings more  
5 rapidly.  
6

7 Do you have any idea why the state  
8 hasn't acted upon this yet, the beneficial use  
9 exemption?

10 MR. KELLY: You're asking me to  
11 find a kind word for NYDEC, I'm at a total loss,  
12 and it will never come out of my mouth, at least  
13 not in the foreseeable future. Those people are  
14 obstructionists and we're actually considering  
15 litigation on a host of series because we can not  
16 get proper permits to rehabilitate existing  
17 waterfront facilities, coffer dams and pier heads,  
18 to replace in kind and place is taking us years to  
19 get permits, it's a horribly frustrating  
20 situation. And as a guidance, we don't face these  
21 issues in other states--New Jersey--and many  
22 people are going to consider moving there, it's  
23 not a very big jump, and when you're in a maritime  
24 business to relocate a ship or a boat, it's pretty  
25 easy. So we're kind of frustrated with DEC and we

1  
2 think New York is way behind the curve as far as  
3 the way they treat this dredge material.

4           And, again, I am the first one to  
5 say this has been a long historical industrial  
6 area. There are areas and there is dredge  
7 material that is contaminated, must be treated as  
8 such, must be remediated in a proper fashion.

9 There is a tremendous amount of dredge material  
10 that does not deserve a hazardous label and that  
11 increases the cost of handling to the point that  
12 it's ridiculous and frustrates investment.

13           MR. LEWIS: I've got to add my--

14           CHAIRPERSON NELSON: Sure.

15           MR. LEWIS: --and speaking a little  
16 bit out of turn in that we're certainly not ready  
17 to sue DEC, we are hoping to work cooperatively.  
18 We've been funded by the Robert Sterling Clark  
19 Foundation for a very extensive study of the  
20 permitting process in, actually both states, but  
21 focusing tremendously on New York and really on  
22 that one agency that Ed just mentioned, and there  
23 are a number of, I think, solid recommendations  
24 that we're going to be setting forth, probably  
25 going to be released--a draft of that released

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2 within a month, and I'll be happy to share it with  
3 the Committee. We're sitting down first with DEC,  
4 they have an early draft and we hope to work  
5 cooperatively with that agency.

6 In Jersey, they did a similar  
7 process and it was championed essentially by their  
8 environmental agency, which is the New Jersey DEP,  
9 and we're hoping, and maybe Ed's a--

10 MR. KELLY: Been there, done that.

11 [Crosstalk]

12 MR. LEWIS: --lots of [off mic]  
13 I'll probably get from my friend, from most folks,  
14 but we're hoping that Pete Grannis and his  
15 colleagues will take this work seriously and work  
16 cooperatively with knowledgeable folks like Ed and  
17 others to reform the process' cause Ed's  
18 perception is certainly not alone, he's not alone  
19 in that and his frustration he's not alone--

20 [Crosstalk]

21 MR. KELLY: We've been there and  
22 done that, we've staged several meetings, of  
23 course, this is not to bash DEC, but insofar as it  
24 does impact waterfront development, we've been  
25 there, done that. And Staten Island Economic



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Development Co-op, in conjunction with New York City Economic Development Co-op is drawing a white paper for final presentation prior to litigation.

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We can only bang our heads on the wall so long, we've made these recommendations, we've had meetings with these folks and I think we might need a bigger stick to try to get them to listen, but we're trying, we're trying. And just to point out, what is easily done in New Jersey is a monumental problem for the state of New York-- shouldn't be.

CHAIRPERSON NELSON: Well I'd like to see the New Jersey exact way it's written out and when--

[Crosstalk]

MR. LEWIS: [Interposing] I'd be happy, there was a commission that was led by Chris Daggett, the former EPA administrator and also developer, and so he had street cred in both worlds and basically put the environmental and development community in New Jersey through a three-month boot camp at the behest of Governor Corzine, this came from the very top. And I'll give Council and you the link to their findings

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2 and their recommendations, they're commonsensical  
3 and quite good. We're not there yet by any  
4 stretch of the imagination and I think Jersey had  
5 a head start in the way they've--

6 [Crosstalk]

7 CHAIRPERSON NELSON: [Interposing]

8 I suppose in nautical terms, I don't understand  
9 the negative splash back for the state to do this.  
10 Again, I suppose, pun intended, but this may be an  
11 undercurrent here, a reason why we're not jumping  
12 on it, it seems to be better for the economy,  
13 better for the environment, I seem to be missing  
14 something with this.

