

SCANNED

OCT 18 1999

DE 100 1
B9

FOIA

**FOX POINT PARK SITE
REMEDIAL DECISION RECORD AND FINAL PLAN**

Presented By

**The Department of Natural Resources and Environmental Control
(DNREC)**

DECEMBER 18, 1992

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION	1
2. PURPOSE, BACKGROUND AND ORGANIZATION	1
3. SUMMARY OF THE ORIGINAL PROPOSED PLAN OF REMEDIAL ACTION	2
4. SUMMARY OF COMMENTS AND MODIFICATIONS OF THE PROPOSED PLAN	3
5. SUMMARY OF THE FINAL PLAN OF REMEDIAL ACTION	4
6. DECLARATION	6
7. ATTACHMENTS	
A. THE PROPOSED PLAN OF REMEDIAL ACTION	
B. COPIES OF CORRESPONDENCE WITH INTERESTED PARTIES ON THE PROPOSED PLAN	
C. AGENDA AND TRANSCRIPT OF A PUBLIC MEETING HELD ON THE PROPOSED PLAN	
D. THE MODIFIED PROPOSED PLAN OF REMEDIAL ACTION	
E. FINAL PLAN OF REMEDIAL ACTION	
F. COPIES OF PUBLISHED INFORMATION AND NEWSPAPER ARTICLES ON THE SITE	

REMEDIAL DECISION RECORD AND FINAL PLAN

FOX POINT PARK SITE

1. INTRODUCTION

The Hazardous Substance Cleanup Act in Section 9107 provides the public with the opportunity to know about and comment on the Department's plans to clean up a given hazardous waste site. To this end, the regulations established under the statute require that the Secretary issue a Proposed Plan of Remedial Action, open a twenty day public comment period, and then, having considered comments, issue a Final Plan. The Final Plan, comments from the public and the Department's responses become the Remedial Decision Record which documents the Department's efforts to solicit comments from the public and demonstrates that public input is incorporated in the Final Plan.

2. PURPOSE, BACKGROUND AND ORGANIZATION

The purpose of this document is to record the decision process which resulted in the selection of a remedy for the contamination found at the site.

The Final Plan is based on a series of studies and reports on the Fox Point Park Site. The Remedial Investigation Report (accepted September 1992) reported the results of environmental sampling at the park site. It also reported the conclusions of a risk assessment of opening the site as a public park in its present condition. The Feasibility Study Report examined and presented engineering alternatives considered protective and technically feasible to reduce the risks associated with use of the site as a park. The Proposed Plan of Remedial Action (issued by the Department on September 10, 1992) summarized the findings of the Feasibility Study together with the recommendation of the Department. A twenty day public comment period opened during which time the Department held a public meeting on the Proposed Plan, met with a community group, held a press conference and solicited comments and questions from the public. Copies of the Remedial Investigation/Feasibility Study Report were made available through public libraries in the vicinity of the site. Notices of the issuance of the Proposed Plan, information repositories and the public meeting were published in the Wilmington News-Journal.

A significant issue was brought forward during the public comment period which required a change in the remedial plan. Also during this time, the Department continued to evaluate the proposed remediation especially with regard to the area of land that could be successfully remediated within budget constraints. The resulting modifications to the Proposed Plan were significant enough to warrant re-opening the public comment period. The modified Proposed Plan was issued on

November 13 and placed in the information repositories. A notice of the re-opening of the public comment period appeared in the News-Journal the following day. The public comment period closed on December 4. No further comments nor a request for a public meeting were received during this period.

This document will present a summary of the Department's recommended remedial alternative as stated in the original Proposed Plan. It will then report written and verbal comments received by the Department during the public comment period. The Department's response to each comment will be summarized. This document will also review the changes to the original Proposed Plan that were initiated from within the Department. Lastly, the Final Plan of Remedial Action, as modified by public input, will be stated with the Department's intended procedures for implementing it. Attachments include:

- A. The Proposed Plan of Remedial Action (original).
- B. Copies of correspondence with interested parties on the Proposed Plan.
- C. Agenda and transcript of a public meeting held on the Proposed Plan.
- D. The Modified Proposed Plan of Remedial Action.
- E. The Final Plan of Remedial Action.
- F. Copies of published information and newspaper articles on the site.

3. SUMMARY OF THE ORIGINAL PROPOSED PLAN OF REMEDIAL ACTION

Investigation and assessment of the park site indicated potential health risks from contact or inadvertent ingestion of site soils and sediments by park visitors and personnel. The origin of the contamination (arsenic, antimony, and PCBs) is most likely the fill material which was applied in the 1960's to a depth of 15 to 20 feet over the site and digested sewage sludge which was spread on the surface in the 1970's.

A wide range of remedial approaches was considered for the site. Characteristics of the site which limited the number of feasible alternatives include its 15 acre extent, its long narrow shape and its future use as a park. Several containment remedies were examined in detail. In the Proposed Plan, DNREC advanced a remedy

including an impermeable cap and clean soil cover over the entire 15 acre tract as the most protective and permanent alternative. Other advantages of the proposed remedy are the decreased need for monitoring and the mitigation of potential environmental impacts due to runoff and infiltration of contaminated material. A copy of the Proposed Plan is included as Attachment A.

4. SUMMARY OF COMMENTS AND MODIFICATIONS OF THE PROPOSED PLAN

During the comment period, DNREC received two letters from community organizations and verbal observations from Delmarva Power. DNREC's responses are summarized here and copies of the written responses are included as Attachment B. Members of the public and elected officials present at the public meeting held on September 22 also made numerous statements and asked questions. DNREC's responses and answers are included in Attachment C, the verbatim transcript of the meeting.

Mr. Robert Moffett wrote a letter on behalf of the Open Space and Natural Resources Committee of the Council of Civic Organizations of Brandywine Hundred stating support for the Proposed Plan. He also expressed disappointment that only 15 acres of the property will be restored in this effort. This matter is of particular concern to the committee because the northern, unrestored part of the property would provide a link to the proposed greenway in the area. DNREC responded that resources and the accelerated schedule of the project limit the area which can be addressed in the present phase.

Mr. Gary Foggin, president of the Fox Point Association, wrote supporting the Proposed Plan. He urged DNREC to build on the existing park master plan and to continue to seek public input. He emphasized that the installation of the liner heightens the need for comprehensive planning. DNREC responded that the Superfund Branch and Division of Parks and Recreation are coordinating the designs of both the park and the site remediation and that installation of the liner would not preclude future development of the park.

Mr. Warren Watts of Delmarva Power, in a telephone call and subsequently in a meeting with DNREC, expressed his concern that the proposed impermeable liner would interfere with maintenance and leak detection on a natural gas pipeline which runs through the site. In response DNREC made a significant change to the extent of the liner. Since the natural gas pipeline spans the length of the site along its western edge, between the new road and the fence line, the liner will be terminated at the road. Protectiveness in the area between the road and the fence will be achieved by the application of clean fill material and perhaps landscaping.

The impermeable liner, if placed over the pipeline, would encapsulate leaking gas and prevent leak detection. A build-up of gas under the cover could present a fire/explosion hazard. A clean soil cover will maintain the protectiveness of the remedy and will allow Delmarva and other pipeline owners to perform leak detection activities. It will also permit easier maintenance of the pipelines. The change does not present any disadvantages from the human health standpoint.

Park visitors and personnel will be separated from the contaminated material. The risk assessment evaluated health risk to park construction workers. Because of more limited exposure frequency and duration, and because sub-surface soils are somewhat less contaminated than surface soils, the health risk to construction workers is less than that to visitors and is in the acceptable range. Therefore, the absence of the impermeable cover over the pipeline does not pose any unacceptable risks to either park visitors or to workers maintaining or checking the pipelines. The absence of the cap from this area of the site diminishes the mitigation of potential impacts on the Delaware River water quality. However, the Department regards maintaining viable gas leak detection as the overriding concern. The area in question is small compared to the area that will be covered with the impermeable cap.

Another significant departure from the original Proposed Plan concerns the boundary of the park. At first the Department intended to incorporate the northern drainage ditch within the park boundary and enclose it as was proposed for the southern ditch. The cost of enclosing the northern ditch was estimated at \$300,000. This action would have added only one additional acre to the area of the park. The unfavorable cost/benefit ratio associated with this unit of work prompted its deletion from this phase of the project. The northern boundary of the park has been adjusted to just south of the ditch. The remedy is still protective because access to the ditch will be restricted by fencing, signs and enforcement.

5. SUMMARY OF THE FINAL PLAN OF REMEDIAL ACTION

The plan for remediating the park site as modified during the comment periods consists of the following elements:

- Clearing vegetation and grading the existing surface.
- Cleaning the two drainage ditches traversing the site; culverting the southern ditch (A/B).
- Excavating a shallow liner retaining trench around the perimeter of the area to be lined and providing for foundations/footings/bed for park structures and plantings; excavating utility chases.

- Preparing the surface under all areas of the site which will be covered by the liner.
- Installing the polyethylene liner material and associated fabric covers over the area between the new park road and river.
- Topping the liner with covering material including sub-base for the road and paths; setting footings and foundations as needed.
- Adding approximately one foot of soil cover to the narrow unlined portion of the site between the road and the western fence (over the pipelines).
- Seeding the cover.
- Erecting fencing and signs as needed.

