

APPENDIX B
COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

APPENDIX B.1
ORAL COMMENTS

ORIGINAL

THE STATE OF NEW HAMPSHIRE
CITY OF PORTSMOUTH

* * * * *
In The Matter of: The Public *
Hearing for the Navy's Proposed *
Remedial Action Plan for the *
Jamaica Island Landfill *
* * * * *

TRANSCRIPT
OF
PROCEEDINGS

Date: Thursday, February 22, 2001
Place: Marriott Courtyard Hotel
Portsmouth, New Hampshire
Time: Commencing at 7:00 p.m.

B E F O R E: DEANNA J. DEAN, CSR, CRR
Certified Shorthand Reporter and
Notary Public of the State of New
Hampshire.

A L S O P R E S E N T:

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MEGHAN CASSIDY
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1 KENNETH PLAISTED: If I could have your
2 attention, please. Please take your seats and
3 we'll get started.

4 Okay. We'll get started.

5 Good evening and thank you for coming to
6 this public hearing for the Navy's proposed
7 remedial action plan for the Jamaica Island
8 Landfill. My name is Kenneth Plaisted and I am
9 head of the environmental division of the
10 Portsmouth Naval Shipyard. I am also the Navy
11 Cochair of the Shipyard's Restoration Advisory
12 Board.

13 As this is a public hearing, there is a
14 stenographer present who will be transcribing
15 tonight's proceedings.

16 This evening's agenda will be as
17 follows. I will explain the format for the
18 meeting first and introduce a few folks here at
19 the head table. Then Marty Raymond from the
20 shipyard's environmental division will give a
21 brief review of the Navy's preferred
22 alternative for the Jamaica Landfill. When
23 Marty is finished, I will open the meeting up

1 to the public for formal oral comments.

2 AN UNIDENTIFIED VOICE: Excuse me. I
3 have a question. How long do you think that
4 will take before you allow the public to speak?

5 MR. PLAISTED: Oh, I'm going to say
6 about 10 minutes --

7 AN UNIDENTIFIED VOICE: Okay. Thank
8 you.

9 MR. PLAISTED: -- probably, max.

10 On February 1st the Navy held an
11 informal open house, at which time we presented
12 the Navy's preferred alternative for the
13 cleanup of Jamaica Island. At that time the
14 Navy responded to comments and answered
15 questions. As indicated in the proposed plan,
16 tonight we are here to accept formal public
17 comments.

18 We will not be responding tonight. All
19 formal and written comments received during
20 this 30-day public comment period -- which ends
21 March 1st, by the way -- will be responded to
22 in the Responsiveness Summary of the record of
23 decision.

1 Tonight, if you choose to make a formal
2 oral comment, I ask that you come up here to
3 the microphone, so that the stenographer can
4 hear you, state your name, where you're from,
5 and if you're representing a group or an
6 organization, and if you'll be reading from a
7 written statement, to go slow so that the
8 stenographer can get it down.

9 Am I going too fast or too slow?

10 THE REPORTER: You're just right.

11 MR. PLAISTED: There you go.

12 I would like to introduce the people at
13 the head table. Fred Evans, who is the Navy's
14 remedial project manager from the Northern
15 Division in Philadelphia; Marty Raymond, who is
16 the IR program manager from the shipyard;
17 Denise Messier from the Department of
18 Environmental Protection of the State of Maine;
19 and Meghan Cassidy, remedial project manager
20 for the EPA.

21 Okay. I'll turn it over to Marty, now.

22 MARTY RAYMOND: As Ken said, my name is
23 Marty Raymond and I work in the environmental

1 office at the shipyard. And I'm just going to
2 give a very quick review of the proposed
3 remedial action plan and where we are in the
4 CERCLA process.

5 At this stage in the CERCLA process, as
6 you can see, we've gone through the remedial
7 investigation and the feasibility study for the
8 Jamaica Island Landfill and we're at the
9 proposed plan. The next step will be the
10 record of decision, and I'll talk about that
11 quickly in a moment.

12 One of the important parts of the
13 proposed plan is community participation.
14 Again, Ken has already talked about this, but I
15 want to reiterate that we are accepting formal
16 comments on our proposed plan. The comment
17 period started January 31st and it closes March
18 1st.

19 There are several ways that you can give
20 comments to the Navy on our proposed plan. You
21 can do them in writing tonight. There are some
22 proposed plans on the back table, and on that
23 there's paper that you can submit formal

1 written comments; or you can send them in
2 writing by either mail or fax, and they have to
3 be postmarked no later than March 1st, to Alan
4 Robinson in our Public Affairs Office. And
5 Alan is sitting in the back. Or, as Ken
6 mentioned, we'll be accepting formal oral
7 comments after I'm done. And if you need any
8 additional information, this information is all
9 in the proposed plan or you can talk to Alan
10 Robinson in the Public Affairs Office.

