1                         UNITED STATES
                ENVIRONMENTAL PROTECTION AGENCY
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4    PUBLIC HEARING:                :
                                    :         TRANSCRIPT
5    RCRA PERMIT MODIFICATION      :             OF
     DUPONT POMPTON LAKES           :        PROCEEDINGS
6    WORKS SITE                     :
     POMPTON LAKES STUDY AREA       :
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                                Monday, December 8, 2014
9                               Carnevale Center
                                Pompton Lakes, New Jersey
10                              Commencing at 7:06 p.m.
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    FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:
13

14   WALTER MUGDAN, ESQ., Director
     PERRY KATZ, Remedial Project Manager
15   JEFF JOSEPHSON, Section Chief, NJ Remediation Branch
     PAT SEPPI, Community Involvement Coordinator
16   CLIFF NG, Project Manager
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1   MEMBERS OF THE PUBLIC COMMENTING:

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1          MR. MUGDAN:  We are going to get started.  My

2   name is Walter Mugdan.  I am director of the Emergency

3   and Remedial Response Division at the United States

4   Environmental Protection Agency Region 2.

5          We are here tonight for a more formal session

6   than we had about a month ago; we were here on November

7   12 and we had an informal question-and-answer session.

8   This evening's event is a little more formal.  You see

9   we have a court reporter here.  Everything that you

10   folks say to us will be transcribed and will become part

11   of the official record for this evening.

12          I'm going to be serving as the presiding officer

13   and I'm going to turn it over now to Perry Katz, the

14   project manager for this aspect of the work.  He has

15   about a fifteen-minute opening statement and then we

16   will start to call on folks to come up and give their

17   statements in the order that you have been signing up.

18   So we will get to that after Perry's opening statement.

19          MR. KATZ:  Folks, good evening, and thanks

20   for attending this public hearing.  I will be reading

21   from a prepared statement so I won't be able to give eye

22   contact per se.

23          As Walter introduced me, I'm Perry Katz.  I'm the

24   EPA Region 2 project manager for the environmental

25   cleanup of Pompton Lakes work site.  EPA is present this

1    evening to gather public input on the cleanup of the

2    Pompton Lake Study Area, which includes the Acid Brook

3    Delta sediment, two areas of impacted sediment

4    identified in Pompton Lakes as well as the Acid Brook

5    Delta upland soil areas.  The environmental cleanup is

6    being performing using EPA's authorities under the

7    Resource Conservation and Recovery Act of 1976, also

8    known as RCRA.

9         I also want to introduce you to my colleagues

10   from the EPA who are here tonight.  Walter Mugdan, our

11   division director, previously introduced himself; he is

12   the presiding officer for this hearing.  Also in

13   attendance are Jeff Josephson, Chief of New Jersey

14   Projects/State Coordination Section; from our Clean Air

15   and Sustainability Division, Cliff Ng, Project Manager

16   for RCRA Corrective Action; from our Public Affairs

17   Division, Mike McGowan is present, Chief of

18   Intergovernmental and Community Affairs Branch; David

19   Kluesner, Team Leader; and Pat Seppi, Community Liaison.

20        The purpose of our hearing is to take comments on

21   EPA's tentative determination to select corrective

22   action measures for the Pompton Lake study area, which

23   includes sediment and upland areas.  These measures

24   would be implemented by DuPont through modification of

25   the EPA 1992 RCRA permit initially issued in 1992 for

1  the Pompton Lakes Works facility located at 2000

2  Cannonball Road.

3       As a brief background, the DuPont Pompton Lakes

4  Works facility is regulated under RCRA because DuPont

5  managed hazardous waste on site in regulated process

6  units at the time the regulations of the statute came

7  into effect in the early 1980's.

8       The statute was amended in 1984 to incorporate

9  what are called the Hazardous and Solid Waste

10 Amendments.  Among these amendments is an obligation

11 that facilities that manage hazardous waste must take

12 actions to clean up their sites as necessary.  The EPA

13 requires DuPont to clean up contamination from its

14 facility.  The permit applies to all on-site and

15 off-site areas affected by operations at the DuPont

16 Pompton Lakes Works facility.

17      DuPont also has clean-up obligations under New

18 Jersey law resulting in the 1988 Administrative Consent

19 Order entered with the New Jersey Department of

20 Environmental Protection.  EPA and the New Jersey

21 Department of Environmental Protection provide oversight

22 of the cleanup at this site.

23      The EPA has lead on the remediation of the

24 Pompton Lake Study Area, which as I had mentioned

25 earlier includes impact of sediment in the Acid Brook

1    Delta and two areas identified in Pompton Lakes as well

2    the upland soil areas.  The Acid Brook Delta flows from

3    north to south through the eastern valley on the DuPont

4    property.  The Acid Brook was remediated in the 1990's,

5    however, past discharges into the Acid Brook resulted in

6    contamination of sediment and upland soils.

7         The EPA hosted a public information session on

8    November 12, during which EPA presented the basic

9    technical considerations posed by the site contamination

10   as well as the proposed approaches to remediate the

11   contaminated sediments and soils associated with this

12   proposed RCRA permit modification.  The presentation

13   from that meeting is available on the EPA website for

14   this project.  That website is included in the hand-out

15   provided at the sign-in desk.

16        Before we begin, I would like to briefly

17   highlight the key activities and findings that form the

18   basis for EPA's proposed RCRA permit modification.

19        Under the RCRA permit, DuPont was required to

20   perform an investigation to determine the nature and

21   extent of contamination caused by facility operations.

22   DuPont performed these investigations and studies for

23   the Pompton Lake study area between 1995 and 2014.

24   DuPont looked at three major components:  Sediment in

25   the Acid Brook Delta and Pompton Lake between the

1   Lakeside Avenue Bridge and Pompton Dam, the Acid Brook

2   upland soil areas and the shoreline properties.  Under

3   the RCRA permit, DuPont is also required to use the

4   findings of its investigations, upon EPA and NJ DEP

5   approval, to propose and evaluate corrective action

6   measured --  measures, excuse me -- adhering to the

7   criteria prescribed in the permit.

8        For the sediment, mercury and lead were

9   determined to be the key site-related contaminates of

10  concern.  When inorganic mercury is found in near-shore

11  shallow sediments, with organic carbon, anaerobic

12  conditions and bacteria, it can form methyl mercury,

13  which is a more toxic form of mercury.  Methyl mercury

14  can accumulate in the smaller aquatic organisms and then

15  in fish and other animals up the food chain.  Therefore,

16  the draft permit is focused on removal of sediments

17  contaminated with methyl mercury as well as inorganic

18  mercury that has a potential to form methyl mercury.

19  Also, mercury and lead are located in the same areas.

20  So cleaning up the mercury will also eliminate the lead.

21       Samples of bottom sediment were taken across the

22  Pompton Lake study area.  Mercury concentrations were

23  determined at the top six inches, which is also the

24  layer most available to plants and animals and most

25  likely to result in the mercury entering the food chain.

1   Mercury concentrations were also measured from deeper

2   samples to assess the full extent of mercury

3   contamination.  Additionally, biological samples from

4   local wildlife were selected for analysis, for example,

5   fish tissue, insect tissue, as well as other types of

6   testing, for example, sediment toxicity testing and

7   bathymetry to complete an assessment of the nature and

8   extent of contamination.

9        To address these ecological concerns, DuPont

10  proposed and evaluated remediation to reduce the

11  potential for methylation of mercury in near-shore

12  sediments, and to reduce the area of exposure of

13  ecological receptors to elevated concentrations of

14  mercury in the sediments.  Based on our review of

15  DuPont's investigations, the EPA is proposing a final

16  remedy for the Acid Brook Delta and two areas of Pompton

17  Lake identified as Area A and the Island Area that

18  includes dredging approximately 128,400 cubic yards of

19  sediment from approximately 36 acres of the Acid Brook

20  Delta and approximately 3 acres in the two

21  additionally-identified areas in Pompton Lake.

22       The amount to be dredged was determined using

23  multiple lines of evidence approach based on data

24  obtained during Dupont's investigations.  The lines of

25  evidence included sediment characterization sampling and

1  analysis, biota sampling, and analysis, bathymetry and

2  side scan sonar of the lake-bottom sediment, toxicity

3  testing of sediment and measuring surface water

4  concentrations of methyl mercury.  Within the Acid Brook

5  Delta, contaminated sediment will be removed by dredging

6  down to at least the peat layer, which was present when

7  the delta was submerged following the Pompton Lake Dam

8  enlargement in 1908.  Within the two areas identified in

9  Pompton Lake outside the Acid Brook Delta and between

10  the Lakeside Avenue Bridge and Pompton Dam, removal of

11  sediment will be down to the native cobble or gravel

12  layer.

13        The EPA also proposes excavation of approximately

14  3200 cubic yards of impacted soils in the Acid Brook

15  Delta upland soil areas.  Excavation will be to the

16  lower of human health based direct contact standards or

17  ecological soil delineation criteria for mercury and

18  other metals in the upland soils component of the Acid

19  Brook Delta upland soil areas.  Excavation will be to

20  depths defined as three feet below the final restoration

21  elevation or one foot below the water table elevation,

22  whichever is encountered first in the wetland/wetland

23  transition component of the Acid Brook Delta upland soil

24  areas.