The project will make a transition from remedial construction to park development. The latter will include constructing the park facilities, parking lot, roads, paths, etc. The remedial project will include developing a manual of operations to address intrusive activities, monitoring the performance of the cover and procedures to use if the cover is penetrated or needs repair.

DECLARATION

1. This Final Plan of Remedial Action is a fair representation of the remedy which DNREC will implement at the Fox Point Park Site.
2. The Remedial Decision Record is an accurate reflection of DNREC's attempt to solicit and respond to public comment and concern.
3. The procedures followed in selecting the remedy and the remedy itself are consistent with the requirements of the Delaware Hazardous Substance Cleanup Act.



Mary L. McKenzie, Acting Director
Division of Air and Waste Management

SFJ/mlb
SFJ2271

ATTACHMENT A
THE PROPOSED PLAN OF REMEDIAL ACTION

**FOX POINT PARK SITE
PROPOSED PLAN OF REMEDIAL ACTION**

Presented For Public Comment

By

**The Department of Natural Resources and Environmental Control
(DNREC)**

SEPTEMBER 10, 1992

FOX POINT PARK SITE

PROPOSED PLAN OF REMEDIAL ACTION

1. ORGANIZATION AND CONTENTS OF THE PROPOSED PLAN

This proposed plan is issued under the Delaware Hazardous Waste Cleanup Act (HSCA). The purpose of this proposed plan is to present the public with DNREC's proposed technical approach to reducing risk levels associated with use of the Fox Point site as a park. It will examine the proposed approach and explain why it was selected. It will also discuss other approaches developed in the feasibility study and why they were rejected. At the end of the comment period, public input will be considered and a final remedial action plan issued.

The contents of a proposed plan of remedial action are discussed in the draft HSCA regulations, section 8.7. A proposed plan may include:

- (a) General description of the proposed remedial action including compliance monitoring.
- (b) Brief summary of other alternative remedial actions evaluated in the remedial investigation/feasibility study.
- (c) Cleanup levels for each media of concern and the point of compliance where the levels will be met.
- (d) Schedule for implementation of the plan of remedial action including the restoration time frame if known.
- (e) Institutional controls required for facility use restriction, if any, for the proposed remedial action.

In addition to the above, this proposed plan contains a brief description of the site and the results of the remedial investigation. It concludes with instructions for directing comments or questions about the plan to DNREC.

2. SITE DESCRIPTION

The Fox Point Park Site is a linear tract of about 15 acres on the Delaware River in Wilmington. It is located just north of the Du Pont Edgemoor plant. It is between I-495 and the Amtrack tracks on the west and the Delaware River on the east.

The site consists of fill material comprised of industrial waste (including slag, bricks, timbers, waste ingots and castings) which was placed in the 1960's to a depth of about 16-20 feet throughout the area. Subsequently, the site was used as a trash dump and, in the 1970's, for digested sewage sludge drying and disposal. Two drainage ditches cross the site and flow into the Delaware River.

The Department of Natural Resources and Environmental Control owns the property and intends to develop it as a river front park. Investigations of the site in 1991 indicated the presence of a wide variety of chemical contaminants. The site was then closed to the public. Consequently, a remedial investigation, risk assessment and feasibility study were authorized by the Division of Air and Waste Management under the Delaware Hazardous Substance Cleanup Act of 1991. The specific purpose of the investigation was to assess the human health risk to visitors, park employees and construction workers on the site in its present condition.

The results of the assessment indicate that levels of arsenic, antimony and PCBs in surface soils would present an unacceptable risk of chronic health effects to park visitors and employees due to dermal contact and inadvertent ingestion. A feasibility study was then undertaken to evaluate means to reduce these risks to acceptable levels.

3. THE PROPOSED REMEDIAL ACTION

The proposed remedy for the site (identified as Alternative Five in the feasibility study) isolates the contaminated material from park visitors and employees by placing a layer of impermeable plastic fabric over the 15 acre surface of the site. Layers of sand, clean fill and topsoil will be placed below and above the liner to provide for drainage and support vegetation. The impermeable cap will extend from the western fence line of the site to a walkway which will be constructed along the river bank as one of the park's amenities. Under the proposed remedy, the two drainage ditches will be enclosed in culverts. Placing culverts will simplify liner installation, improve liner integrity and increase park area available for recreation.

The implementation of this remedy requires:

- (1) Clearing, grubbing and grading the site.
- (2) Excavating and culvertizing the ditches, filling in around the culverts.
- (3) Excavating utility chases, bowls for trees and foundations for park buildings in the existing fill material.
- (4) Laying down a six inch sand layer over the site.

- (5) Installing a 40 millimeter high density polyethylene liner.
- (6) Laying down a sand-and-fill drainage layer approximately one foot thick with perforated drainage pipes installed.
- (7) Adding a four inch layer of top soil and seeding.
- (8) Constructing a retaining feature on the eastern perimeter of the lined area.

Park development also includes a new road in the approximate location of the existing unpaved road.

Although the use of the impermeable liner adds to the capital cost of the project, it is expected to have greater long term effectiveness and lower overall maintenance costs than remedies employing fill alone. Any upward migration of contaminants will be intercepted by the plastic. This remedy is, therefore, the most effective in preventing contact with or ingestion of contaminated material. This alternative also provides some environmental protection by preventing the leaching of contaminants due to rain water infiltration through the fill material.

4. OTHER ALTERNATIVE REMEDIAL ACTIONS

The feasibility study screened a variety of remedial approaches and technologies. The following methods were screened out due to lack of feasibility, high costs, problems with implementation in the given time frame or failure to meet the goals of the project:

- Removal and offsite treatment, disposal or recycling.
- Placement of a concrete, asphalt or clay cap.
- In situ bioremediation, vapor extraction or vitrification.
- Fixation of surface soils.

Five alternatives were evaluated in more detail in the feasibility study. A brief summary of the four rejected alternatives follows:

Alternative 1--No Action: This alternative was rejected because it does not meet the goal of providing safe park space to the public.

Alternative 2—Limited Access Park: This alternative would leave only a limited area of the park space for active recreation. A small playground and walkways would be covered with clean soil and fenced. There would be no access to the majority of the area. This alternative does not meet the goal of providing a safe, general use of the park.

Alternative 3—Clean Fill: This alternative would cover contaminated surface soils with a one-foot layer of clean fill. The remedy would be protective in the short term, but over time the potential exists for mingling of the contaminated material with the clean fill resulting in exposure to visitors and employees. Consequently, the surface soils would have to be sampled and monitored, driving up the costs of operating the park.

Alternative 4—Clean Fill and Permeable Fabric: This alternative would isolate people from the material and reduce upward migration of contamination. However, sampling and monitoring would be required as for Alternative 3.

5. CLEANUP LEVELS

The proposed plan of remedial action will prevent human contact with the surface soils thereby preventing exposure to all contaminants of concern. For the contaminants causing unacceptable risks, the surface soil concentration of PCBs will be reduced to below 400 ug/kg and arsenic to below 6 mg/kg. No cleanup level was established for antimony because 70% of the risk is due to arsenic levels.

6. IMPLEMENTATION AND SCHEDULE

The first step in implementing the proposed plan of remedial action is the detailed design. The design contractor will also prepare bid specifications for the construction work. The Department will solicit bids for clearing, lining, spreading fill and excavation of the ditches. The new road will be placed over the liner and fill layer. Park building foundations will be constructed concurrently with liner installation. The schedule calls for the park opening in May 1993.

7. INSTITUTIONAL CONTROLS

In addition to the construction work, the Division of Parks and Recreation will develop operating procedures to prevent damage to the liner or exposure of workers during park maintenance. Rodents and digging animals will have to be controlled. Means of restricting access to the river bank are still being evaluated. These procedures will be in written form and will be incorporated into park employee training and orientation. The effectiveness of the procedures in protection of the remedy will be reviewed annually.

8. PUBLIC PARTICIPATION

The notice of the proposed plan of remedial action appeared in The Wilmington News-Journal on September 10, 1992. The public comment period is open until October 1, 1992. Comments received by the Department during this period will be considered for incorporation in the final plan which will be issued shortly thereafter. Please direct questions or comments to:

DNREC Division of Air and Waste Management
Attention: Stephen F. Johnson
715 Grantham Lane
New Castle, DE 19720
Phone number (302) 323-4540

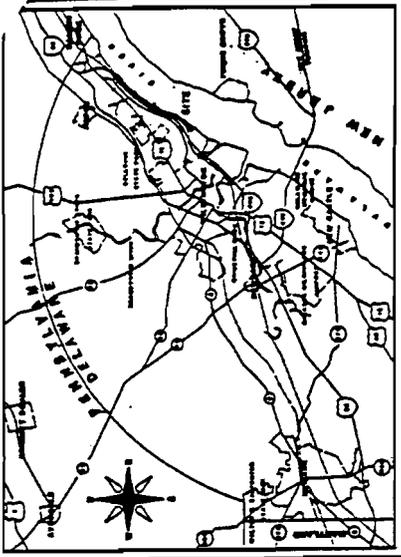
Complete copies of the Remedial Investigation/Feasibility Report may be examined at the address above during regular office hours or at:

