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RULES

July 20, 2015

Mr. Iver M Anderson
NYSDEC Region 2 Headquarters
47-40 21st St.
Long Island City, NY 11101-5401

Dear Mr. Anderson:

My name is Liz Krueger, and I represent the 28th State Senate District, which includes much of Manhattan's East Side, and the communities directly impacted by the proposed East 91st Street Marine Transfer Station (MTS).

I would like to thank the New York State Department of Environmental Conservation (DEC) for opening a public comment period for three of the permits for construction and operation of the transfer station, specifically those which relate to solid waste, tidal wetlands, and air quality.

I urge DEC to hold an official hearing to review these permits, on the basis of these and many other *extensive* changes to the surrounding area since they were initially approved. When the City's Solid Waste Management Plan was released in 2004, it was clear to me that the Environmental Impact Statement fell woefully short in detailing the efficacy of proposed mitigation measures, explaining the basis of the site-selection process, or proposed alternate sites for the facility. Eleven years later, the inadequacies of the first EIS are even more clear, due to the enormous environmental and demographic changes to neighborhoods in the vicinity of the proposed East 91st Street EIS. It would be remiss to neglect these new realities. The effects of Superstorm Sandy, the population uptick in the Yorkville area, and the increasingly abysmal air quality on the Upper East Side, warrant a detailed and thorough review of the permits under which DEC allows the proposed Marine Transfer Station to operate.

The E 91st Street/Yorkville area has seen a sharp upturn in population growth in addition to a significant number of construction projects currently underway, which will further exacerbate the environmental impacts of the proposed MTS. The immediate ten block radius surrounding the site is home to five new schools that opened since the original permit was approved. First and Second Avenues have seen the implementation of Select Bus Service, which occupy an entire lane, and First Avenue is now also home to a protected bike lane. These changes in the

streetscape have altered traffic patterns in the area in the time since the original EIS was conducted.

In regards to air quality, the Upper East Side and Southern Harlem is among the worst in the City. The continued use of #6 heating oil and traffic congestion contributes to these already unacceptable conditions. Adding hundreds of diesel burning garbage trucks per day and waste to a geographic area already overburdened with contaminants will aggravate the poor air quality already burdening this community. While air monitoring for particulate matter (PM 10) is ongoing at the site, health threats from PM 2.5, which is considered to be more dangerous, remain unaddressed.

Superstorm Sandy has fundamentally changed the way we must approach construction along our waterfront. During Superstorm Sandy, the area surrounding this site was flooded as much as four blocks in from the East River. Following Sandy, FEMA issued new flood maps indicating apparent danger to the MTS location and situation. According to the new FEMA flood maps, the East 91st St. MTS platform will sit more than five feet below the estimated 100 year floodplain, effectively placing the structure in danger and exposing the surrounding community and river to inundation by floods carrying dangerous pollutants from the site.

While the first floor of the MTS and its mechanicals have been “waterproofed,” DEC needs to examine the fact that nothing has been changed structurally in the MTS plans to protect against such a scenario. The current design of the East 91st St. MTS is fundamentally flawed. It does not satisfy the requirement of the Part 360 application for modification of the SWMP in 2007, specifically Part 360(a)(2). It irrefutably allows for the encroachment of flood waters upon the facility which in turn poses a significant hazard to human life, wildlife, fisheries, land and water resources. It is the responsibility of DSNY to *prove* that the facility will not be encroached upon by floodwaters, and that it is the responsibility of DEC to thoroughly evaluate and consider such a possibility and its consequences. My fellow elected officials and I have failed to receive adequate response to our concerns on this matter.

The original EIS failed to study the maximum operational capacity of the "converted" MTS at 91st Street, forecasting that it will receive only 1,700 tons per day (tpd) of waste despite possessing the capacity to accommodate 5,280 tpd. The draft DEC permits are written such that DSNY could utilize the full capacity of the MTS only under emergency conditions, but the definition of an emergency condition for solid waste could allow maximum capacity utilization of this site on a regular basis. Furthermore, the proposed facility will intake residential waste from Manhattan Community Districts 5, 6, 8, and 11; the current permits do not explicitly prevent waste from other areas of the City from entering the East 91st MTS under “upset or emergency conditions”. This level could reach 5,280 tons per day. To add insult to injury, the current DEC permits provide neither a definition of what qualifies an “upset or emergency condition,” nor a restriction of commercial waste from entering the facility under these same conditions.

I would like to close reiterating my staunch opposition to the creation of the E 91st Street Marine Transfer Station. For years, I’ve expressed my concerns about the litany of negative impacts this transfer station will have on the neighboring communities, parks, the Asphalt Green recreational

facilities, and overall quality of life. I have submitted countless testimonies to the Department of Sanitation, and the City of New York, detailing the nature of my opposition. I continue to resist the construction of the transfer station on East 91st, or within **any** residential neighborhood in New York City. The new mayoral administration's plan to dramatically reduce the waste stream in coming years, eradicate the need for such a facility. The construction of the Marine Transfer Station places needless strain on the very communities it hopes to unburden.

In addition, building this huge trash facility contradicts the City's mission to reduce the overall waste stream. This is simply not an issue of equity; East 91st Street is far more residential than the location of other MTS facilities. Both DEC and DSNY have done insufficient studies to assess the environmental impacts this will have to the residents in my district, and failed to provide comprehensive mitigation measures for the community.

I strongly urge DEC to consider my testimony, the testimonies of my constituents, and the well-being of over 70,000 residents of Yorkville who will be impacted by this ill-considered venture. I strongly urge DEC to hold a public hearing to review these permits so there is an appropriate venue for the many serious health and safety issues to be evaluated. Thank you again for your consideration of these issues.

Sincerely,



Liz Krueger
State Senator