25        The dredged sediment and excavated soil will be

1    disposed of at an authorized off-site disposal facility.

2    There will be a specific work plan submitted by DuPont

3    and approved by EPA and NJ DEP concerning the dredging

4    and disposal work.

5         Following dredging and removal, the areas will be

6    restored.  In the Acid Brook Delta and identified areas

7    of Pompton Lake, the dredged areas will be restored by

8    placing a granular layer of sand over the dredged areas

9    to establish a zone for benthic community

10   re-colonization over time.  Additionally, planting and

11   seeding of aquatic native vegetation in the Acid Brook

12   Delta will be performed.  For the Acid Brook Delta

13   upland soil areas, a restoration plan will be prepared

14   and include regrading of the uplands to accommodate

15   planting with native vegetation and placement of park

16   amenities and pathways for public use.

17        An initial five-year monitoring program will be

18   developed and implemented in conjunction with the

19   completion of the remedial action.  The long-term

20   monitoring program will be designed to establish

21   baseline conditions and conduct long-term monitoring of

22   the Pompton Lake study area.  The long-term monitoring

23   program will be used to evaluate the Pompton Lake study

24   area ecosystem as a result of the removal of mercury

25   contaminated sediments with the greatest potential for

1    methylation.

2            The results of the five-year monitoring period

3    will be used to determine the scope of further remedial

4    action, if it is required, and/or any changes in the

5    monitoring.  The long-term monitoring program contains a

6    significant portion of the ecological elements needed to

7    perform an ecological risk assessment, if the ecological

8    risk assessment is determined to be required to further

9    inform a decision about the possible for additional

10   remedial action.

11           It was also determined that the shoreline

12   properties were not impacted by delta sediments during

13   historic storms and no corrective action is being

14   proposed for those properties.

15           The proposed permit modification is limited to

16   the selection of the remedies that I previously

17   described.  DuPont will also need to obtain state and

18   local permits for this work.  Plans to clean up the

19   remaining areas of on- and off-site contamination at and

20   near the DuPont facility will be the subject of future

21   public meetings and public hearings on proposed permit

22   modifications when investigations have been completed,

23   the proposals have been drafted by DuPont and reviewed

24   by EPA and NJ DEP.

25           As an example, DuPont also performed

1    investigations related to the Pompton and Ramapo Rivers

2    from the Pompton Dam approximately three miles

3    downstream to Riverside Park in Wayne.  The objective of

4    the work was to determine how far downstream mercury may

5    have migrated.  The results of this work will be

6    analyzed and reported to EPA and NJ DEP by DuPont.  The

7    extent of remedial work, if any, in this area may be

8    subject to a separate permit modification based on EPA

9    review.

10        We are here this evening to listen to you and

11   take your statements on this proposed permit

12   modification.  This hearing is on the record and a

13   transcript will be publicly available, and be posted on

14   line.  All the information that you need to submit

15   comments to EPA is contained in the hand-out given to

16   you at the sign-in area.  We also have comment cards

17   available to those of you who wish to submit written

18   comments to us tonight.  All comments will be

19   considered, but we ask you that keep your comments and

20   statements focused on the proposed permit modification.

21        Those wishing to make statements should have

22   signed in and received a number.  The number of the

23   speaker will be called out.  Please come to the

24   microphone to give your comments and please introduce

25   yourselves prior to speaking.  I ask that you keep your

1  statements brief and try not to exceed three minutes.

2  This will allow everyone the opportunity to speak.  If

3  you have a written copy of your comments, please provide

4  it to the hearing reporter who will prepare the

5  transcript.

6       As was mentioned earlier, Walter Mugdan will

7  monitor the time.  For those who wish to make a

8  statement tonight who didn't sign up and receive a

9  number, please go back to the sign-in area and we will

10  assign you a number for you to speak.

11       Additional written comments may be submitted to

12  the EPA until the close of the public comment period on

13  February 2, 2015.  After the close of the comment

14  period, EPA will review all comments, including those

15  made at this public hearing, and make a final

16  determination on the proposed permit modification under

17  consideration.

18       EPA will also prepare a written summary and

19  response to all relevant comments it receives.  A notice

20  of EPA's final determination will be provided to the

21  public and to those on the facility mailing list.

22       People may also file appeals to the final

23  Regional determination on this permit modification, as

24  provided in the procedures for the decision making found

25  in 40 CFR Part 124.  Any appeal must be filed with the

1    Environmental Appeals Board within 30 days after the

2    Region issues its final determination.

3          With that, we will get started and lucky number

4    one get started.

5              MR. MUGDAN:  The first person I have signed

6    up, and I apologize in advance, Michael Gerbe.

7              MR. GERBE:  Michael Gerbi, Pompton Lakes.

8    Thank you all for being here today.  I will be brief.

9    First, I urge that you reject the plan and only because

10   I still believe that a full lake restoration and shore

11   fund cleanup should be done, not a piecemeal cleanup,

12   which is being done today.

13         Also, I checked also because there is no

14   community involvement in the actual negotiations and I

15   feel that the community should have a representative

16   sitting at the table with DuPont and EPA while the

17   discussions were going on and how this plan was put

18   together.  So we really didn't have any input on how the

19   cleanup should be done.  So I'm very disappointed about

20   that.

21         Also, this is a very complex document, I speak

22   only for myself, but I know there are other people here,

23   I am disappointed that the EPA didn't provide some sort

24   of technical assistance so we can sit down and actually

25   go through the document so we could be better prepared

1    for today, but I guess it is what it is for today.

2            As far as any questions, I know that U.S. Fish

3    and Wildlife submitted a 2012 letter.  And I know it's

4    on the DEP website, but the response from EPA is not to

5    their specific questions.  Is there anywhere that I

6    could find that so I could see that EPA's response was

7    to Fish and Wildlife's letter?

8            Also, I know this may be in the documentation,

9    what is the action level, for lack of a better word, for

10   a hotspot?  It's not documented anywhere that I could

11   personally find and I appreciate if someone could give

12   me that information.

13           And also, what would be included in the final

14   permit?

15           Also, there is the ecological assessment

16   document; why is that not part of the actual plan

17   itself?

18           And that's it.  Thank you.

19               MR. MUGDAN:  Thank you.  The next speaker

20   will be Lisa Riggiola.

21               MS. RIGGIOLA:  Lucky number two.  Lisa

22   Riggiola, 32 Orchard Street, Pompton Lakes, New Jersey.

23           I will begin my testimony tonight by stating that

24   the Pompton Lakes wants our toxic neighborhood and

25   contaminated waterways to be cleaned up.  It is overdue

1   for the cleanup for all areas of concern so this will no

2   longer be a piecemeal effort, but a unified effort,

3   which should be given top priority to include an

4   expedited approach, to achieve a full cleanup of Pompton

5   Lake plume.

6       This entire site must be fully restored and not

7   to just code standards, but based on the close proximity

8   to the site and waterways to hundreds of Pompton Lakes

9   homes, a cleanup to residential standards is the only

10  way to ensure Pompton Lakes' families' safety.  There

11  should be no partial cleanup of Pompton Lakes so late in

12  the contamination game, but a cleanup of all

13  contaminates upstream, down stream and within Pompton

14  Lakes.

15      The U.S. EPA must formally respond to the United

16  States Fish and Wildlife Services 2012 letter and make

17  the response readily available to the public.

18      The public should also be provided with a

19  side-by-side comparison of the previously revised EPA

20  clean-up plan for Pompton Lake, which was expanded to 40

21  acres to the current partial clean-up plan including a

22  complete inventory of every change that was made from

23  the previous plan to the clean-up plan.  An ecological

24  risk assessment should be performed now, not later or if

25  at all.

1          Every comment made by the United States Fish and

2     Wildlife suggested from their 2012 and their 2014

3     comments should be adhered to by the U.S. EPA unless the

4     other sources of mercury upstream, as stated, can be

5     named properly, identified and shared with the public,

6     this reference to all mercury not being DuPont's mercury

7     shall be null and void from this point forward.

8          The updated conceptual site model is flawed.  The

9     statement is wrong.  The Acid Brook Delta is not the

10    only source of metals in Pompton Lakes.  Mercury

11    fulminate was manufactured for countless decades without

12    any control of emissions from that process.  Vapors from

13    dissolving mercury and strong acid were vented and their

14    air admissions would have included mercury, which could

15    have then entered right up into Pompton Lakes.

16         Has Dupont shown any valid proof that this did

17    not occur -- that this has not occurred?  If not, then

18    in reality the fundamental basis that the mercury all

19    came from the Acid Brook Delta is totally wrong.