15 MR. LEWIS: And further, they have  
16 a statutory edict to support maritime jobs and  
17 maritime industry. So this is not far from what  
18 they're supposed to be doing. So to give them any  
19 benefit of the doubt that in this region, there's  
20 a heightened and very diligent concern over  
21 environmental degradation and they've take it to a  
22 degree that some would call absurd and  
23 obstructionist, but we're going to try to meet  
24 them where they are. They're supposed to support  
25 maritime jobs, they're supposed to allow for

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2 replacements of facilities on the waterfront for  
3 maritime industry. So we're hoping that that is a  
4 common ground that city agencies like EDC and  
5 important civic organizations like Ed's can find  
6 with DEC and move forward on that front.

7 MR. KELLY: There is definitely a  
8 biased mindset as far as that goes with the DEC  
9 people. It's also bureaucratically totally inept,  
10 what should be a standard procedure for pre-  
11 hearing and to set up for a permitting process is  
12 just like something out of the dark ages. There  
13 is no pre-set formula, there is no requirement as  
14 to what must be submitted, what inspections  
15 qualities assessments have to be done. It can  
16 take up to two to four years just to get a permit  
17 hearing where you can actually start to get the  
18 permit. I mean, it's just totally frustrating,  
19 which also leads people not to invest in  
20 waterfront property because they will never know  
21 whether or not they'll be able to get the permits  
22 necessary to improve the properties. And as a  
23 result, when work is not done, if these pier heads  
24 or whatever are left to degrade, it actually  
25 degrades the waterfront.

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2 MR. LEWIS: They say they're going  
3 to do this as a general permit for maintenance  
4 dredging so you don't have to reapply every single  
5 time and go through the 4 or 5-year process. So  
6 that would be a step forward, just having a  
7 standing general permit for maritime industry for  
8 maintenance dredging. It's done in other states,  
9 not done here.

10 CHAIRPERSON NELSON: Yeah, and  
11 going from the name of dredge spoils to beneficial  
12 use--

13 MR. KELLY: Dredge materials,  
14 materials.

15 CHAIRPERSON NELSON: It's yeah,  
16 euphemistically, I think it's much a better sound  
17 to it, too. I mean what's in a name, a lot is in  
18 a name, Madison Avenue has known that since its  
19 inception.

20 MR. LEWIS: Speaks volumes, it's--

21 CHAIRPERSON NELSON: It really  
22 does--

23 MR. LEWIS: --absolutely right.

24 CHAIRPERSON NELSON: --I mean  
25 between like the difference between the name like

1  
2 Murgatroyd or Anasthasia, whatever. It presents a  
3 whole different image and psyche, if you will.

4 I wanted to mention, too, that  
5 Melissa Mark-Viverito has joined us, Council  
6 Member, thank you.

7 And any of my colleagues want to  
8 ask any questions? Sure, Alan.

9 COUNCIL MEMBER GERSON: Just the  
10 Chair brought up the New Jersey experience. Is  
11 there enough of a history there or record there  
12 that we should learn from in terms of anything  
13 maybe that we should do a little differently or a  
14 little better, or everything that we should  
15 replicate, or just what should we learn from our  
16 friends across the river?

17 MR. KELLY: Part of that was the  
18 comparison study, but looking at what New Jersey  
19 has done, no one is perfect, but they have  
20 streamlined their permitting process and they have  
21 recalibrated some of what they deem acceptable and  
22 not acceptable, they've re-examined. But the key  
23 thing is to streamline the permitting process.

24 MR. LEWIS: That, and also just  
25 resource. In Region 2, there is not one person

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dedicated toward dredge in DEC's New York City region. Jersey has a number of folks that focus on this issue alone in terms of helping with the permitting and also studying ways to finance it and make it and places to put the reuse material, they also coordinate amongst agencies. So the Parks Department is talking to their maritime division within DOT about where it would be queuing up good locations for cleansed material.

So there's a whole bunch of activity, and it's one of them is just bottom-line resources, they put more people, more dollars, more money into management.

COUNCIL MEMBER GERSON: But the payoff justifies the input.

MR. LEWIS: Without doubt.

COUNCIL MEMBER GERSON: Yeah.

MR. LEWIS: Without doubt.

COUNCIL MEMBER GERSON: Well I think your call is loud and clear, and that's why I've joined with our Chair in cosponsoring the resolution, and I hope we'll get it done and I hope the state will get it done. Thank you very much, thank you.

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CHAIRPERSON NELSON: Thank you.

What can the little people like myself or whoever dispose of the dredge materials right now?