Claymont Public Library
3303 Green
Claymont, DE

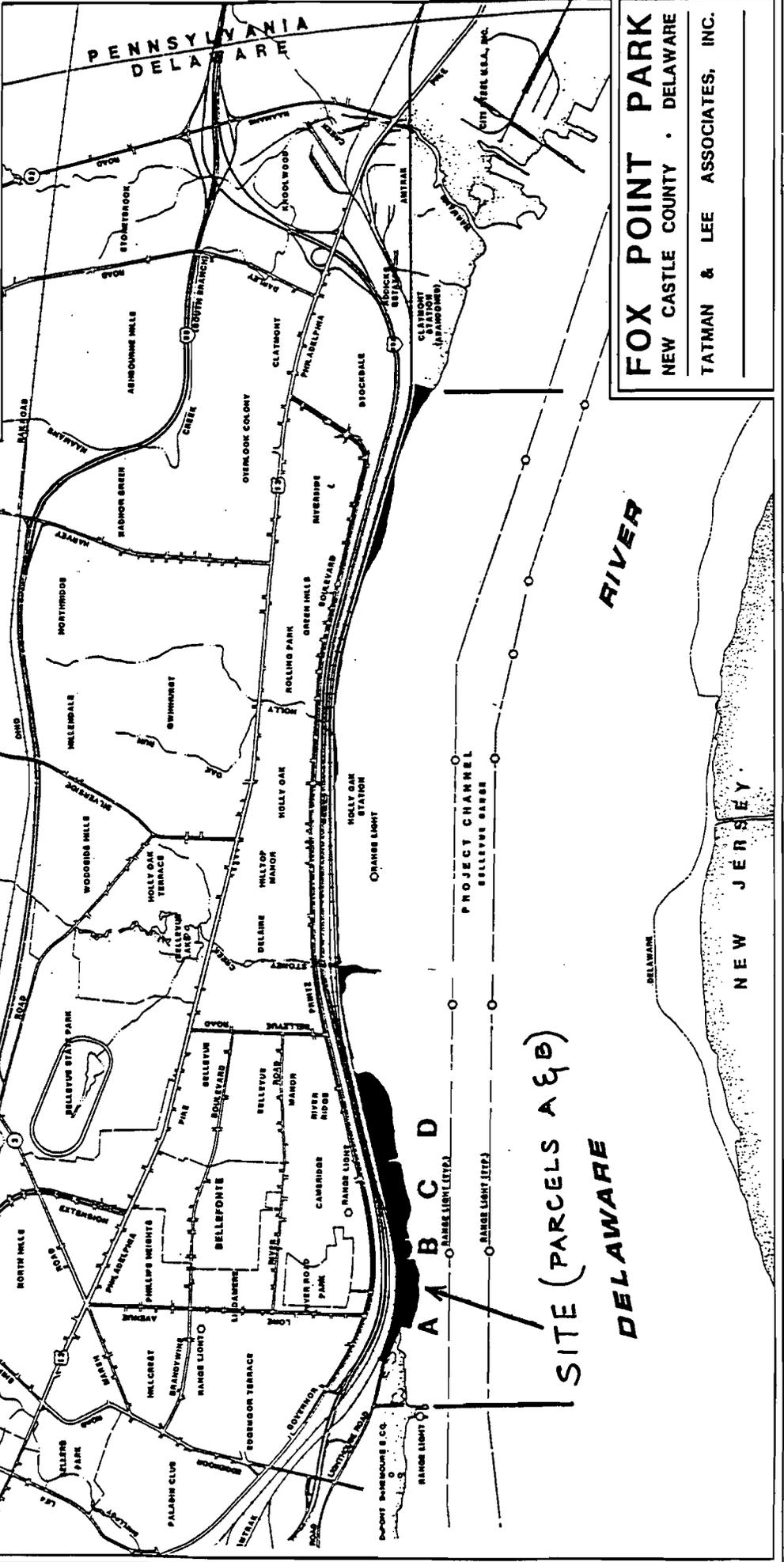
The library is open from 1 to 9 pm on Tuesdays and Thursdays, and from 10 to 5 pm on Mondays, Wednesdays, Fridays and Saturdays.

A public meeting on this proposed plan will be held in September. You may call DNREC at 302-323-4540 for further details.

SFJ/mlb
SFJ2249



LOCATION PLAN
SCALE 1" = 3000



FOX POINT PARK
NEW CASTLE COUNTY · DELAWARE
TATMAN & LEE ASSOCIATES, INC.

RIVER

NEW JERSEY

SITE (PARCELS A & B)

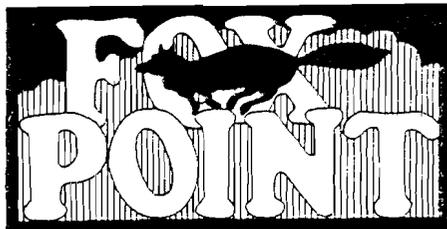
DELAWARE

A B C D



ATTACHMENT B

**COPIES OF CORRESPONDENCE WITH INTERESTED PARTIES
ON THE PROPOSED PLAN**



RECEIVED
546
SEP 23 1992
STATE OF DELAWARE
DNREC SUPER FUND BRANCH

P.O. Box 9401

Wilmington, DE 19809

(302) 764-5829

September 19, 1992

DNREC Division of Air and Waste Management
715 Grantham Lane
New Castle, DE 19720
ATT: Stephen F. Johnson

Dear Mr. Johnson

We the board of directors of the Fox Point Association support the Fox Point Park remediation plan proposed. The option selected is the most conservative approach and will allow for future park development.

The Fox Point Association is an umbrella group made up of representatives from 17 communities surrounding the park. We hired Tatman & Lee and organized community based committees to develop the park master plan. We feel that the park is a unique resource and could be a key to the revitalization of the vacant Merchants Square and Paladin Condominiums.

Since major park features must be allowed for during liner installation and future changes will be very unlikely, its critical that a comprehensive park plan is developed now. We urge DNREC to build on the concepts outlined in the park master plan and continue to seek public input so that future park development can reach its full potential. With proper planning, we can turn the site into a valuable river front recreational facility for state and local residents.

Sincerely,

Gary W. Foggin,
President Fox Point Association



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
715 GRANTHAM LANE
NEW CASTLE, DELAWARE 19720-4801

WASTE MANAGEMENT SECTION
SUPERFUND BRANCH

TELEPHONE: (302) 323-4540
FAX: (302) 323-4561

October 2, 1992

Gary W. Foggin, President
Fox Point Association
P. O. Box 9401
Wilmington, Delaware 19809

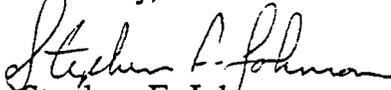
Dear Mr. Foggin:

Thank you for your letter on behalf of the board of directors of the Fox Point Association expressing your support for the proposed plan for the remediation of the Fox Point Park site.

You expressed a concern that the installation of the impermeable liner will make future changes and additions to the park unlikely and suggested that a comprehensive plan for the park be developed now so that it can be incorporated into the remedial design. I am directing your suggestions to the Division of Parks and Recreation, which is responsible for the park plans. I would add, however, that the presence of the liner may make changes to the park more complicated, but it will certainly not preclude them. In fact, part of the remediation will be to develop work procedures to excavate material from beneath the liner should circumstances compel it.

Thank you again for your interest. Your comments will be included in the final remedial action plan.

Sincerely,


Stephen F. Johnson
Environmental Engineer
Superfund - Remedial

SFJ/mlb
SFJ2257

pc: Phillip G. Retallick
Britt Murray

Delaware's good nature depends on you!

COUNCIL OF CIVIC ORGANIZATIONS OF BRANDYWINE HUNDRED

September 30, 1992

To: Stephen F. Johnson
DM&EC Division of Air and Waste Management
715 Grantham Lane
New Castle, DE 19720

From: Robert P. Moffett
Open Space and Natural Resources Committee of CCOBH
1121 Carr Road
Wilmington, DE 19809

FOX POINT STATE PARK

The Council of Civic Organizations of Brandywine Hundred supports your plan to clean up contaminated soil at Fox Point State Park by the best available technology, as presented at your public hearing on September 22, 1992.

The CCOBH has been a supporter of the Park since its inception. One of our members served on the General Committee for developing the Master Plan for the Park. We have been holding a fund to be used for a memorial to Marsten Fox as soon as the Park is developed.

It is disappointing that only fifteen acres will be reclaimed at this time. We strongly urge you to work with all available sources of money to recover the entire area. The Park provides northern Delaware with a highly-desirable waterfront park, and it is an important link in the State's Greenway program. The full potential cannot be realized without access for pedestrians and bicycles to the new state park property (formerly Volpe property) across I-495 and Governor Prinz Boulevard. Such access was proposed in the Master Plan for the Stoney Creek area, outside of the fifteen-acre parcel proposed for recovery now.

Your work to overcome this unfortunate pollution problem and to provide a safe Fox Point State Park is greatly appreciated. We shall welcome an opportunity to work with you in any appropriate way to get the entire area operating as originally planned.