20         Public involvement in all aspects of this cleanup

21    is a must.  From the onset of this process, there has

22    been no community group stakeholders invited to the

23    table to be involved in the planning and decision-making

24    process.  As once discussed with the U.S. EPA Region 2

25    Administrator Enck, and our senior elected officials,

1    which is one of the very tools available for federal

2    superfund sites as a given, the Pompton Lakes Community

3    Advisory Group, the PLCAG of which I am a member of,

4    must be provided with a means to secure a technical

5    advisor to work side by side with the PLCAG and the

6    residents to oversee, review, and analyze complicated

7    technical documents such as those related to this

8    partial cleanup of Pompton Lakes.

9         In closing, I reject this partial clean-up plan

10   for Pompton Lakes as it has been presented.  I demand a

11   complete site cleanup, fully restored lake and

12   shorefront.  The U.S. EPA is not doing the right thing

13   for the residents and has everything at their fingertips

14   to ensure this cleanup is done right, but the U.S. EPA

15   continues to allow DuPont to call the shots.

16        It's imperative this occur for the safety of

17   Pompton Lakes families, for the future of our

18   environment, natural resources, wildlife, and for the

19   overall wellness of our community.  Generations have

20   been innocent victims to DePont's contamination as it

21   done through our soil and waterways; therefore, in

22   moving forward not one more child should ever have to

23   experience the public health risk, the stress and worry

24   that has become routine living in the toxic plume.

25        Thank you.

1           MR. MUGDAN:  Next speaker, Joyce Fern.

2           MS. FERN:  Hi, my name is Joyce Fern.  58

3  Mandeville Street, Pompton Lakes.  I would like to share

4  some of my concerns with you, mainly regarding the air

5  quality and the air testing when the plans were

6  performed.

7       What type of air monitoring will be taking place

8  at the site?  How many air monitoring stations will

9  there be?  What are the radiants that are going to be

10 measured?

11      I'm concerned with the airborne mercury

12 contaminants in regards to the school and the

13 schoolchildren.  Will the children be kept inside the

14 schools?  Will all the windows have to be kept closed

15 throughout the whole process, which we don't know how

16 long that is?

17      What contaminants will the EPA be monitoring for?

18 Who will be monitoring the air, DuPont or EPA?  And what

19 do you have in place in case something goes wrong,

20 should there be mercury in the air for the residents and

21 anyone in proximity?

22      And that's about it.  Thank you.

23           MR. MUGDAN:  Thank you.

24      The next speaker will be Karen Dean.

25           MS. DEAN:  Hello, I'm Karen Dean.  Thank you

1    for having us tonight.

2            I reject also the plan.  We demand a full lake

3    cleanup and restore our lakefront and shorefront.

4            And when will the fish consumption advisory signs

5    be hung up at the lake?  They need to cover all the

6    signs at the lake in plain sight.

7            Will there with 24-hour security on the site?

8    This must be provided by EPA not DuPont.

9            EPA monitoring on all dredging activity on the

10   site must be provided for the length of the plan of the

11   dredging.

12           Is there a health and safety plan for the site?

13           Also, when will the letters be sent to the

14   parents for the Lakeside School children?

15           Trailers on the site to ask for questions?

16           Will a notice be put in the paper to inform

17   everyone when the project will start and how long it

18   will last?

19           We believe all truck traffic should go out on

20   202, not through town.  We know there is a local issue,

21   but it needs to be in the plan to make sure it is done

22   correctly.  Traffic studies include public involvement

23   and needs to be reviewed at a public hearing.

24           What are the hours of operation on the site?  It

25   must be included in the permit.

1        And, also, I just want to say:  EPA you have the

2   power to do the right thing.  All documents, past and

3   present, shall be had.  We need this cleaned up

4   completely.  We suffered long enough.  Health, real

5   estate, loss of employment, and most of all the loss of

6   our beautiful lake.

7            MR. MUGDAN:  Thank you.

8        Next we are going to hear from Helen Martens.

9            MS. MARTENS:  Helen Martens.

10       I want to thank you for coming.  I just want to

11  say that I'm not happy with the plan as it is.  We would

12  like the complete site cleanup, fully restored lake and

13  shorefront.  I feel the EPA is not doing the right

14  thing; they are allowing the polluter to call the shots.

15  The EPA needs to step up to the plate and do what is

16  right for the residents.

17       Mercury and lead are still on the site in the

18  soil and not fully remediated.  There are still areas of

19  concern.  Where is the proof and evidence that will not

20  end up in Acid Brook and the lake being recontaminated?

21  We need them to provide us actual technical proof.

22  Where is documentation of the history of the site's

23  contaminates?  How will we know that they are getting it

24  all?

25       And we believe that air emissions are also a

1  source of contamination.  Has that been explored and

2  researched?  And, if not, why not?  And when will it be

3  completed?

4       How and what is the source of the Acid Brook

5  contamination?  Was it from the shooting pond or was

6  there a pipe that ran from the plant to Acid Brook?  How

7  do we know what has been taken off of the site?  The

8  corrective measure is based on the protection of the

9  ecological resources and specifically preventing the

10  methylation of mercury and reducing the exposure of

11  ecological receptors to mercury.  This plan simply

12  assumes its traditional measures will prevent any human

13  exposure to contaminated settlement, but human exposure

14  was not considered in the selection of the CM for

15  sediment.  Why?

16       Those are my questions for today.  Thank you.

17            MR. MUGDAN:  Our next speaker will be Mike

18  Serra.

19            COUNCILMAN SERRA:  Hello.  Mike Serra from

20  Pompton Lakes.

21       I'm here to support the permit process.  Pompton

22  Lakes has waited long enough to have the lake cleaned

23  out.  I appreciate the time and effort that has been put

24  back into going back in to discuss what has to be done

25  there.  But at the end of the day, I'm hoping science is

1    talking here and science is taking the front of what is

2    going on.  And the agreements that has been reached with

3    the EPA, DEP and DuPont were all done in science.  And

4    you are the watchdog for our town and our community and

5    hopefully you are doing the right thing with the lake.

6    And I'm sure if something was to come up while you are

7    doing this process, it will be looked at also.

8         I think a lot of the residents have concerns with

9    the work plan that is going to take place.  I would hope

10   we would have some say on the work plan as a resident or

11   as a town to put input on the residents or how they

12   feel.  It could be minor things, but to some people it

13   is very important.  So I am hoping we have a say on the

14   work plan that is put in place.

15         But I'm here to support the remediation plan.

16         MR. MUGDAN:  Thank you.  Our next speaker is

17   Steve Grayberg.

18         MR. GRAYBERG:  Thank you.  Steve Grayberg.  I

19   am a lakefront resident of Pompton Lakes, and I am the

20   chair of the lake restoration committee.  It is in that

21   capacity that I address you now.

22         The Pompton Lakes lake restoration committee is a

23   subcommittee of the Pompton Lakes flood advisory board.

24   We are comprised of borough resident volunteers who have

25   a vested interest in the health of Pompton Lake and the

1  recreational benefits that it brings to the community

2  currently and far into the future.

3       The lake restoration committee agrees with and

4  strongly supports the revised October 14, 2014 version

5  of the permit for DuPont to remove contaminated sediment

6  and soil from the Acid Brook Delta and from the extended

7  designated areas of Pompton Lakes.  We recommend that

8  this permit remain focused on those areas and that any

9  remediation required south of the Pompton Lakes be

10 addressed by a separate permit.

11      For a number of years the lake restoration

12 committee has implemented cleanup with educational

13 treatment initiatives, recreational programs, and

14 overall community education of the importance of

15 maintaining our fragile waterways.  We are now preparing

16 a formal lake management plan to introduce several

17 programs to ensure the long-term sustainability and use

18 of Pompton Lakes as a recreational water body.

19      The resolution of the current contamination in

20 the lake is critical to instituting any such long-term

21 program.  We have closely followed the process of the

22 permit for the contamination cleanup and have noted

23 considerable public input and full appeals to prior

24 permits.  We appreciate the fact that the EPA has made

25 all this information known.  And, therefore, have

1    prepared a revised permit based on science, test results

2    and expert advice.  The lake restoration committee of

3    Pompton Lakes supports this permit proposal and asks

4    that the process be moved forward without any additional

5    delay so that a viable lake management plan can be

6    implemented.

7          Thank you

8              MR. MUGDAN:  The next speaker will be George

9    Popov.

10             MR. POPOV:  Good evening.  George Popou,

11   Pompton Lakes.

12         I'm here to object to several of the basis that

13   are proposed.  A lot of the facts that you are using for

14   your analysis and post work is based on the major flaw

15   of volume-weighted spacial averaging.  You continue to

16   use this information although you know that it

17   mathematically lowers the numbers and is a dangerous

18   distortion of pollutant levels and toxic dangers.  It

19   hides large toxic areas and hotspots.

20         Everyone knows, especially in your positions,

21   that depending on how large one makes the polygon,

22   volume-weighted spacial averaging can totally mask a

23   high toxic area by simply providing many different

24   polygons.