11 The Navy's preliminary recommendation
12 for source control at OU3 -- and OU3 consists
13 of the Jamaica Island Landfill, which is Site
14 8; Site 9, which is the mercury burial vault
15 sites, and Site 11, which are some former waste
16 oil tanks. In the feasibility study, the
17 alternative that the Navy picked was
18 Alternative 3, and what that consists of is a
19 multi-layer hazardous waste cover which would
20 be put over the 25-acre landfill, and, again,
21 the specifics of that would be determined
22 during the design phase. We would also
23 implement -- the Navy would also implement

1 institutional controls for Operating Unit 3 of
2 the Jamaica Island Landfill. What that means
3 is, we would control it so there's no
4 residential development on the landfill and
5 that the groundwater is not used as a drinking
6 water source.

7 We would also propose to construct
8 shoreline erosion controls at the edge of the
9 landfill to prevent erosion of landfill
10 material into the river. The Navy has proposed
11 to do either riprap, which is rock, and/or some
12 form of constructive wetlands along the edge of
13 the landfill.

14 Also part of Alternative 3 is to conduct
15 long-term monitoring to determine the
16 effectiveness of the cover and erosion
17 controls, so we would be doing something such
18 as monitoring the groundwater in the landfill.
19 We'd also be conducting routine inspections and
20 maintenance of the cover, and erosion controls
21 to make sure that the remedy is still remaining
22 effective. And then we would also -- as I
23 mentioned, Operable Unit 3 consists of Site 8,

1 the landfill, Site 9, which is the mercury
2 burial vault site, and Site 11, the waste oil
3 tanks, and those would be addressed
4 concurrently with the remedy for the landfill.

5 Availability of documents for the
6 shipyard: the proposed plan, again, we have
7 copies here. All of the other documents that
8 are used to support our decision to pick
9 Alternative 3 as a preliminary recommendation
10 are at the information repositories. There are
11 two of them. One is at the Kittery Town Hall
12 and the other is at the Portsmouth Public
13 Library. Again, there are proposed plans there
14 as well as all the supporting documentation for
15 our decision.

16 That's it. I'm going to turn it back to
17 Ken.

18 MR. PLAISTED: Thank you, Marty.

19 I will now open the proceedings to the
20 public for you to come forward and submit your
21 formal oral comments.

22 So, if anyone would like to speak, just
23 raise your hand and come forward. Yes.

1 SUSAN JOHNSON: Hello. My name is Susan
2 Johnson and I live in Kittery. I was born in
3 Portsmouth, New Hampshire. I am a descendent
4 of the first people to settle this area. I am
5 very familiar with this area.

6 I give a proposal and a plea to this
7 board and to the U.S. Navy to shut down the
8 Portsmouth Naval Shipyard; to remove all traces
9 of it except for a couple of museums; to
10 convert it into a University of Maine or a
11 University of New Hampshire at Kittery; and to
12 remove not all -- only all the toxin, but every
13 trace of it. Complete removal of the landfill
14 and traces and waste at the yard, minus a
15 museum, should begin now out of respect of all
16 humankind.

17 Also, the people who have lived here and
18 who have suffered from the effects of the toxic
19 and the effects of the Navy yard should be
20 given payment for their exposure to the bad
21 elements from the yard all these years.

22 Thank you.

23 MR. PLAISTED: Thank you.

1 Yes, Kathy.

2 KATHY WOLF: My name is Kathy Wolf, and
3 my Kittery home, 10 Old Armory Way, is on the
4 back channel directly across from the
5 Portsmouth Naval Shipyard. I'm also a former
6 member of the Restoration Advisory Board.

7 I attended the information session
8 February 1 without a strong opinion on what
9 type of action was needed to deal with the
10 Jamaica Island Landfill and its 40 years of
11 toxic waste, and I left the meeting almost
12 three hours later with little information and a
13 tremendous amount of frustration. And I still
14 don't know if a barrier is needed or not.

15 None of us attending that meeting were
16 able to find out why the EPA and Navy chose not
17 to build a containment barrier on the water
18 side of the landfill, and this was despite
19 repeated questions that night. Does the
20 Navy -- do the Navy and EPA believe they have
21 enough information, monitoring studies, et
22 cetera, to guarantee that such a barrier is not
23 needed? Are they concerned that the technology

1 is not developed enough to assure that
2 installing such a barrier would cause more
3 problems than it would solve? Are they
4 positive that putting rocks and marsh plants
5 around the landfill will be as an -- as
6 effective as a barrier in stopping any kind of
7 leakage? Or does it just cost too much? Or is
8 it none of the above? We didn't receive clear
9 answers to any of those questions that night.