Robert P. Moffett



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
715 GRANTHAM LANE
NEW CASTLE, DELAWARE 19720-4801

WASTE MANAGEMENT SECTION
SUPERFUND BRANCH

TELEPHONE: (302) 323 - 4540
FAX: (302) 323 - 4561

October 2, 1992

Mr. Robert P. Moffett
Open Space and Natural Resources Committee of
The Council of Civic Organizations of Brandywine Hundred
1121 Carr Road
Wilmington, Delaware 19809

RE: Fox Point State Park

Dear Mr. Moffett:

Thank you for your letter on behalf of the committee expressing your support of the proposed plan for the remediation of the Fox Point Park site.

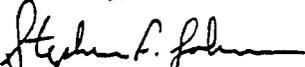
You expressed a concern that the remedial project will make only the southern portion of the property available for park use at this time. The decision to proceed with the investigation and remediation of the park site in a phased approach was based on two considerations:

- The desirability of restoring at least some of the property to public use as soon as possible.
- The limitations on the resources available to do the job.

The southern section was chosen for the initial effort because it already had an access road. At the present time, the Superfund Branch has not scheduled further investigation of the northern section of the property. However, I can assure you that the Department is keenly aware of the importance of that section as a link in the State Greenway Program.

Thank you again for your interest. Your comments will be included in the final remedial action plan.

Sincerely,


Stephen F. Johnson
Environmental Engineer
Superfund - Remedial

SFJ/mlb
SFJ2256

pc: Phillip G. Retallick

Delaware's good nature depends on you!



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
715 GRANTHAM LANE
NEW CASTLE, DELAWARE 19720-4801

WASTE MANAGEMENT SECTION
SUPERFUND BRANCH

TELEPHONE: (302) 323-4540
FAX: (302) 323-4561

October 5, 1992

Mr. Warren G. Watts
Delmarva Power
Environmental Affairs Department
P. O. Box 6066
Newark, Delaware 19714-6066

RE: Fox Point Park Project

Dear Mr. Watts:

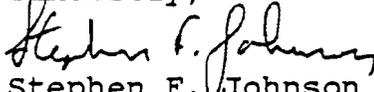
Thank you for your comments on the proposed remedy for the Fox Point Park site. I am writing this letter so that a written response to your comments can appear in the final remedial plan.

You expressed a concern that the proposed impermeable liner may well interfere with the detection of leaks in the natural gas pipeline which crosses the property. You also discussed maintenance of the pipeline and right-of-way and provided us with aerial photos of the pipeline location.

I intend to elevate these matters to the highest priority as the conceptual design is finalized. As a first step, we will provide you with a drawing of DelDOT's road plan so that you can transfer the location of the pipeline to our working drawings. I am also planning to walk over the site with your colleague, Theodore Waugh. I anticipate consulting with Delmarva throughout the design period as necessary.

Thank you very much for bringing this to our attention.

Sincerely,


Stephen F. Johnson
Environmental Engineer
Superfund Branch

SFJ/mlb
SFJ2258

pc: Theodore Waugh

Delaware's good nature depends on you!

ATTACHMENT C

**AGENDA AND TRANSCRIPT OF A PUBLIC MEETING
HELD ON THE PROPOSED PLAN**

**Fox Point Park Proposed Remedy
Public Meeting Agenda**

Introductions - Paula Savini

Overview of Hazardous Substance Cleanup Act process - Paula Savini

Review of Fox Point Park remedial investigation - Stephen Johnson

Proposed Plan of Remedy - Stephen Johnson

Questions from audience

Closing comments - Paula Savini

RECEIVED

001 5 119

1119

STATE OF DELAWARE
SUPERIOR COURT

PUBLIC HEARING BEFORE THE
STATE OF DELAWARE DEPARTMENT OF NATURAL
RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT

IN THE MATTER OF:)
)
FOX POINT PARK SITE PROPOSED)
PLAN OF REMEDIAL ACTION)

MT. PLEASANT HIGH SCHOOL
WASHINGTON STREET EXTENSION
WILMINGTON, DELAWARE
TUESDAY, SEPTEMBER 22, 1992
7:15 p.m.

CHAIRPERSON: PAULA C. SAVINI,
PUBLIC INFORMATION OFFICER

PRESENT:

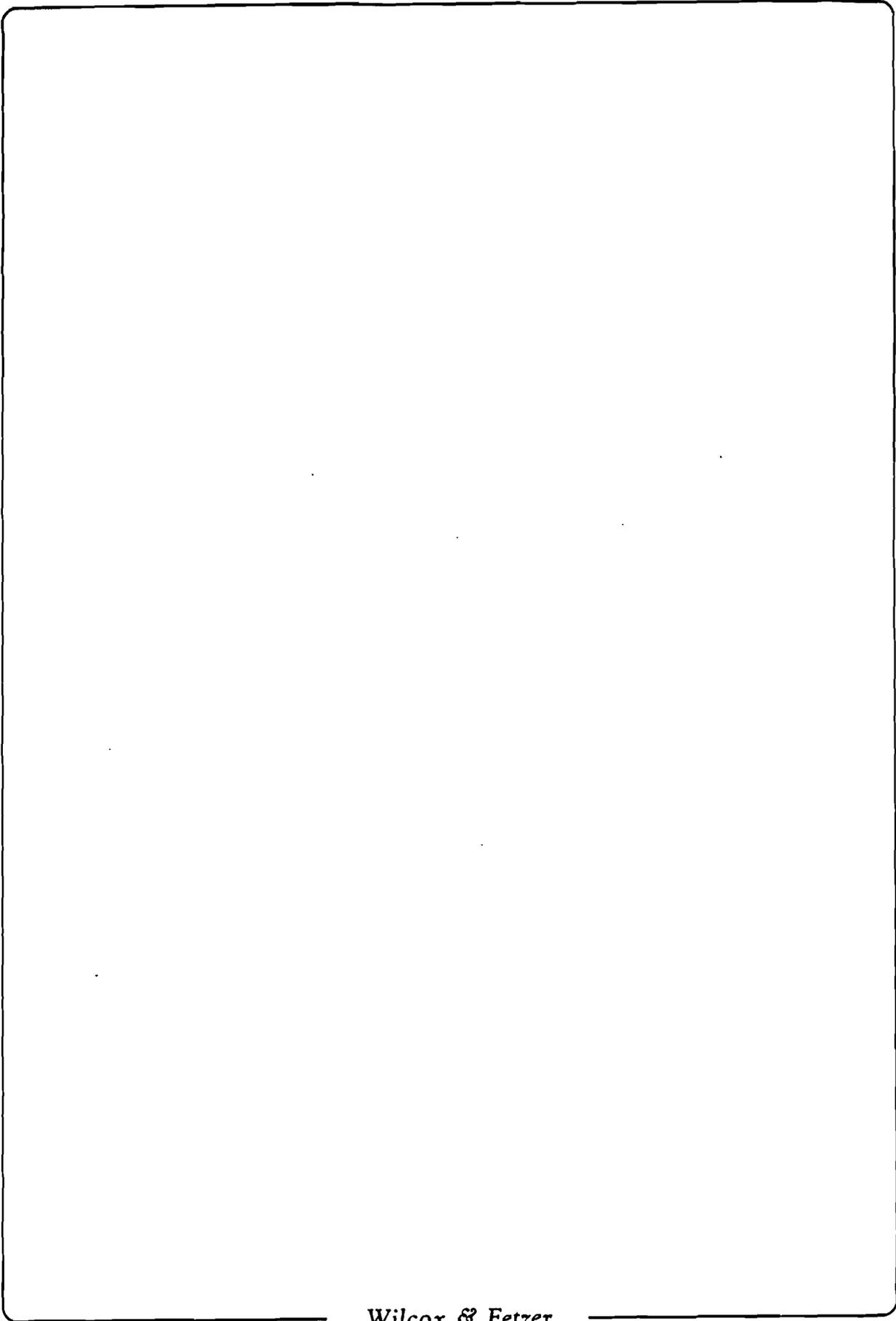
- N. V. RAMAN - DIVISION OF AIR & WASTE MANAGEMENT
- STEPHEN F. JOHNSON - DIVISION OF AIR & WASTE MANAGEMENT
- STEPHEN WILLIAMS - DIVISION OF AIR & WASTE MANAGEMENT
- W. BRITT MURRAY - DIVISION OF PARKS & RECREATION
- MICHAEL ANGELO - DEPARTMENT OF TRANSPORTATION
- PRESTON LEE - TATMAN & LEE, DESIGN CONSULTANT
- DENISE HUSBAND - ENVIRONMENTAL DESIGN

HEARING TRANSCRIPT

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

Wilcox & Fetzer
Registered Professional Reporters

COPY



1 MS. SAVINI: My name is Paula Savini. I'm
2 the public information officer for the Department of
3 Environmental Resources & Environmental Control for the
4 Superfund Branch. I will be conducting the meeting
5 this evening for you. Before we get started, let me
6 introduce the people who will be speaking to you.

7 There is Stephen Johnson, who is the project
8 officer for Fox Point Park; Steve Williams, who is the
9 program manager, and Britt Murray, with Parks &
10 Recreation. And down in the corner is N. V. Raman, who
11 is the director of the Superfund program. Mike Angelo
12 with DelDOT. So if anyone has any questions about any
13 of the different aspects of the development of Fox
14 Point, hopefully we have enough people here to answer
15 them for you.