25         A couple of examples where polygon mercury levels

1    were reduced thirty to over fifty percent between the

2    80's Acid Brook Delta corrective measures and the

3    implementation plan of December 2010 and DuPont's

4    numbers presented on 10/19/2011, specifically, boring ID

5    No. 453, went from an average of 68.3 parts per million

6    mercury to a color hue indicating 2.220 parts per

7    mercury.  Boring ID No. 480 went from an average of

8    558.5 parts per million, to a color hue of 2.220 parts

9    per million of mercury.  One can cleanup the Acid Brook

10   Delta in the lake mathematically without lifting a

11   shovel.  I believe you are being misled.  Someone is

12   being disingenuous and using those facts in putting this

13   plan together.

14        Furthermore, the proposed work plan generally

15   proposes dredging, the proposed work is to scrape off

16   inches in most areas and cover it with inches of

17   material.  What level of cleaning will this achieve?

18        The entire work plan, the current one, is talking

19   about a level of depth, not a level of clean.  No one is

20   addressing how much contamination is there, how much was

21   put there by DuPont, and how much will be removed.  At

22   the end of the day, how clean will it be?  How safe will

23   it be?  What is the metrics for that?  It's not in your

24   plan.  How can we feel comfortable that something will

25   be achieved?

1          Again, the dredging that is proposed is a

2   minimal start.  It will not address the pollution along

3   the northeastern shores of Pompton Lake nor is it

4   addressing the Wayne shoreline.  This has been a snag

5   area for pollution as well as contamination for years.

6   DePont's own report maximum 367 and 754 milligrams per

7   liter surface and subsurface mercury concentration

8   outside an 800-foot radius that is the proposed dredging

9   area of Pompton Lakes.  This is in their investigation

10  report of June 2008.  This is before averaging begins

11  and brings the numbers down.  Both shorelines of the

12  lower Ramapo River need to be cleaned.  You only

13  identified two areas, primarily, I think due to the fact

14  of the volume-weighted spatial averaging masking or

15  hiding hotspots.

16          DuPont itself doesn't believe the cap will hold.

17  And everyone is saying we will just cover it over with

18  fresh material that would require ongoing maintenance

19  and repair.  What you are, in essence, proposing by not

20  cleaning it all up is that people, the residents of

21  Pompton Lakes, will suffer through this again in two to

22  four years.  A few major storms, a few fish nets, a few

23  anchors, and you are be going to be meddling with that

24  mercury that wasn't removed this time around.  You have

25  the information now; you have the opportunity to do it

1  right.  Clean it up now.

2         As far as the Lakeside Middle School and the

3  parents being apprised, none of that is going on today.

4  It's unconscionable that the Lakeside Middle School will

5  be used during the dredging of the Acid Brook Delta.  I

6  believe parents will revolt based on just a small

7  unscientific sampling that I had in the last couple of

8  weeks.  I believe that the school board is being foolish

9  in not making plans to relocate the students.

10        The other part is about focusing on this

11  piecemeal approach.  The DuPont worksite is still

12  contaminated.  For some reason the cerebral power that

13  keeps work and nothing is going to flow down hill,

14  although, it has been doing this for 35 years.

15  Everything flows down hill.

16        Again, the entire effort is completely based on

17  DuPont's levels.  Will we, the residents of Pompton

18  Lakes, be safe?  We all want the contamination removed

19  in the entire area, not covered up.  You have the

20  information and power to do the right thing.  Clean it

21  up, don't cover it up.  Make Pompton Lakes safe for all

22  future generations.

23        Thank you.

24             MR. MUGDAN:  Next speaker will be Al Agnes.

25             MR. AGNES:  I'll pass.

1          MR. MUGDAN:  The next speaker will be Lorelle

2   Pepper.

3          MS. PEPPER:  Thank you.  I just had a few

4   points I would like to bring up regarding the upland

5   soil clean-up standards.

6          First of all, what is the sediment standard and

7   how did you arrive at this level of standard?  What is

8   the plan for soil cleanup on the banks of the lake?  How

9   much is going to be cleaned up?

10         We want complete excavation of the area, and

11  after the process is done thoroughly, it needs to be

12  restored to a better level than it was before.  This

13  should include involvement of a landscape architect, and

14  tree-planting requirements should be included in the

15  design plan and permit and paid for by DuPont.

16         The public needs to be involved in the actual

17  restoration plan, which includes the Rotary Park area.

18  We want a complete lake bank cleanup, totally safe

19  removal of the pollution caused by DuPont.  Do not try

20  to cover it up with several inches of clean soil or

21  sand.  Residents want a full cleanup; not a cover up,

22  but a total cleanup of the pollution and restoration.

23         Last, what is the plan for this procedure?

24         Thank you.

25         MR. MUGDAN:  Our next speaker will be Bill

1    Pendexter.

2              DR. PENDEXTER:  Good evening.  Bill

3    Pendexter, 198 Hill Top Court in Pompton Lakes.

4         As someone who has worked in the environmental

5    business for well over twenty years it's obvious that

6    there has been a huge amount of investigative work

7    conducted in Pompton Lakes and a large amount of

8    negotiations that have gone on between the EPA and

9    DuPont and other regulatory bodies, whether it be Fish

10   and Wildlife or the DEP.

11        The remediation as it stands right now is going

12   to address the vast majority of the mercury that has

13   come out of Acid Brook.  As anyone who works in the

14   business knows, you never get every single molecule,

15   that is never ever at all, you are allowed to leave

16   material behind.  And you are also not responsible for

17   every bit of contaminant because there are other sources

18   around.

19        The plan as it stands right now is going to be

20   beneficial to Pompton Lakes to bury things to a high

21   degree and the monitoring that will occur afterwards is

22   going to be able to demonstrate whether that is

23   sufficient or not.  This is an absolutely well-thought

24   out plan and it addresses what needs to be addressed.

25   It has been a very long time since we have seen action

1    and remediation, whether it be in the sediment for any

2    part of this DuPont plan.  It's time for things to start

3    moving forward and try to get this stuff behind us.

4          Thank you.

5              MR. MUGDAN:  Thank you.

6          Next speaker will be Tom Quigley.

7              MR. QUIGLEY:  Good evening.  Tom Quigley, 14

8    Henderson Court, Pompton Lakes.

9          First of all, I want to say exactly what Dr.

10   Pendexter just said about support.  He is right on the

11   money.  I'm tired of waiting.  I want this lake to start

12   to be done now.  I think the point of monitoring is so

13   if there are problems down the road, monitoring catches

14   it, and then you start the process again or you fix it

15   right then and there.  I want this project started.  I

16   lived in this town my whole life.  I want this lake to

17   be started.  I strongly support this.

18          Thank you very much.

19              MR. MUGDAN:  Next speaker will be Bill Wolfe.

20              MR. WOLFE:  Good evening.  My name is Bill

21   Wolfe.  I'm from Bordentown, New Jersey.

22          For the record, I beg your indulgence.  I may

23   violate the three-minute guidance.  But at the outset, I

24   would like to put two facts on the record:  That in

25   1985, when the RCRA corrective action amendments were

1   passed that Mr. Katz referred to, I was the New Jersey

2   coordinator and my staff did the preliminary assessment

3   investigation work at the DuPont site as well as

4   preparing the sodium acid plan that was also a tool at

5   that time under the corrective action provisions that

6   looked at the DuPont site.  So I have had fingerprints

7   on this site historically.

8          With that said, fast-forwarding on this site

9   historically, with that said, fast-forwarding to 2002, I

10   was with the DEP and part of the rule-making team that

11   incorporated what were then called wildlife criteria,

12   and there were certain water-qualify standards for the

13   DEP.  And those standards were based upon a 1999 Fish

14   and Wildlife Service biological opinion that found that

15   the State of New Jersey water quality standards were not

16   adequately protective for mercury, PCPs and DCE.

17          And the methodology that we used to arrive at

18   those standards is extremely and fundamentally different

19   that the EPA currently has applied in this clean-up plan

20   with respect to ecological impacts.  And it deals with

21   an entire host and a full spectrum of the ecological

22   risk analysis, from the evaluation of the amount of

23   mercury present in the environment, who put it there,

24   through how it has transformed the environment and how

25   it is updating via biota.

1          And DuPont's analysis not only is substantially

2     inconsistent with the methodology that EPA directed the

3     State of New Jersey, and EPA served on a work team in

4     the State of New Jersey in 2002 to develop a water

5     quality standard for mercury based on the ecological and

6     wildlife facts.  It's stunning.  And that's one piece of

7     evidence I want to put on the record, to say that what

8     you are doing here has no scientific validity.  And has

9     some serious scientific flaws.

10          The other evidence I want to put on the record

11     is that it's not just my opinion and it's not just the

12     DEP's work in that water quality standard process and

13     it's not just the EPA's own work that directed the DEP

14     to that work, which grew out of the Great Lakes

15     Initiative, which looked at how mercury behaved in the

16     environment and in a lake sediment in particular, but

17     the U.S. Fish and Wildlife Service -- a gentleman

18     earlier talked about the cleanup being driven by

19     science, and I agree it should be -- but the U.S. Fish

20     and Wildlife Services found in their February 2012

21     consulting letter with respect to the prior clean-up

22     plan, that that clean-up plan was based upon science

23     that was, as they described it at the time, I think the

24     word they used was antiquated.