MR. KELLY: It depends on how the dredge material is classified, whether or not it is toxic, and then the cost involved. There are various means of remediation, if it is in fact pristine or clean, it's not such a big problem, it can be moved, however, it does carry in this state a label, no matter what, it's considered a hazardous material because it is a dredge material. But a lot of that can be used for landfill, clean dredge material can be used to remediate marshlands, wetlands, reconstruct shoreline and environmental ecosystems, it can be used for construction fill, if you need to fill in holes and things. There have been a certain amount if it's processed out toward agricultural purposes, some of the mud is actually very nutrient rich and it's usable that way. However, there are some contaminated spills, most notably the north shore of Staten Island is subject to dioxin tainting as a result of the Diamond Shamrock.

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CHAIRPERSON NELSON: PCP.

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MR. KELLY: Which you know as Agent Orange, which was up the Passaic River and, again, as an estuary system, it flushed down and it filled in. When you dredge, you create a hole, and the new silt fills in the hole, so a lot of what happened in other areas has now become the problem of New York City. People that now have to dredge some materials that are actually tainted, they can be baked, they can be transported in land, some of them have been put onto rail cars, used to fill in old mines out in Pennsylvania. There's all sorts of varying uses depending on the condition of the dredge material itself.

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MR. LEWIS: Absolutely and--

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MR. LEWIS: Right.

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MR. KELLY: --finding a connection for beneficial use because he's not connected, he doesn't know the people in the Parks Department or the construction industry or--

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CHAIRPERSON NELSON: Yeah.



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2 MR. KELLY: --he's not aware of a  
3 major city or state project that's looking to fill  
4 land. They're not involved in reclamation of  
5 ecological properties, so as a result, they have  
6 nobody to go to, in essence, to really find a  
7 beneficial use for this stuff.

8 MR. LEWIS: And then of course,  
9 that little guy, you better have a big fat wallet,  
10 as--

11 [Crosstalk]

12 MR. LEWIS: --pointed out.

13 CHAIRPERSON NELSON: --wouldn't be  
14 so little anymore, yeah.

15 MR. LEWIS: Quarter million dollars  
16 for the testing to find out what's in your soil.

17 CHAIRPERSON NELSON: Didn't EDC  
18 have a plan, or they came up with a plan to match  
19 people up?

20 MR. KELLY: They've talked about it  
21 but it really hasn't gone very far, and again,  
22 talk about dredge--we have to stop saying dredge  
23 spoils, we have start saying dredge material.

24 CHAIRPERSON NELSON: Beneficial use  
25 or what--

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[Crosstalk]

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MR. KELLY: And they had the Dredge Material Management Program, which makes the horrible acronym of DMMP.

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CHAIRPERSON NELSON: DMMP. Yeah, yeah, yeah, yeah, you'd think they'd have a better idea of how to sell things.

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MR. KELLY: I think it's the best use of government is to accomplish tasks that individual men are not capable of doing and if we can get EDC to function on this regard as a clearinghouse to coordinate, as they do in New Jersey and other states, to coordinate among Parks among construction, among city planning, among ecological development programs, reclamation of marshlands, so that they would be aware of potential beneficial uses of this dredge material, and they could in essence become a matchmaker between individual small companies doing dredging, and if they come up with clean usable dredge material they could match that to an existing program and either remove the burden of some of the cost of disposal or potentially even create some type of a profit from this that could maybe

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make a city or a state agency self-sustaining.

MR. LEWIS: You put your finger on it a minute ago with EDC, the dollar amount and what actually Ed was talking about with Diamond Shamrock or with GE and PCBs, we're cleaning up somebody else's garbage, as simple as someone dumped a load of refuse on your front lawn. And so the equity of this is just outrageous in terms of that small operators whether--and you know, it's the Parks Department, they have a marina division that's trying to operate Sheepshead Bay or [off mic], so when I talk about small operators, it can be the city of New York. There's limited budgets that our friends Nate Grove and Keith Kerman have over at Parks Department to deal with this matter, as limited as Steve Kalil's budget over at Caddell Dry Dock. And so they're literally dealing with someone else's garbage that was caused upriver, flows downstream, and then the public policy that we made to close down the mud dump is now being borne by them because it made the disposal amount costs go way up.

So once we get past permitting,

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once we get past interagency coordination, we do have to deal with cost and in an equitable fashion that protects the smaller maritime user.

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CHAIRPERSON NELSON: Do you have an idea of the current costs? Would it be per cubic yard?

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MR. KELLY: Dioxin tainted is approximately between 140 to \$155 a cubic yard right now.

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CHAIRPERSON NELSON: Cubic yard.

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MR. KELLY: Because it requires upland disposal and/or heat treatments which are just--

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[Crosstalk]

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MR. LEWIS : I would update what you have in your report actually, that's--

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[Crosstalk]

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MR. LEWIS: The lower for the non-contaminated rock aggregate potentially sand can be somewhere around in the 40 to \$55 cost.