16 What I'd like to do first before we talk
17 about the specifics of Fox Point Park is to inform you
18 about the process known as HSCA, the Hazardous
19 Substance Clean-up Act. Recognizing the need for a
20 mechanism to remediate either orphaned or abandoned
21 sites or to deal with emergency situations that aren't
22 serious enough to warrant placement on the
23 Environmental Protection Agency's national priority
24 list, Delaware legislators passed the Hazardous

1 Substance Clean-up Act in 1990. This process set forth
2 in the legislation is based on the EPA Superfund
3 process but has been tailored to meet the specific
4 needs of this state. The state Superfund is funded
5 through a .6 percent tax on petroleum products, which
6 is imposed at the time of wholesale. The fund is used
7 whenever a site is abandoned or potentially responsible
8 parties cannot be identified promptly. Remedial costs
9 are usually recovered through those responsible for the
10 hazard.

11 At the time a site is identified an initial
12 investigation of the site is conducted. This
13 investigation relies on currently available information
14 and a facility visit to determine if a threat exists.
15 If the investigators feel a site does pose a risk to
16 human health or to the environment, a facility
17 evaluation is then conducted. This evaluation will
18 confirm the release or imminent threat of a release of
19 a hazardous substance at a facility. It develops
20 information to evaluate the threat to public health or
21 welfare or to the environment. And it determines the
22 relative hazard ranking of a facility. When the site
23 is placed on a priority list, the remedial
24 investigation follows the facility evaluation.

1 This probe defines the risks and the extent
2 of the problem that requires remediation. It includes
3 extensive field testing and sampling to find the nature
4 and extent of the contamination, the routes of exposure
5 and the risk to human health and the environment. A
6 feasibility study usually performed immediately after
7 the remedial investigation identifies the remedial
8 alternatives available and from that study a plan of
9 action is prepared. At Fox Point Park we are now at
10 that stage.

11 Tonight we are providing you a chance to
12 learn about the findings of the remedial investigation
13 and feasibility study alternatives appropriate to the
14 situation and the choice we at DNREC feel is the most
15 suitable way to remedy the situation. Once we have
16 gathered public comments during this 20-day comment
17 period on our proposed plan, we will consider all
18 public observations and determine our final plan of
19 action. From that point a remedial action work plan
20 will be designed and actual remediation activities will
21 begin. Should any Superfund site be considered an
22 imminent threat, interim action, such as fencing the
23 area, posting warning signs, capping contaminants or
24 removing contaminants from the area, can be taken at

1 any time during the investigative process. Although
2 visitors at Fox Point did not face an immediate threat,
3 fencing was installed, and the park has been
4 temporarily closed while our investigation and
5 remediation continue.

6 Another investigation does go on while the
7 scientific one occurs, and that is of identifying
8 potentially responsible parties, a PRP, as they are
9 often referred to, is any person identified as a site
10 owner or operator or in any other way a contributor to
11 the contamination. These PRPs are liable for the
12 response actions needed to remediate the site.
13 Negotiations with PRPs usually continue throughout the
14 remediation process.

15 And with that little overview of the HSCA
16 process, I'd like to turn the meeting over to Stephen
17 Johnson, who will talk specifically about what's going
18 on at Fox Point.

19 MR. JOHNSON: Thanks, Paula. I know that
20 most of you are familiar with the site already, so I
21 don't want to bore you with a lot of details. I'll
22 just hit the high points here and save plenty of time
23 for questions later on. I'll also save you the
24 suspense and just tell you that the remedy that we are

1 proposing and have put out in this document, the
2 proposed plan, is a plan to cover the site with a layer
3 of thick plastic and about a foot or so of soil cover.
4 The idea here is that we'll isolate the contaminated
5 material from the people who are visiting the park.
6 I'll just recapitulate a little bit and tell you how we
7 reached that point now.

8 There is a conceptual diagram that we've had
9 done some time ago of how the park will look. This is
10 not really current, but I just wanted to use it to
11 orient you a little bit. Down here at the bottom would
12 be the Du Pont Edgemoor plant. And railroad track is
13 here. The Delaware River on the right. And there here
14 and here you see these two ditches that divide the site
15 into parcels A and parcel B. I may refer to those
16 later on.

17 Well, how did the Division of Air & Waste
18 Management get involved? Well, you know that this site
19 has been under consideration as a park for some time.
20 In about 1985 or so, Tatman & Lee did a master plan for
21 the park and actually made a recommendation in there
22 that -- because of the known application of sewage
23 sludge in a sludge drying and disposal experiment back
24 in the '70s there was some contamination in the surface

1 soil -- so at that point actually they recommended
2 adding a soil cover. The Department carried out an
3 investigation ourself on the basis of this suspicion of
4 contamination when the property came back to the
5 state. We did a little investigation in-house and
6 discovered enough contamination in the soil to warrant
7 a fuller scale investigation. And that was completed
8 last spring.

9 So what did we look for and where did we
10 look? We were interested in how the contamination
11 that's present at the site might affect its use as a
12 park. So we looked here in the surface soil. The
13 number of samples we took was 16. The subsurface soil
14 because development of the park had involved some
15 excavations, some digging. The surface water, and I
16 emphasize these four surface water samples are in the
17 ditches, and the sediment samples are also in the
18 ditches.

19 So in answer to the question what did we
20 find, I think we divide that into the environmental
21 medium where we looked. Actually the application of
22 the sewage sludge resulted in very widespread even
23 contamination across the whole site, the 15 acres that
24 we're talking about. There's a wide variety of

1 chemicals. We sampled for some 120 plus chemicals. Of
2 those, a few of them, only a few were at prevalent
3 enough -- were prevalent enough in the soil and also at
4 levels enough to carry through what we call a risk
5 assessment. I'll explain a little more about the risk
6 assessment.

7 These are the ones that we identified in
8 soils: polychlorinated biphenyls are used as cooling
9 fluids in transformers. Antimony, arsenic and lead are
10 all elemental metals. Antimony would be found in
11 electroplating processes, lead in battery manufacture,
12 or a number of other sources. Arsenic would be a
13 product of a number of combustion processes or metal
14 handling, metal plating, so on. Okay. I'll come back
15 to this slide and talk a little more about what these
16 ranges mean. But note the metals are given in parts
17 per millions, PCBs are in parts per billion.

18 We also took a background sample. And I
19 think what this slide illustrates is that we did
20 identify an area on the site where no sewage sludge was
21 applied. And it shows that our background levels we
22 found in that area were very similar to background
23 levels in Delaware soils. This is just a comparison of
24 some of the levels that we found with standards in

1 other states. This is New Jersey for PCBs.
2 Residential area, which I think the use of the site as
3 a park is consistent. They have something like a half
4 a part per million for the protection of human health.
5 I think we had a maximum of about 8 parts per million
6 on PCBs in soils. What I'm doing is reviewing the data
7 that led us to conclude that we need to do something at
8 the site. If I didn't make that clear before.

9 A contaminant that we found in the ditches
10 is dieldrin, which is a discontinued chlorinated
11 pesticide, was last manufactured in the early '70s, but
12 there is still some present. And we are just over a
13 reference level for dieldrin.

14 And a contaminant of concern that turned up
15 in sediment is this benzo(a)pyrene, which is a
16 by-product of petroleum products combustion. Some
17 states, New Jersey for example, use levels, something
18 you could think of as a speed limit. If a given
19 contaminant exceeds a certain number, that means they
20 have to do something about it. In Delaware we've taken
21 a slightly different approach. We call it a risk
22 assessment, in which we look at the -- we look at how
23 the property will be used and evaluate whether the
24 contamination that's present exceeds an acceptable

1 level of risk.

2 So we did a risk assessment knowing that
3 this would be used as a park for four different
4 exposures scenarios we call them: there is the child
5 park visitor, the adult park visitor, the park worker.
6 This would be like the ranger who is there continuously
7 or all day long, and then also the park construction
8 worker. And this is the person who will actually be
9 involved in the excavation and development of the
10 park. Just for an example, some of the -- I won't go
11 through this with every one of those individuals who we
12 anticipate may be exposed -- but just taking a child
13 park visitor as an example, these are some of the
14 factors that go into figuring out what that person
15 would be exposed to if they were using the site as a
16 park exactly the way it is now.

17 This pertains to a child park visitor one to
18 six-years old. So we have rate. The exposure duration
19 is five years. The soil injection rate is something
20 that was determined in a study. This, I will just add,
21 this risk assessment process is not is not something we
22 developed on our own. It's developed by the
23 Environmental Protection Agency. It's the same sort of
24 process that we use with Superfund sites to determine

1 whether or not they present a health risk.

2 So try to answer the question: Does the
3 site in its present condition present a risk? We have
4 to look at two different kinds of risk. They are a
5 noncarcinogenic chronic toxic effect and carcinogenic
6 risk. We use as hazard index which compares the dose
7 that we would expect the child to be getting to the
8 dose that below which there is absolutely no visible
9 effect. And we see that for the child visitor using
10 the park, under the assumptions that we've made, there
11 is an unacceptable chronic health risk. Likewise for
12 cancer-causing agents due to the known habit of
13 children of mouthing play things, putting their hands
14 in their mouth and otherwise coming in -- ingesting
15 soil. We anticipate that there would be an
16 unacceptable cancer risk of 1.4 in 10,000, compares to
17 our statutory acceptable level of one chance in a
18 hundred thousand of developing cancer in a lifetime.