25          And they lay out a series of specific flaws in

1    the methodology that DuPont relied upon to generate the

2    clean-up plan that you guys proposed last time.  And

3    none of those comments have been addressed in subsequent

4    sampling and methodology that followed.  And I will be

5    specific here.  And this is where it gets extremely

6    curious, because in the course of challenging, DuPont

7    challenged -- what was it -- the December 2011 or

8    whenever you finalized that last permit action, DuPont

9    challenged that before the Environmental Appeals Board.

10          During the course of that pending challenge at

11   the Environmental Appeals Board there were a series of

12   three specific meetings that are referred to in

13   documents by DuPont and they were referring to the

14   Ecological Restoration Plan for the lake, the Lake

15   Ecological Study, I think it is called.  There are those

16   things that are referred to.  And it's not a paper trail

17   that is transparent that says here was U.S. Fish and

18   Wildlife that was concerned with respect to let's just

19   say biological contamination in raptors, fish-eating

20   birds that are known to have habitat and forging habitat

21   in open rivers and the lake region.

22          And DuPont disputes that fact.  DuPont says that

23   those species are not present, that they don't forge

24   there.  And yet Fish and Wildlife says they are present,

25   they do forge there.  You cannot square those two.  One

1    person saying A, another person saying B.  And there is

2    no resolution by the EPA of that scientific dispute.

3    And this is just one issue.  I could take all night.

4         I could spend an hour here talking about every

5    single inconsistency, and there are multiple

6    inconsistencies that are fundamental scientific

7    questions that deal with everything from the conceptual

8    site model to the lake ecological investigation and

9    curiously, not only is there no transparency as to how

10   these scientific disputes have been resolved, and not

11   only is there no paper trail to documente how these

12   three meetings occurred that are referenced in one

13   DuPont document during the course of the legal gun being

14   put to the EPA's head appealing the final permit last

15   time.

16        Again, the EPA is in a very compromising position

17   having a very weak legal case, having DuPont's attorneys

18   and technical people pressuring the agency to compromise

19   the plan.  Not only does that exist, but the documents

20   that DuPont, DuPont themselves not EPA consultants, but

21   DuPont prepared, and there are two of them, one is the

22   conceptual site model and the other one is the

23   ecological investigation of the lake, are both

24   highlighted on the EPA website with multiple answers as

25   draft documents.

1        So the public, myself included, who reads the

2    documents can never find the scientific basis under

3    which this actual clean-up plan is developed.  And that

4    to me is totally wrong.  It's the exact opposite of how

5    you should proceed.  And there should be a paper trail

6    saying DuPont alleged A, Fish and Wildlife said B, EPA

7    people said C, and you came together.

8        And when you, Perry, in your intro said the

9    weight of evidence-based approach, that is the very big

10    umbrella.  All right?

11        So how that manifests in this cleanup that we are

12    seeing right now is that there is a 22.5 parts per

13    million standard that DuPont derived, it is a numeric

14    standard.  It's for the uplandd soil area.  It is based

15    upon certain assumption about effect of acidic soils and

16    the ability for mercury to methylate.

17        And there is Fish and Wildlife's extreme

18    objection to that.  Saying, uh-uh, you can't do that.

19    It leaves quote -- this is their words -- quote,

20    significant amounts of mercury behind and, therefore,

21    because it leaves so much mercury behind, we want two

22    feet of cap to keep that stuff contained.  And we all

23    know, in our lifetimes it might be contained, but we

24    know in the long run, it is not going to be contained.

25    And we know this.  It is not even a question.  There is

1   erosion issues, there are people that come in and drop

2   anchors, there is a whole bunch of things that result

3   both physically and biochemically in that mercury

4   becoming bioavailable.  And you know that, too.

5           And there is nowhere in your documents, and I

6   read both the draft permit, and the statement of basis

7   and the fact sheets.  And none of that, none of that

8   scientific dispute is in any way transparent, and in any

9   way resolved with either some form of consensus or some

10  kind of dissension agreement where one scientist says A

11  and one scientist says B and they agree to disagree, but

12  they do so credibly and with integrity and

13  transparently.  That's not in the documents.

14          The second point is with respect to the earlier

15  testimony on actually how both the lake dredges areas

16  were delineated and how the remedial requirements were

17  established.  Now the prior agreement, my understanding

18  was that prior agreement derived of a site specific

19  ecological grade criteria of two parts per million for

20  lake sediment.  And that has been rejected.  You are no

21  longer standing with that two parts per million number

22  and I don't even know what your basis is for the lake

23  dredging.  It's not just hotspots, it's the entire basis

24  of the lake dredge.  And Perry referred to that, again,

25  with his magic wand, which regulators like to use called

1    the weighted evidence.  And I just don't agree that you

2    have the ability to do that, you have to make a

3    determination, you have to say what it is, you have to

4    say why it is and have you to apply the scientific

5    rationale for it.  And we have deeply conflicting

6    scientific rationales between the U.S. Fish and Wildlife

7    Service reviews both in terms of their 2012 comments,

8    which I have already mentioned, their 2014 comment

9    letter, and in their preliminary screening advice for

10   national resource damage assessment.

11        If you look at those and particularly the latter

12   document, the natural resources damages document, it

13   goes out of its way to explain why the EPA cleanup plan

14   will leave significant -- that's their words --

15   significant amounts of mercury both on the shore in the

16   lake and in downstream sediments.  And then you have

17   DePont's ecological evaluation of the lake saying:

18   Number one, there has been no sediment transported

19   downstream; number two, we don't have to do any

20   downstream analysis; number three, we have not have a

21   significant impact on Fish and Wildlife.  That's DuPont

22   position in their written document on the website and

23   asterisked with draft.

24        And you have a competing federal agency, your

25   sister agency, who has the ecological expertise, saying

1    that's all bullshit.

2          Excuse my French, people, I am assuming you know

3    it; I'm assuming you know it.

4          So what I am saying is you can't get away with

5    this.

6          MR. MUGDAN:  Want to you try to wrap it up?

7          MR. WOLFE:  That's just the ecological

8    standards and ecological session issues.  There are a

9    whole bunch of other issues that, again, I left my

10   laptop home, I had a prepared outline.  Unfortunately, I

11   have it handwritten on my list here.

12         But there was a man who spoke earlier from the

13   lake restoration committee, that lake is impaired, it's

14   impaired for dissolved oxygen, it's eutrophic.  It's

15   impaired for fish consumption.  If you are doing a

16   dredging operation, you can kill two birds with one

17   stone.  And you can base it upon the rationale that

18   DuPont is a part of a major corridor for purposes of

19   servicing the surface of the watershed and historically

20   has put a ton of sediment in that lake, and a ton of

21   nutrients in that lake.

22         So they are on the hook in your clean-up plan,

23   not just for mercury remediation, but for restoring the

24   lake to its full compliance to the Clean Water Act.  And

25   you have not in any shape or form even mentioned the

1    Clean Water Act, which is applicable here.  And you

2    can't do anything on a regulatory basis that does not

3    meet a regulatory requirement.  And they have not even

4    acknowledged it.

5              MR. MUGDAN:  Can you wrap it up?

6              MR. WOLFE:  I'm trying, Walter, I am trying

7    my best.

8              MR. MUGDAN:  Try a little harder.

9              MR. WOLFE:  I am going to try just a little

10   bit harder because I will make another point that is

11   again very informative --

12             MR. MUGDAN:  Make one more point, okay?

13             MR. WOLFE:  This is my penalty point.  The

14   DEP did a study in 2004 and I will be submitting it in

15   writing for the record, which looked at the sediment in

16   regional lakes and looked at this issue in regional

17   lakes and tried to determine whether there were local

18   hotspots and local emission sources.  And we all know

19   that there is a regional transport and there is a

20   regional background level of mercury in the environment,

21   but the DEP, the State DEP, where I used to work, a guy

22   named Gary Buchanan did a study and I urge you to call

23   Gary, and get his specific input on this, but he

24   determined that the sediments in Wood Cliff Lake were

25   higher than, significantly higher than the regional

1    background level that would result from air transport,

2    ordinary air transport.  And he determined there was an

3    upwind source to the west that was local.  And who is

4    the only major source of mercury atmospheric twelve

5    miles directly to the west?  And that's DuPont.

6         And I reviewed the record permit for DuPont; and

7    number one, they had authorization on that record permit

8    for open burning of five hundred pounds of mercury

9    bearing waste a day.  That's pallets, that smocks from

10   lab assistants, that's wipe-up rags when there were

11   mercury spills on the floor.  Five hundred pounds a day.

12   If merely one percent of that mercury was burned, that's

13   a significant atmospheric emission.  There were areas of

14   the --

15            MR. MUGDAN:  One more point now.  Let's get

16   to the last one now --

17            MR. WOLFE:  On the air emission issue, there

18   were areas of concern --

19            MR. MUGDAN:  I got the air emission --

20            MR. WOLFE:  That dealt with the mercury

21   fulminate building the flumes that were injecting

22   mercury in the air, so there clearly were atmospheric

23   emissions that have not evaluated anywhere here.  And

24   the conceptual site model that DuPont has offered up

25   explicitly says that the exclusive and sole basis for

1    mercury in the lake and anywhere else is Acid Brook.