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CHAIRPERSON NELSON: And would a change in regulations affect the cost one way or the other?

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MR. KELLY: Absolutely, I think it

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2 would not affect the cost of the dredging  
3 operation itself, but if we can create beneficial  
4 use as opposed to disposing of what's classed as a  
5 hazardous material, obviously the potential for  
6 people to accept and utilize clean fill, the only  
7 problem with it is that it carries a label,  
8 removes the stigma, and would open up the ability  
9 for people to use it, therefore, people would be  
10 willing to take it as opposed to being forced to  
11 dispose of it, so the cost could be cut  
12 dramatically.

13           And, again, I will be the first one  
14 to say, there's a lot of dirty stuff out there  
15 that needs to be properly remediated. And a lot  
16 of this stuff goes back to Diamond Shamrock with  
17 dioxin and back to the old tanneries back in the  
18 1800s, and a lot of these heavy chemicals or heavy  
19 minerals settled and this is some of the stuff  
20 that has to be dealt with, but it's an estuary  
21 system, and in many cases, as Roland has  
22 mentioned, we're cleaning up somebody else's mess  
23 that happened to have damaged the waterways of the  
24 soil upriver that over the years comes down. And  
25 some of the trace amounts of dioxin that still

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2 come down. Steve Kalil of Caddell likes to say  
3 that on the test, you will find more dioxin in his  
4 shirt than you will find in his dirt. But being  
5 responsible, if there's dioxin in that material,  
6 it needs to be remediated.

7 [Pause]

8 CHAIRPERSON NELSON: Thank you.

9 Julissa Ferreras has joined us, welcome, Council  
10 Member. Any other questions for the panel at all?  
11 Any other people going to testify?

12 Well, again, it's always a pleasure  
13 to see you, Roland and Edward. You've given this  
14 Committee so much information and so many good  
15 ideas to go forward with, we really appreciate it.

16 MR. LEWIS: Keep reading that [off  
17 mic] on dredge, it's important, I think--

18 CHAIRPERSON NELSON: Yeah.

19 MR. LEWIS: --it's, as you said  
20 before, hidden, but critical that we address it.

21 CHAIRPERSON NELSON: Yeah, I think  
22 locally, well I think globally and I'm acting both  
23 ways, and locally as well, my problems in  
24 Sheepshead Bay besides and the other 578 miles of  
25 waterway that we have, it's an expensive problem,

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2 but it could be made cheaper and it's something  
3 that we have to really move on based upon the  
4 gross national product and everything else that's  
5 involved in this and people's livelihoods are at  
6 stake.

7 MR. KELLY: And it is an  
8 unavoidable and virtually eternal situation that  
9 we have to come to grips with, we've just  
10 celebrated the 400th anniversary of Hendry Hudson  
11 getting here, and it's been 300, and I guess 80  
12 some odd years, that we've been dredging in this  
13 port to facilitate ships to come close to shore so  
14 that we can bring goods in and out. As long as  
15 the rivers continue and there is water, there will  
16 be a continued need to dredge. The fact that we  
17 have backed ourselves into this conundrum is kind  
18 of an--just not acceptable. It really does need a  
19 viable rational solution at present and going  
20 forward, because, no matter how much dredging we  
21 do today, we will need to be back doing dredging  
22 and maintenance dredging back next year and back  
23 10 years from now and 100 years from now.

24 [Pause]

25 CHAIRPERSON NELSON: Just read my

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mind is the guy with the shovel, trying to send the ocean waves back, yeah, unless you have a better plan.

[Crosstalk]

MR. KELLY: Unless we get enough global warming to raise all the water levels and that's not necessarily a desired outcome either.

[Crosstalk]

CHAIRPERSON NELSON: Got to be a better way, yeah. Well, again, thank you so very much for appearing.

And I think that convenes the meeting of the Waterfronts as of September 30th, isn't it? 29th, I was one more day in September, 29th.

MR. LEWIS: 30 days hath September.

CHAIRPERSON NELSON: 2009, thank you so much.

MR. LEWIS: Very good.

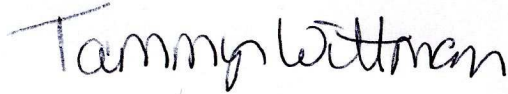
[Off mic]

CHAIRPERSON NELSON: I'm rushing the month, it's short enough as it is.



C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in black ink that reads "Tammy Wittman". The signature is written in a cursive style with a large initial 'T'.

Signature\_\_\_\_\_

Date October 12, 2009