19 So based on that we concluded that, yes, we
20 did need to do something before this property can be
21 used without an acceptable risk as a park.

22 This moves us to the phase of the study that
23 we call the feasibility study. And very -- in the
24 early going we screened out a number of technologies

1 because they were not consistent with the use of the
2 site as a park. Just for instance, putting asphalt or
3 concrete over it. This is not the kind of park that we
4 wanted to develop. In fact, we eliminated most of
5 the -- all of the technologies; for instance, scraping
6 up the contaminated soil and disposing of it off-site
7 or trying to treat it on-site because they were not
8 feasible from an economic point of view.

9 So we're left with an approach that we call
10 containment where we're trying to create a physical
11 barrier between the park users and the contaminated
12 material. Our consultant worked up in some detail how
13 four containment methods would work. We also included
14 the no action in here just as a reference point. We do
15 intend to develop this as a park. So no action is out
16 of the question now.

17 Limited action at this site would give us a
18 very access-restricted park. That is, there would be a
19 small play ground that's covered with soil. Walkways
20 would be fenced in so there would not be very much room
21 for people to play in.

22 Let's see. I'm down to number three here,
23 under the containment approaches. One would be to put
24 clean fill over the contaminated material. A second

1 was to apply a permeable synthetic fabric before we put
2 the one foot of soil on, and the third one is to use an
3 impermeable synthetic cap. And that last one is the
4 one that we are proposing as the remedy for the site.

5 Compared to the other two containment
6 methods, one being the clean soil and the permeable
7 fabric, we think that the impermeable synthetic cap is
8 going to require less monitoring in the long term
9 because there will not be a chance of a lower
10 contaminated soil mixing with the clean soil on top;
11 therefore, the mobility of the contaminants would be
12 reduced both for mixing upward and also being leached
13 by rain water into the river. It's therefore more
14 protective of the environment. It will be more
15 effective in the long-term, we believe, because of
16 lower maintenance costs.

17 I did not make a slide that shows its
18 disadvantages. One of the things that we'll have to
19 consider in the design of the park or the design of the
20 fill material is that every structure that has a
21 foundation deeper than about ten inches will have to be
22 accounted for before we put the fabric on. This means
23 that every place where we plant trees we'll have to
24 create a bowl in the existing fill material and put the

1 fabric over that to so we'll have room for the tree to
2 grow on top. Same with the buildings, utility chases,
3 foundations for light poles, flag pole, for instance.

4 However, this is well within our expertise
5 to carry off this design. And we will soon be working
6 on it if -- naturally, we will incorporate whatever
7 comments the public has before we actually finalize the
8 plan and then proceed with the design.

9 Let's see what I have left off here. One of
10 the advantages, of course, that I noted here is that
11 this remedy will reduce whatever impacts the site may
12 be having on the river. We don't think that the
13 contamination is washing off into the river in a
14 quantity that would affect the river water quality
15 especially compared to some other sources that we know
16 about. However, as the Delaware River water quality is
17 improving, it's in a long-term upward trend, and more
18 of the industrial discharges are being controlled, so
19 we think that by using this impermeable cap now we will
20 not have to readdress this site later on because of
21 potential impact to the river.

22 I think I'll just stop right there and let
23 you ask questions. I know there is, there is a lot
24 more details that we can provide you with. This is a

1 sample of the same kind of material that would be
2 applied underneath the one foot of clean soil.

3 MS. SAVINI: Just one note before you ask
4 questions, if you would just state your name of time
5 because we are keeping a record of this so we can
6 address any comments that are made.

7 MS. CARLSON: Edith Carlson. The early
8 slide that you showed of the park, the diagram, you had
9 site A and site B, and on the maps that are attached to
10 the information handed out tonight there are parcels A,
11 B, C and D. Are C and D getting the same treatment?
12 Are they part of this or --

13 MR. MURRAY: Maybe it would be best, Edith,
14 if I went ahead and discussed some of the master plan
15 ideas.

16 MS. CARLSON: Okay. That really addresses
17 the question. I have one other question, though,
18 before we get to the master plan. That was back on the
19 early statement about these PRPs, potentially
20 responsible parties, persons or whatever. And you were
21 saying that you would be undertaking to contact them
22 and get restitution from them. Just out of curiosity,
23 does that restitution involve just the current costs of
24 the project or is there any kind of remediation in this

1 process for the loss of use by the public over these
2 years that the park hasn't been able to be used, to be
3 developed. You mentioned 1985 was the master plan.
4 That was seven years ago. I think the park was
5 actually in public ownership, oh, a good ten years
6 before that. So that's a generation that has not had
7 the availability of this amenity in the community. I'm
8 wondering if that's also a part of this process.

9 MR. JOHNSON: Well, I think a settlement
10 with the responsible parties would be a matter of
11 negotiation, and we all -- in such a negotiation the
12 department always tries for, as much as it can get to
13 both make the responsible party actually responsible
14 for the damage and also to use the money in an
15 environmentally favorable way.

16 I would just add to that, though, that I
17 don't think there is any question that either placing
18 the fill there or the application of sewage sludge was
19 illegal at the time it was done.

20 MS. CARLSON: Then the question is: Is the
21 cost for remediation only in cases of illegal dumping?

22 MR. JOHNSON: No, it's not.

23 MS. CARLSON: Okay. So that point may or
24 may not be moot. I realize there is no malice

1 involved.

2 MR. JOHNSON: Right.

3 MR. RIBAN: My name is Ronald Riban. Who
4 are the PRPs and have they been contacted regarding
5 financial liability?

6 MR. RAMAN: We are still doing a search.
7 The search is not completed, so at this time we cannot
8 reveal the names. But when the search is completed and
9 when we contact them, that's when we will make them
10 known. At this time we cannot say much on that.

11 MR. RIBAN: Do you have any idea when that
12 may be?

13 MR. RAMAN: I would say another three or
14 four months.

15 MR. RIBAN: Thank you.

16 MR. MOFFETT: I'm Robert Moffett. I'm
17 representing the Council of Civic Organizations of
18 Brandywine Hundred, representing their interest in
19 this. If there is only one foot of top soil, soil on
20 top, that won't hold a heavy rain that comes, will it?
21 What will happen when the soil gets totally saturated?
22 It's got to place to go. Yes or no.

23 MR. JOHNSON: I think our design consultant
24 correctly identified the principal problem in this

1 design as handling the drainage. And the proposal now
2 is to have -- is before we apply the plastic to have a
3 four-inch sand layer which will protect the bottom side
4 of the plastic from abrasion, a four-inch sand layer on
5 top of it which will accelerate drainage through the
6 top layer. Then it will also have a grass cover which
7 will hold the soil in place. And in addition to that
8 we'll have -- we will -- this is rather specific now
9 for this point of it, but we anticipate having a
10 perforated drainage pipes, a field of them, essentially
11 the reverse of a septic system so that rain water could
12 enter the pipes and be channeled off very quickly
13 toward the river.

14 MR. MOFFETT: Okay. So that would be
15 contaminated water. So that small amount would go to
16 the river.

17 MR. JOHNSON: No, it would not. That would
18 be clean water. It would never have contacted the
19 material below the plastic layer.

20 MR. WILLIAMS: And the piping will be above
21 the plastic.

22 MR. MOFFETT: Okay. Thank you.

23 MR. MURRAY: My name is Britt Murray. I
24 represent the Division of Parks & Recreation. And I

1 know you have listened to Steve talk about some of the
2 problems we have in this area and how we're going to
3 correct them. What I want to show you is what we're
4 proposing to do. Many of you are familiar with a
5 master plan that was accepted several years ago by the
6 Fox Point Association. What we've done since we're
7 only remediating the first two parcels of this park,
8 instead of the four parcels that was noted a minute
9 ago, we've taken all the active recreation facilities
10 and placed them into parcel A.

11 One of the problems that we have to deal
12 with immediately is that we have to specifically
13 identify every foundation, every tree, anything that's
14 a ground penetrating structure. As Steve noted before,
15 all these areas will have to have wells created out of
16 the impenetrable barrier.

17 What we're planning to do is to implement as
18 many of these recreation facilities as our budget will
19 allow us. Currently we have funding to build a roadway
20 in here. DelDOT is funding that. We do have some
21 money from the DP&L fund which will go as far as we can
22 do on the surface. Some of that money may have to be
23 spent in foundations below this barrier or utility
24 corridors or any of the work that has to take place

1 during remediation because of the type of labor that
2 will have to be used there.

3 We've also, which doesn't show on this plan
4 as of yet, these ditches, we've looked into several
5 regulatory agencies, wetlands and the Corps of
6 Engineers, and it looks as though we will be able to
7 fill these ditches. We'll be able to extend the
8 culverts, which gives us a variety of options as far as
9 landscaping and other methods in that area that are not
10 available at other places in the park where we're
11 limited by a ten-inch fill.

12 That's really all I had to say, just to give
13 you an idea, update of where we stand with the master
14 planning process. Like I say, it may look familiar.
15 It's just flip-flopped from what it was a few years
16 ago. We're trying to do as much as we can in the area
17 that we're remediating.