2    And that is just fundamentally wrong because, A, there

3    were air emission, but there were also resurface runoffs

4    that did not got to the lake through Acid Brook.  So all

5    those things have not been evaluated.

6         And my final point will be, again, coming at this

7    in 1985, supervising the staff and giving them guidance

8    and value at the time on ordinary site investigation,

9    one of the first things we did was to look at the site's

10   operational history.  And to qualify, in a

11   back-of-the-envelope way, not a rigorous way, but a

12   back-of-the-envelope calculation as to how much mercury

13   use was at that site over the 95-year period.

14        And that would give you an indication of what

15   they estimated from the Acid Brook, what they are

16   proposing to estimate from the delta and the lake

17   sediments as to whether that constituted ten percent of

18   the amount of mercury they put in the environment over a

19   95-year period that they were operational versus maybe

20   90 percent.  And I, as an expert, can't tell from your

21   documents whether DuPont is cleaning up 90 percent of

22   the mercury or 95 percent of the mercury or every

23   molecule, which they are obligated under law to clean up

24   every molecule and the legal standard is strict.

25             MR. MUGDAN:  Address the court reporter,

1    please.

2              MR. WOLFE:  Well, I need to respond because

3    there is testimony --

4              MR. MUGDAN:  Address the court reporter,

5    please.

6              MR. WOLFE:  Look, Walter, you are a CERCLA

7    guy.  You know as well as I do that CERCLA is strict

8    joint and several liability, that means that the

9    gentleman's previous statements are not legally correct.

10   I need to correct that on the record.

11             MR. MUGDAN:  Correct it to us, the record is

12   us.

13             MR. WOLFE:  But I'm talking to the audience,

14   as well, because this is a public record, this is a

15   public event.

16        So getting back, again, I got derailed a little

17   bit on that point.  So here's the deal:  Tell me in

18   writing based upon some evidence what DuPont did from

19   production standpoint.  Did they manufacture mercury

20   fulminate at that site?  Did they import it?  How did

21   the mercury get released to the environment?  Was it

22   liquid mercury discharged through a pipe to the Acid

23   Brook?  Was it runoff from the shooting pond?  Was it

24   air emission?  What was it?

25             MR. MUGDAN:  I got it.  I am going to ask you

1    to wrap it now, okay, Bill?

2              MR. WOLFE:  Let me close with this -- like I

3    said I have about ten other points.

4              MR. MUGDAN:  No.  No.  That was your ultimate

5    point.  I think we are going to ask you to -- if we have

6    time afterwards we will ask you to come back up.

7              MR. WOLFE:  We are making a record here,

8    Walter.  We are making a legal record.

9              MR. MUGDAN:  I understand.  I will call you

10   back at the end.

11             MR. WOLFE:  My last point will be none of the

12   questions and concerns I put on the record in the prior

13   public record, which are in the transcript, none of them

14   were responded to in writing by the agency.  And that

15   doesn't meet the response of the standards of the

16   administrative procedures.

17        Thank you.

18             MR. MUGDAN:  Thank you.  Our next speaker

19   will be Judith Zompano.

20             MS. ZOMPANO:  Hi, I'm Judith Zompano.  I live

21   at 44 Pompton Place in Pompton Lakes.

22        All I can say is the day I bought my house -- the

23   day after I brought my house, I found out about a

24   problem in Pompton Lakes.  Never knew nothing about it.

25             AUDIENCE MEMBER:  That's me too, over here.

1          MS. ZOMPANO:  After that, I had my house

2    remodeled and the day after I signed the building

3    permit, there was another problem in Pompton Lakes.

4    This has been going on and on and on and nothing gets

5    settled.  Now you are going to do a partial this and a

6    partial that.  I don't know what all that means, but I

7    know one thing.  This lake should be cleaned.  It should

8    be cleaned once and for all instead of fooling around

9    with a little of this and a little of that.  It's

10   ridiculous.  Clean it up and be done with it.  And we

11   will enjoy it and the rest of society will enjoy it,

12   too.

13        Thank you.

14          MR. MUGDAN:  The next speaker will be Terri

15   Reicher.

16          MS. REICHER:  It's Terry Reicher.

17          MR. MUGDAN:  Sorry.

18          COUNCILWOMAN REICHER.  That's all right.

19        I am a member of the Pompton Lakes Borough

20   Council and I also own property in the impacted area.

21        I really come to you with very short remarks

22   indicating support for the granting of the permit.  We

23   have a ready, willing, and able corporate entity who is

24   prepared to commence the cleanup of the lake.  I implore

25   the EPA to grant the permit swiftly and allow the

1    cleanup to begin.  And please do not be swayed by any

2    further delaying tactics.

3          Thank you.

4              MR. MUGDAN:  Our next speaker will be Maria

5    Kent.

6              MS. KENT:  Good evening.  Maria Kent, 17 Glen

7    Court.  Thank you for the opportunity to comment on the

8    DuPont lake cleanup permit.  This is a complex project,

9    it's a complex permit.  There has been a lot of input.

10   I think everyone just wants this to go away one way or

11   the other.

12         This process have been a thirty-year process and

13   it's long overdue.  The fact that DuPont applied for

14   this permit three years ago, the Federal EPA, the Fish

15   and Wildlife group from the federal government, all had

16   ample time to review the data to review the signage and

17   to make a decision and I am of the mind that that was

18   done and that is why this permit exists as it is today.

19   I am going on faith that the EPA is going to do the

20   right thing for Pompton Lakes.  And I met with Perry

21   Katz and Pat Seppi, and they were here weekly for six to

22   eight months.  And they listened to everyone.

23         So now I'm asking that we follow our Councilman

24   Serra's format and say that you stick with the science

25   and get this thing going.  To delay this permit is

1  unacceptable to me.  EPA must grant the permit

2  application.  And you must approve a legal permit -- a

3  legal path for DuPont to clean up what they put in the

4  lake.  They admitted it.  They agreed to it.  They have

5  an obligation on the records to get this cleanup going

6  and I am asking that they meet that obligation by doing

7  that.

8        I am asking that they remove the mercury and the

9  lead contamination from Pompton Lake and the lake

10  bottom.  It's very important to the residents that that

11  happen.  It's extremely important to finish this job,

12  not only for the borough or the residents, but also for

13  the surrounding neighborhoods because the bottom of the

14  lake is owned by Pompton Lakes, by the borough.  It's

15  deeded to the borough.

16        It is absolutely critical that the EPA ensures

17  that the proper financial insurance from DuPont for the

18  completion of this project be put in place.  If for any

19  reason DuPont fails to complete this project, the

20  borough and the residents should not in any way bear the

21  completion cost.  This is a necessary plan on the record

22  and I believe that should be strictly adhered to.

23        The project should hopefully start in early

24  spring.  And it's my understanding it's going to take

25  around two years.  And I would be very happy in that two

1    years if you come back and tell us exactly what has been

2    done.  It should, in fact, clean up this lake so that

3    future residents and future generations should enjoy

4    this lake, should be able to swim in this lake, should

5    be able to fish in this lake.  That is what this cleanup

6    should do.

7         The cost of the project must be paid by the PRP.

8    I can't say that enough.  It's all the part of this

9    process.

10        EPA and other federal agencies had over thirty

11   years to study the floor of the pond, the policies,

12   their contamination levels.  And I believe that we are

13   ready to finalize this permit.  I'm grateful to the EPA

14   and DuPont for continuing to work with the local

15   agencies, with the local environment commissions, the

16   local environmental groups, so they cover all concerns.

17   And it's now time to complete the project.

18        And on another note, people have been here many,

19   many years.  Thirty years is a long time to stay in

20   town.  I have been here thirty years.  My children were

21   tested here when they were babies for lead and mercury.

22   Thank God they were clean.  We lived in the DuPont area

23   and they were tested.  It's my recollection is that

24   there were no children were sick.  So let's just keep

25   moving on those whole thing.  Let's get past this.

1      I don't want to be held hostage here anymore.  If

2   I want to move -- I don't want to move and give a

3   disclaimer on my property:  Well, if you move here, you

4   might have a problem.  That should not happen.  That

5   should not happen.  And that is something that this

6   permit, I believe, and getting the absolute cleanup will

7   take the negative picture of what Pompton Lakes is

8   about, that should take that away.  And that's what this

9   permit should do, has to do.