18 MS. CARLSON: So we're back to it. When is
19 the remediation for the next several parcels going to
20 take place?

21 MR. MURRAY: I cannot tell you that. Do you
22 have an answer for that?

23 MR. JOHNSON: I'll defer to Mr. Raman on
24 that.

1 MR. RAMAN: We have no immediate plan at
2 this time because the parcel being used right now,
3 parcel A and B is the only area that would be used as a
4 park. The rest of the area was not in the master
5 plan. Really we don't have any immediate plan. But
6 that is not to say we won't be doing anything. But we
7 have no immediate plans. As I said, we are in the
8 process of identifying the responsible parties and
9 hopefully when we bring them involved we will able to
10 attempt to remediate the remainder the site.

11 MR. MOFFETT: The original master plan
12 carried the park all the way up to Claymont.

13 MR. RAMAN: No.

14 MR. MOFFETT: Yeah.

15 MR. RAMAN: It did?

16 MR. MOFFETT: Yeah.

17 MR. MURRAY: That's correct, it did.

18 MR. MOFFETT: So Edith's question is a good
19 question. The answer is nothing is going to be done at
20 this time. And do we know whether that's contaminated
21 all the way up to Claymont or not?

22 MR. MURRAY: You can only make that
23 assumption. No testing was done in that area.

24 MR. MOFFETT: At any rate, that's not in the

1 immediate plan. That won't be the park for awhile.

2 MR. MURRAY: Yes.

3 MS. CARLSON: In that case I would like to
4 recommend that you entertain the consideration that --
5 the only access to Fox Point State Park right now is
6 the somewhat unattractive one of going through the
7 Edgemoor plant and by the asphalt plant. And that as
8 part of making the park more accessible there is a
9 broad entrance at Stoney Run or Stoney Creek coming out
10 from the recently purchased Volpe property and the
11 possible acquisition of the Cauffiel estate nearby.
12 And I would recommend that you take an opportunity to
13 think about how that linkage could be incorporated in
14 this first phase of the park. That might not mean
15 developing either side. But that more than one access
16 to the park is desirable.

17 And there are plans through the Greenway
18 program to create a second pedestrian park entrance.
19 DelDOT has looked at the feasibility plan for 95 and
20 given a green light to continue to pursue that. And it
21 would certainly present a marvelous opportunity to have
22 the park become more part of the community.

23 So I would hesitate to develop a small park
24 that will have very limited use where with modest

1 extension you could create something that would be much
2 more available to the whole community and begin to draw
3 people into the park without having to get in their car
4 and go through this --

5 MR. MURRAY: What you're suggesting is a
6 pathway through the area that we don't know anything
7 about?

8 MS. CARLSON: I would suggest that you learn
9 about that area and consider at the very minimum a
10 pathway as part of this first phase. And I think that
11 the opportunity to extend your knowledge and to really
12 begin in that forward motion exists now. When a closed
13 end park is created with poor access it tends to not to
14 create the linkage to Bellevue and to the other state
15 lands that are nearby and it tends to create --
16 isolated areas tend to create problems because they're
17 isolated, so they tend to attract less desirable types
18 of behavior because people who don't want to be seen go
19 to those places.

20 Looking at urban studies, for example, a
21 parkland in New York. One of the things that decreased
22 problems is increased use. And the plan that is
23 presented now because of the difficulty of access and
24 the lack of an inviting appearance through the

1 industrial area suggests that this is going to be a
2 park that would be less likely to work than if it
3 invited the community in through a more end-user
4 friendly opportunity and create the kind of stewardship
5 and the kind of financial support in the neighborhood
6 and from the neighboring businesses that a well
7 utilized park gives. So that I think long term there
8 are a lot of benefits to be gained by making this park
9 as accessible and as available to the community, even
10 if it's just a pathway, at the very least, and put that
11 in at the start rather than trying to figure out why
12 the park isn't working after you've spent all this
13 money on it.

14 MR. MOFFETT: That's right. This Section D
15 stops way west or southwest of Stoney Run, Creek,
16 Stoney Creek where there was supposed to be at least a
17 pedestrian access. If anything could be done to move
18 it on up beyond B through C and D and all up through
19 Stoney Creek, would be much more beneficial. This A
20 and B is just a -- just a no end to the thing,
21 actually. It's like 25 percent of the park, of the
22 original proposal.

23 MR. SNELL: My name is Tom Snell. I would
24 like to piggyback on both of the previous thoughts.

1 The one thing that I hear that bothers me is that
2 nobody knows nothing as far as what's going to happen
3 in the future. I realize you can't give us any
4 promises. But I would sure feel better leaving here
5 hearing you guys say, hey, we'll stick on for a year
6 from now or even two years from now. I don't want to
7 go too far out. But something more than what you have
8 said, and that is, I don't know.

9 MR. MURRAY: I would like to see the whole
10 park developed some day. But not knowing what we're
11 dealing with I don't know -- remediation cost in that
12 area, I'm just not sure what's happening there.

13 MR. SNELL: One of the things that has not
14 been determined -- correct me if I'm wrong, Steves --
15 is what potential hazards we have further up. I guess
16 we can assume it's the same, but it could be better and
17 it could be worse, right? Could we have some
18 commitment to maybe study those areas farther up in the
19 near future?

20 MR. JOHNSON: Just a couple of years ago six
21 test pits were dug on parcel C because that was thought
22 of as a location for the aquatic center. And the
23 chemical data there suggested high levels of these
24 heavy metals in the subsurface. I don't know right

1 now -- I can't tell you right now exactly where the
2 sewage sludge application ended. Our study suggests
3 that it's the sewage sludge application that is
4 creating a health risk to the visitors and not the fill
5 material. So if at some point there on C or D there
6 was no more sludge application, then this kind of
7 remedy that we're proposing, this fairly expensive
8 remediation would not be required. But at this point
9 I don't know exactly where that is. But it would be
10 wrong to assume that this whole thing will be covered
11 in plastic and a foot of fill before it's all over.

12 MR. WILLIAMS: But, of course, some form of
13 investigation would have to take place obviously to
14 insure that -- whether the sludge had been or had not
15 been applied.

16 MR. SNELL: Who are the appropriate people
17 in your division for us to take that up with?

18 MR. RAMAN: The problem is the limited
19 resources that we have. We don't have a lot of money
20 to spend on a situation like this. There are more
21 serious problems that need to be addressed. That
22 doesn't mean it's not a problem. Unless and until we
23 identify who the responsible parties are -- and we can
24 make sure that we can make them do the investigation --

1 we are not prepared to make a commitment at this time.
2 That's all I am saying. I'm not saying that it will
3 not be done. As soon as we identify the responsible
4 parties, which I said would happen in another three or
5 four months, we will have some kind of definite answer
6 as to when that will take place.

7 MS. CARLSON: What was the cost of the
8 investigation on these first two parcels?

9 MR. RAMAN: The total cost of the
10 investigation alone thus far is approximately
11 \$400,000.

12 MS. CARLSON: That's all been spent in the
13 last year?

14 MR. RAMAN: That's right. And the remedy
15 itself is going to cost approximately about \$2 million.

16 MS. SAVINI: Are there any other questions?

17 REPRESENTATIVE ENNIS: I'm representative
18 Dave Ennis. I would like to go on the record and
19 suggest that I think all the questions that related to
20 the use of the park obviously make a lot of sense.
21 We're doing this in increments. I think at least from
22 my perspective most of the community is looking forward
23 to getting something open. I think we'll be very
24 pleased to have some part of the park available.

1 I think Mrs. Carlson's comment is very
2 apropos because the state through the Department of
3 Natural Resources and Parks is considering the
4 acquisition and has already purchased one of the two
5 parcels around the Stoney Run. I think it's all fair
6 to say that as we have already explored options for the
7 development of the park, it appears to me that through
8 other channels, such as the Federal Clean Water Act, or
9 other things like that, there may be some funds
10 available for improvement to the park. That's one
11 option.

12 Then, secondly, I also believe that there
13 was some settlements that were made in terms of one of
14 the recent oil spills where the state acquired some
15 funding from the spill occurred in the Claymont area.
16 My suspicion would be that the shoreline most adversely
17 affected by that would have been Fox Point Park. I
18 know that you made reference to the fact that some
19 parts of the park have some petroleum-identified
20 contaminants and that sort of thing. But I just feel
21 from the record point of view that we ought not to just
22 look at our state resources as possible funding to
23 correct our current problem. And to enhance the park,
24 I think we all ought to pull any sort of source, rabbit

1 out of the hat we can. And I think the community
2 through Fox Point Association, Northern Delaware
3 Greenway, CCH, which are all here tonight, are all
4 vitally interested in seeing the park come about for
5 our purposes now as quickly as it can since it was
6 publicly declared a park in 1974, and we are sitting
7 here today still talking about its primary opening for
8 public use.

9 So I think in a practical way I'm very
10 pleased that something is go to happen and next summer
11 we're going to do some dedication and opening of some
12 part of the parkway. I also think we need to look for
13 all the possible sources we can get our hands on,
14 whether it be punishment for those who are responsible
15 or federal government helping to open access for
16 estuaries or recreational programs, things like that.

17 MR. ANDREWS: My name is Doug Andrews. I'm
18 the president of the Delmarva Rail Passenger
19 Association. Of course you know I'm at the park
20 because the trains go by there. To sort of piggyback
21 what representative Ennis said, I don't know that
22 moneys exist, but it certainly would be worth, I think
23 the efforts to look into it. Greenway's reform of
24 transportation, they are the most elemental form of

1 transportation, walking and biking. And certainly the
2 ISTEA Legislation that was signed last year into law,
3 Intermodal Surface Transportation Efficiency Act -- I'm
4 so glad they call it ISTEA -- and the federal transit
5 party funds, there might be money in there for such
6 help because you are tying in Greenway at the or
7 hoping to at the northern end of these parcels of land
8 and perhaps that would be a way of including them.

9 MR. RIBAN: In reference to my first
10 question pertaining to the PRPs comment was made that
11 what was done with respect to dumping of sludge was not
12 illegal at the time. If this in fact is the case, is
13 this likely to have a negative impact upon your ability
14 to recover dollars?

15 MR. RAMAN: Not at all. Irrespective it was
16 illegal or not the fact is that they caused the
17 problem, so they are responsible. The law is very
18 clear on that.

19 MS. SAVINI: Anyone have any further
20 questions? If not, I'd like to thank everyone for
21 coming. Mr. Snell.

22 MR. SNELL: I have an unrelated question, if
23 I may. What's happening over at the Volpe property? I
24 notice that it's been smoothed over and graded and so

1 forth.

2 MR. MURRAY: It looks pretty good,
3 actually. What we're doing there right now, we're
4 hopefully about a week or two away from signing our
5 contract with our architectural consultant for the
6 development of the aquatic center. We're close. Now
7 all we have to do is get the money to build it.

8 MS. SAVINI: I would like to thank everyone
9 for coming. Please make sure you sign in on the
10 sheet. If anyone would like to take home a copy of the
11 proposed plan for further review, please, do so. There
12 is a repository of information that has been set up at
13 the Claymont library that includes the proposed plan as
14 well as a copy of the remedial investigation report and
15 the feasibility study report. And those are open to
16 the public for your examination.

17 MS. MC GONIGLE: My name is Mary Ann
18 McGonigle, from the Ninth Ward Federation. The
19 Claymont library is fairly inaccessible. It's, you
20 know, pretty far from here. I would like to request
21 that one of these copies be put in the Wilmington
22 Library. It might make it more easily accessible,
23 readily accessible for those of us who work in town who
24 have no way to get to Claymont Library.

1 MS. SAVINI: I will have to look into that.
2 I'm Paula Savini. I'm the public information officer.
3 We do try to locate the repository of information in
4 the neighborhood.

5 MS. MC GONIGLE: Well, Claymont isn't in
6 this neighborhood.

7 MS. SAVINI: But it was the closest --

8 MS. MC GONIGLE: I think downtown is just as
9 close as --

10 MS. SAVINI: I said I will look into it.

11 MR. RAMAN: We can make sure of that.

12 MS. MC GONIGLE: You only have one copy; is
13 that the problem?

14 MS. SAVINI: No.

15 MR. RAMAN: No. We'll make sure of that.

16 MS. MC GONIGLE: Yeah. If we want to get it
17 to the public, I think we should try to get it in as
18 many public places as possible.

19 MR. SNELL: I think Senator McDowell has a
20 question. I don't think it was asked tonight but was
21 asked at a previous meeting.

22 SENATOR MC DOWELL: I apologize for being so
23 late. We had another meeting to go to. What
24 provisions are being made for ongoing monitoring? I

1 note it's called an unpenetrable cap. But it's been my
2 experience that nothing is totally unpenetrable, if
3 that's the right terminology. And I wonder if there is
4 any periodic review that's going to occur to make
5 certain that it does cap.

6 MR. JOHNSON: I'm Steve Johnson. I'm the
7 project manager for the Division of Air & Waste
8 management. We'll have several kinds of controls in
9 place. Naturally we want to prevent any penetration of
10 the plastic layer. For instance, people would not be
11 allowed to come out and set up their own volleyball
12 nets, likely. So something that Parks will take care
13 of is providing that sort of thing in a way that will
14 not penetrate that layer. We think that our solution
15 has the -- our proposed remedy has the lowest long-term
16 monitoring costs. But there probably will be some
17 periodic sampling of different areas. We will work out
18 with Parks & Recreation a procedure for doing that,
19 and also procedures that will come -- that will cover
20 any kind of activity that involves excavation. We know
21 now there are a number of utility lines that underly
22 the site. And you are right, nothing is permanent. So
23 in the event that those have to be replaced or worked
24 on or something happens where people have to have

1 access to that, we'll just have to have that covered in
2 a work operations manual. And that's part of our
3 design.

4 SENATOR MC DOWELL: I apologize because I
5 have not heard what had went on before.

6 MR. JOHNSON: That's a good question.

7 MS. SAVINI: Yes. Ms. McGonigle.

8 MS. MS GONIGLE: Mary Ann McGonigle again,
9 from the Ninth Ward Federation. I just wanted to echo
10 some thoughts of our federation that -- we worked very
11 closely with Representative Ennis in the revitalization
12 of this area. And our community members are concerned
13 that when the cap goes on that the before the cap goes
14 on that the infrastructure for future development is in
15 place. And has that been part of this place? You know
16 for rest rooms and whatever. You know that we want to
17 see this developed, but we don't want to have to take
18 the cap off. Our members are concerned about that.
19 And has that been thought of? And are we going to have
20 that all in place before the cap goes on?

21 MR. JOHNSON: Yes. Yes, it has been thought
22 of. We'll have to work very closely with the park
23 designers as we design the placement of the cap. I
24 think, depending on the structure or the feature, there

1 are several different ways it can be handled. I
2 mentioned creating bowls for the trees so that the
3 trees' roots will actually be above the impermeable
4 cap. We'll have to account for all of the trees that
5 are planted. We'll also be able to create mounds,
6 burms, for instance, as a place for plantings.
7 Anything else that has a foundation that goes down more
8 than ten inches will have to be accounted for in the
9 design of the cap. That includes the rest room, the
10 pavilion, flag poles, lighting. There is quite a long
11 list.

12 MS. MC GONIGLE: That is already part of the
13 design?

14 MR. JOHNSON: Yes.

15 MS. MC GONIGLE: Do you do the designing?
16 I'm sorry I'm just a little late. And so you designed
17 a cap and Parks & Recreation have told you where
18 they're things are going so that --

19 MR. JOHNSON: When we finalize this
20 conceptual design, which we anticipate will be October
21 2nd, we'll proceed with the detailed design and drawing
22 of the actual plans for construction. And at that
23 point we'll begin to incorporate every feature that is
24 now contemplated for the park in the design of that

1 cap. So we won't have the problem that you anticipated
2 would be a big one.

3 MS. MC GONIGLE: We just didn't want to take
4 the cap all up again when the development starts, which
5 we're hoping starts fairly soon. I just wanted to echo
6 our -- that it is our civic association wanted to you
7 be aware of that, Parks and DNREC.

8 MR. LEE: Preston Lee. If the cap is
9 penetrated, it's my understanding it's very easily
10 repaired. If something unanticipated at the present
11 time has to go in later, it's easy to tie into it, make
12 repairs to it or add to it without causing any major
13 expense. Is that accurate to say?

14 MR. RAMAN: Yeah. In the unforeseen event,
15 if that has happened, yeah, it can be done. That is
16 possible.

17 REPRESENTATIVE ENNIS: Dave Ennis again.
18 Steve, the comment was made about conceptual design to
19 be finalized by October the 2nd. I just would like to
20 share an observation with you the community itself
21 spent a fair amount of money it had access to to
22 develop the original master plan. I think if you
23 presented it to some of the community leaders and
24 describe it as just a conceptual plan -- I would

1 request before DNREC or Parks Department or Air Waste &
2 Management say this is what it's going to be, that
3 there be some kind of feedback to the Fox Point
4 Association and the alliance of neighborhoods in this
5 for confirmation that is kind of a mutually agreed upon
6 thing. I don't mean to suggest that there is not going
7 to be other meetings and discussion. I just feel it's
8 important there is some loop in that conversation.

9 MR. JOHNSON: I guess I'm responsible for
10 the misunderstanding because you have to realize that
11 this is I think the first park we've done in Air &
12 Waste Management. So when I say the "conceptual
13 design," that is for the remediation. We hope that at
14 the end of it we'll be turning over two parks, you
15 know, a nice, flat, level, clean grassy field on which
16 they can work their magic and turn it into a beautiful
17 park. You're going to work along with them to do
18 that. The conceptual design I'm talking about having
19 finalized is this proposed plan for the remediation and
20 not the design of the park itself.

21 MS. SAVINI: Once again, if everybody would
22 make sure they've signed in. The comment period does
23 end October 2nd. So if anyone like to go submit
24 written comments, they can be addressed to either Steve

1 or myself at the 715 Grantham Lane address. And that's
2 on the back of the update sheet and I think it's also
3 in the proposed plan. Thank you all for coming.

4 (Hearing concluded at 8:00 p.m.)

5 - - - -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

State of Delaware)
)
New Castle County)

CERTIFICATE OF REPORTER

I, Lucinda M. Reeder, Registered Professional Reporter, do hereby certify that the foregoing record is a true and accurate transcript of my stenographic notes taken on 22nd day of September in the above-captioned matter.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of October 1992 at Wilmington, Delaware.

Lucinda M. Reeder

ATTACHMENT D

MODIFIED PROPOSED PLAN OF REMEDIAL ACTION