10        And I thank you for your time.

11              MR. MUGDAN:  Our next speaker will be Julie

12   Doncoss.

13              MS. DONCOSS:  Good evening.  Julie Doncoss,

14   Pompton Lakes resident.

15        I agree with many things that Maria said and I,

16   too, feel that Pompton Lakes has been held hostage

17   through the process.  We are at this point in time now

18   and I urge that there are no further delays.  I want EPA

19   to allow the permitting process to go forward and let

20   DuPont clean up the lake and let's move forward.

21        Thank you.

22              MR. MUGDAN:  Thank you.  The next speaker is

23   Mary Beth Maldonado.

24              MS. MALDONADO:  I pass.

25              MR. MUGDAN:  Pass.  Next we have Art Kaffka.

1          MR. KAFFKA:  Art Kaffka.  I'm a resident of

2    Pompton Lakes on Ramapo Avenue.  I have been part of in

3    town since 1978 when we moved here with our children.

4    It is a fantastic place to have children grow up.  The

5    lake was always something that I used with my children.

6    Now they have children and they live in the town.  I

7    would like to see it cleaned up.  And I would like to

8    see this permit approved this time around with no

9    further delays.

10        Thank you.

11          MR. MUGDAN:  The next speaker is Jefferson

12   LaSala.

13          MR. LaSALA:  My name is Jefferson LaSale and

14   I am a resident of Pompton Lakes.

15        I am speaking on behalf of the Pompton Lakes

16   Residents For Environmental Integrity, which includes

17   Regina Sisco, Karen Magee, Mary DeMarco, Michele

18   BelFiore, Jeff Winkler, and myself.

19        And just a few questions.  Can the contaminated

20   soil from the hydraulic dredger be directed via the Acid

21   Brook to the DuPont property for processing to take

22   place there?  And then if it could be transported off

23   their property via the railroad system, this would

24   alleviate the seemingly disruption to the community from

25   trucks full of contaminated soil, road closings, heavy

1   traffic, the diesel fuel emissions in a residential

2   areas, as well as minimizing potential exposure to the

3   toxic contaminates by residents.

4        Regarding public representation, we reiterate our

5   objection to the lack of resident input in the creation

6   of this permit modification.

7        We formally request that the EPA send

8   notifications to all residents of Pompton Lakes via the

9   United States Postal Service regarding this permit

10  application.  These notices must be sent well in advance

11  of the February deadline to give all residents a chance

12  to voice their concern on this matter.  At the very

13  least all residents must receive advance notice of the

14  dredging operations before they begin.  To assume a

15  notice in the newspaper or an e-mail to a short list of

16  residents who have attended a prior meeting is enough

17  leaves out the vast majority of Pompton Lakes residents.

18       All residents and people traveling in town and

19  through Pompton Lakes will be affected by the traffic,

20  noise, any potential airborne contaminates and odors.

21       The EPA stated at the public information session

22  on November 12 that they are the final authority on the

23  lake dredging and we request therefore that the EPA post

24  official signs on the bridge and both sides of the lake

25  warning people not to eat the fish, touch or swim in the

1    water, stating that these signs are property of the

2    federal government and not to be removed.  We believe

3    that these signs should be prominent and we request that

4    they be posted immediately especially in light of the

5    proposed dredging.

6         I would like to make one point and that is we

7    were discussing mercury methylation and the downstream

8    area of the river and now there are additional hotspots

9    that are shown that need to be dredged.  In the my

10   recollection of the earlier meetings with the EPA, we

11   were told that mercury would not methylate and would not

12   be transported by storms or other means to that area of

13   the lake.

14        So I would just like to point out because

15   everybody is talking about the empirical value here,

16   that it took us a long time to get to the point where

17   people were getting to that fact that this mercury very

18   likely did move downstream.  I agree with the statements

19   made by Bill Wolfe and Lisa Riggiola and I think that it

20   is -- excuse me -- one person mentioned delaying tactics

21   on this permit modification, I don't think it's a

22   delaying tactic to formally request that the entire lake

23   be cleaned up to the standards of the Clean Air Act.

24   And I don't think that anyone is trying to delay this;

25   we want this done as soon as possible, but we want it

1    want it done right.  So I agree with my fellow residents

2    who are calling for a full cleanup of the lake and not a

3    partial one.

4              MR. MUGDAN:  Mike Quigley.

5              MR. QUIGLEY:  Good evening, Mike Quigley, 316

6    Van Ave.

7         First, I'm a little startled there is a lack of

8    input or technical guidance when a couple of times I

9    have gone over on Thursday to the municipal building

10   where the EPA has had Perry and Pat readily available to

11   answer questions or get back to us if we had any, not

12   that I ever stumped them.  But I really appreciate the

13   cooperation that you have given Pompton Lakes.  And

14   meetings like this, which over the course of time we

15   have all had a lot of input to it.

16        So for that part, for the EPA, I thank you and I

17   thank you for negotiating with DuPont, who I also

18   recognize as a valued corporate customer here.  They

19   have always stood up.  I am sure they weren't happy they

20   did this, that a hundred years ago we probably all would

21   have done the same thing.  Now they are being a good

22   neighbor, as they have throughout the rest of the United

23   States.  They are trying to do the right thing.  All we

24   can do is free the path to allow them to do that, try to

25   help the whole town of Pompton Lakes, who really comes

1    to you in a larger voice then you will ever hear,

2    because, again they don't all come out and they expect

3    our elected officials to represent us, as we do.  And

4    that's why those polls often represent that.

5           I would like to also give DuPont the opportunity

6    to get the most expedited cleanup we can get.  DuPont

7    pays taxes close to a million dollars a year; gets

8    virtually no return.  Allow them access to our roads.

9    Get this over as soon as possible.  Do it the right way,

10   but at one time we say the residents of Wayne, poor

11   Wayne, the other times we say send the trucks through

12   Wayne, the fastest way to get this done.  To me is the

13   best way they should have the access for the roads as

14   along as it's safe, which I assume it is, or it wouldn't

15   be for the Wayne residents either.

16           So whatever you can do to expedite this process,

17   I would appreciate that.  I thank you for your time and

18   look forward to the things to come.

19           As a sixty-year resident of Pompton Lakes my time

20   is waning, I would like to see this over.

21                 MR. MUGDAN:  The next speaker will be John

22   Soojian.

23                 MR. SOOJIAN:  John Soojian, 421 Lakeside

24   Avenue.

25           I would also like to strongly urge the EPA to

1    grant the permits expeditiously at this point.  I firmly

2    believe that the team of scientists both public and

3    private, meaning the folks that were hired by DuPont as

4    well as the folks who work for the EPA are qualified to

5    come up with a program that will clean the lake to the

6    best of its ability.

7         I think it needs to be noted, I missed some of

8    the earlier presentation, but it should be noted that of

9    the 36 acres that are going to be cleaned up, I did hear

10   it mentioned that they were going down to below the peat

11   levels.  The peat levels were from the time that the

12   lake bottom was a field.  It was a corn field.  It was

13   dammed in 1902 or '06, I believe, which was long before

14   DuPont started working in that valley.  So any sediment

15   above that -- or below that would not have mercury in

16   it.  The cleanup in that 36 acres as I understand it has

17   been designed to get below any mercury levels.  The

18   testing was zero when you got down to those depths for

19   mercury.

20        Once again, and covered is not a cap in that

21   area, it is covered to the excavation that is being done

22   or the dredging.  I think I heard some discussion this

23   evening that was confusing, uplands and soil sediments

24   -- rather upland soil with soil sediment in the lake, as

25   well as the Clean Water standards, the remediation of

1   mercury in the lake in the sediment, the remediation

2   uplands in the shoreline area, that's to soil standards.

3           As far as the restoration, DuPont held an exposé

4   in the high school two years ago.  They have a plan that

5   was developed with input from folks in the community as

6   well as professionals that will be restoring the

7   shoreline from the Acid Brook right through the Lakeside

8   Park on one side and creating an ecological field from

9   the Acid Brook to, I believe to Lenox Avenue or Pompton

10  Lakes Avenue on the other end.

11          Once again, thank you for what you have done.  I

12  would like to echo Mike Quigley's sentiment that Perry

13  and Pat have been available to us on a weekly basis.

14  They have been willing to take our questions to

15  technical people when necessary.  And we would just like

16  to see this happen at this point.

17          Thank you.

18              MR. MUGDAN:  Thank you.

19          Next speaker will be Ed Merrill.

20              MR. MERRILL:  Good evening.  My name is Ed

21  Merrill.  I am the environmental officer of Pompton

22  Lakes.  I have been studying this aspect of

23  contamination of the lake since its discovery.  I

24  continue to monitor and study the plans that have been

25  proposed.  I look forward to hearing more about the

1    ecological study that has been proposed moving forward.

2         I am certainly interested in the idea of the

3    possibility of natural resource damage assessment.  I

4    would like to see in this particular case that it be

5    linked to a lake restoration/lake management plan rather

6    than simply disheveled money.  I look forward to

7    continuing my research on this project and certainly

8    include the range of comments that have been made here

9    tonight by all parties involved.  As in the past, I plan

10   to submit additional comments at a future date.

11        Thank you.

12             MR. MUGDAN:  The next speaker is Michael

13   Keough.

14             MR. KEOUGH:  Good evening, Mike Keough.

15   Pompton Lakes Avenue, Pompton Lakes.

16        I have been in this town since 1967.  I appraise

17   real estate.  I see what is going on in the plume.  I

18   was here for the last hearing.  And there was some

19   troubling comments that people made that want this done.

20   I want it done, too.  And three, four years ago at a

21   public meeting I brought up the fact that I believed

22   there was a lot of mercury in the Acid Brook area at

23   Lakeside school.  And I was taken a little back at the

24   time, certain individuals who were supposed to be

25   experts told me that it can't travel that far.  It's too

1    heavy.  How did it?  Did it get beamed over there?  It

2    is there, correct?

3          I heard a comment that Wayne does not care.  I

4    don't believe that.  I think Wayne should be involved.

5    I think they should be totally involved.  Half of that

6    lake is part of Wayne.  I heard a comment come out of

7    the audience at the last hearing they don't care if they

8    did this half hearted, to use another word, donkey wise.

9    And I asked the question what the fragrance would be, if

10   they use a fragrance enhancer, and I was told I don't

11   know.  I would like to know to know what that enhancer

12   will be, if it's harmful to people, if it's not harmful

13   to people.

14         But we all should all know exactly what the

15   fragrance will be and any side effects that would be

16   negative at all.  I think like everybody else that said

17   there should be a thorough job done, not a half-hearted

18   or a half-donkey job, but a thorough job.  It really

19   troubles me that someone in public stood up and said I

20   don't care if it's half -- I will say half ass, I want

21   it done.  That attitude is terrible.  That will not get

22   us anywhere and we will be here twenty years from now

23   complaining about this again.  And rightly so.

24         And thank you.

25               MR. MUGDAN:  We have Bill Wolfe who has asked

1    to come up for round two, but before you do, Bill, let

2    me just see if there anybody else who has not signed up

3    and would like to make a comment, if not then I will --

4              MS. DEAN:  One little comment.

5              MR. MUGDAN:   Let me go to Bill first.  You

6    were up earlier.

7              Anybody who hasn't spoken at all yet who would

8    like to make a comment?

9              I am now going to ask Bill to come up for round

10   two.

11             MR. WOLFE:  I just want to clarify something,

12   if I may.  Just to clarify comments made previously, the

13   town should know that the cleanup objectives says DuPont

14   has designed, and DuPont has designed the cleanup

15   objectives, do not include bringing the lake into the

16   compliance with the Clean Water Act.  That means it will

17   by definition not be fishable, and that the design

18   objectives, in contrast to the design objections in the

19   Hudson River, where GE was held to clean-up standards

20   and sediment excavation standards that required that

21   over some period of time, the fish -- they were actually

22   going to have to have fish concentration that make them

23   safe to eat.  That this cleanup does not include that

24   objective.  It explicitly said, and DuPont's documents

25   explicitly say that the lake will not be fishable, that

1    the fish from the lake will not be edible.  I don't

2    think the town understands that.

3         The second point, is with respect to the lake

4    restoration plan, which I completely agree is a good

5    idea to try to get EPA to require.  DuPont has said in

6    writing they will not do that, that the lake will

7    continue to fail Clean Water Act objectives and

8    standards for dissolved oxygen content, for bacteria and

9    for what is called aquatic life support.

10        So after this whole enterprise is done, according

11   to DePont's own documents and the DEP draft permit, we

12   will not in Pompton Lakes have a lake where you can have

13   and have what is called direct contact recreation, go

14   with a row boat, go out with a kayak or even wade in

15   with open wounds because you will still have violations

16   of those health based standards for direct contact

17   recreation.  You will not be able to eat the fish, as

18   they will continue to have excessively high mercury

19   levels, they will be posted in perpetuity.  There is no

20   deadline in this clean-up plan that says the fish tissue

21   concentration will meet some acceptable level where the

22   fish will be edible.  It's in perpetuity concentration

23   of fish tissue.  That is very important to know.

24        And the last thing is that the lake will always

25   continue to be scummy during the summer and green.  And

1    you will not have a healthy lake as a result.  And these

2    all put in -- they are not my words; it's all DuPont.

3    They put it in writing, and they told the EPA to shove

4    it where the sun don't shine and the EPA has got to step

5    up and enforce the Clean Water Act as part of this plan.

6            MR. MUGDAN:  Anybody else.  State your name

7    again for the...

8            MS. DEAN:  Sure.  Karen Dean.

9        I forgot to say this before.  I think we had a

10   lake restoration or whatever it was at the municipal

11   building, there was a meeting to show how the lake was

12   going to be cleaned up.  And DuPont was all there.  And

13   I was sitting in the back of this little building.

14       And I didn't know there were DuPont

15   representatives next to me.  And all of a sudden I heard

16   them laughing amongst themselves.  And they said:  Do

17   they actually think we were going to clean this whole

18   lake?  Like it was a joke.  I grabbed the mayor and

19   pulled her out of there.  She was astonished.

20       And the next day I got a phone call from Mr. Epps

21   telling me how sorry he was that those comments were

22   said.  I just want you to be aware of that.  I don't

23   think it was a funny thing to say.

24       And there were something else that I wanted to

25   say and I forget.

1          MR. MUGDAN:  Of course you will have an

2    opportunity to file comments up until February 2.

3          MS. DEAN:  I have a whole list of them.

4          MR. MUGDAN:  Anybody else who has not had a

5    chance to speak the first time?  Okay.  We are going

6    through round two now.  Ms. Riggiola.  State your name

7    again for the reporter, please.

8          MS. RIGGIOLA:  Lisa Riggiola, Pompton Lakes;

9      I just wanted to say no one here wants to stop to

10   cleanup as some may be applying as stop tactics.  We

11   want the lake cleaned up, but we want it fully cleaned

12   up of all mercury.  We want the upstream area cleaned

13   up, which is the Ramapo River.  We want downstream

14   cleaned up, which I believe is the Pequannock River.  We

15   want the spots all the way three miles down into the

16   township of Wayne cleaned up because our neighbors

17   should not have to suffer because DuPont's poisons, for

18   lack of a better word, were allowed to remain in our

19   community for all these years.

20        And we want it cleaned up.  It's not that we

21   don't.  We just want it done right and we want it done

22   right once.

23        Thank you.

24          MR. MUGDAN:  State your name again for the

25   reporter.

1          MS. MARTENS:  Sure, Helen Martens.  I'm

2   making a comment on behalf of somebody else who couldn't

3   show up tonight and I don't know exactly the technical

4   term.  But he was saying when DuPont puts these pilings

5   in the ground to do the work, they are going to puncture

6   the aquifer that is under the lake.

7          What is the plan for DuPont to close them up when

8   they take the pilings out so that the aquifer doesn't

9   get contaminated or whatever?

10          I'm not sure of all of that, if I got it right,

11   but I know he'll submit something in writing.

12          But I just want to say, I don't want to tie this

13   lake up any further here, I want it done.  But I want it

14   done so we don't have to come back and do it again.  I

15   want it to be complete.  And I feel that we responded

16   and had to deal with DuPont's plans, DuPont's

17   suggestion, DuPont's this, DePont's.  I want to know

18   where we get the input of what is clean and what we

19   want, because after all, we live here.  We were not the

20   ones that did this mess.  DuPont.

21          And when they say a responsible party and a

22   good-hearted party and they didn't know what they were

23   doing.  If that was the case, what took them thirty

24   years to clean this?  And they still haven't done it.

25   And we have to live over it.  The lake people just have

1    to look at it.  We have to live over these contaminants

2    are we are not getting any results yet.  We just have to

3    sit here.  So this is my comment to you.

4            Thank you.

5              MR. MUGDAN:  Thank you.  And I want to thank

6    everybody for coming this evening and sharing your

7    thoughts with us.  All of these will be on the official

8    administrative record.  We will, when we make our final

9    permit decision, we will also include a responsiveness

10   summary that will address all the points that were made.

11   There were a number of very specific questions that were

12   asked along the way.

13           If you want to come and speak with Perry Katz or

14   with Pat Seppi on the days that they are here and get

15   responses to those specific questions in advance, you,

16   of course, are welcome to do so.  But they will be

17   responded to in the responsiveness summary.

18           So thank you very much.  And with that I am

19   calling the hearing to a close.  I appreciate your time.

20                              (Hearing concluded 8:34

21   p.m.)

22

23

24

25

1                    C E R T I F I C A T I O N

2

3    STATE OF NEW JERSEY      )

                              :  ss:

4    COUNTY OF PASSAIC        )

5

6                    I, TONIANN ACQUARO, a Notary Public for

7    and within the State of New Jersey, do hereby certify:

8                    That the speakers whose testimony is

9    hereinbefore set forth is a true record of the testimony

10   given by each speaker.

11                   I further certify that I am not related

12   to any of the parties to this action by blood or by

13   marriage and that I am in no way interested in the

14   outcome of this matter.

15                   IN WITNESS WHEREOF, I have hereunto set

16   my hand this 22nd day of December, 2014.

17

18

19   _____

20                   ToniAnn Acquaro,

                      Professional Court Reporter

21                   and New Jersey Notary

                      My Commission Expires February 13, 2015

22

23   (The foregoing certification of this transcript does not

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