10 One question did have a clear answer.
11 The question was, to what degree is money
12 involved in the decision not to build a barrier
13 on the water side of the landfill? The answer,
14 unequivocally, and coming from several
15 authorities present in the room was, none at
16 all. Ironically, this one clear answer, I
17 discovered later, might really not have been
18 all that clear. It does seem that budget
19 cycles, at least according to the Maine
20 Department of Environmental Protection, did
21 play a factor, were a significant factor in
22 deciding to move ahead on the capping of the
23 landfill, and in order to do that, declaring

1 that the part that might possibly need a
2 barrier was really another site that may or may
3 not be dealt with in the future.

4 I really would like to hear answers to
5 these questions, and to other ones, such as,
6 what exactly are the plans and the timetable
7 for monitoring any discharge from the landfill
8 and from the nearby seeps that serve -- I guess
9 are adjacent on a point near the landfill.
10 What exactly is the timetable for deciding on
11 whether or not to build a barrier? This
12 question was asked more than once that night,
13 February 1st, at the information session, and
14 really, to the best of my memory, garnered only
15 vague responses, mentions of "Maybe in 2008"
16 and things like that.

17 If the Navy and the EPA and the state
18 want the public to be informed, I think these
19 questions need to be answered, and not just by
20 referring people to what I know firsthand are
21 kind of dense documents to get through at the
22 public libraries. Therefore, they need to be
23 answered directly, clearly, and factually.

1 And, therefore, I end my testimony with
2 two requests: Number one, that another
3 information session to explain in clear English
4 to a lay public and press be held, focusing
5 primarily on the barrier question, that it
6 start on time and that it focus on answering
7 and; questions two, that the State of Maine
8 Department of Environmental Protection withdraw
9 its support of capping the landfill until it
10 has received a clear, specific, satisfactory
11 time line and plan for dealing with the barrier
12 issue.

13 Thank you.

14 JAMES HORRIGAN: My name is James
15 Horrigan. I live in Portsmouth.

16 I'm actually approach the podium as a
17 proxy for Susan Emery of Five Mitchell School
18 Lane, Kittery Point, Maine. She wished to have
19 the following testimony read into the record.

20 "I favor a plan which includes not only
21 a camp but only a barrier around the landfill.
22 It is unacceptable to me to allow toxins to
23 leach out through the groundwater and daily

1 tidal migration for another five to 10 years,
2 as this represents continued great risk to the
3 health of the citizens in the area and the
4 estuary."

5 BRIAN STERN: My name is Brian Stern.
6 I'm an attorney. I live and work in Dover, New
7 Hampshire.

8 I know this is a point for public
9 comment and not to ask questions, but as a
10 point of information, I would like to know if
11 each of the members who are here from your
12 respective agencies are persons that would be
13 making the decision. I think that's important
14 to know. If not, I think there's a procedural
15 problem, since at any hearing the people who
16 are making the decision need to judge the
17 people who are speaking to assess their
18 credibility. I think that if you are not those
19 people, that there is then a lack of
20 credibility on behalf of the government holding
21 a public hearing, making decision of trying to
22 listen to the people that may not appear to be
23 giving the full weight or credit that the

1 public input deserves.

2 I don't know if you're willing to
3 address that or not, whether you are the
4 decision-makers that we're speaking to.

5 Apparently not.

6 MEGHAN CASSIDY: I'll speak for EPA. I
7 head the team that makes the recommendation.

8 MR. STERN: Thank you. I do
9 appreciate --

10 MS. CASSIDY: I'm the signatory.
11 It's -- I do not sign off on the agreement, but
12 I head the team that makes the recommendation.

13 MR. STERN: I do appreciate that as
14 well.

15 DENISE MESSIER: I'm speaking for the
16 State of Maine. I supervise the project
17 manager, so I'm part of the agency process that
18 makes the decision. I don't know how to answer
19 your question.

20 MR. STERN: Well, I'm not sure what that
21 answer means, but does anybody else care to
22 respond?

23 FRED EVANS: I'll answer for the Navy.

1 The three of us here from the Navy do
2 participate in making the recommendation.
3 Similar to Meghan, I head the team. Somebody
4 else signs the document, but I, you know, make
5 a recommendation to that person as to what I
6 feel should be done.

7 MR. STERN: Now, it would appear that
8 you are not the decision-maker for the Navy on
9 this issue. Is that correct?

10 MR. EVANS: I am not the person that is
11 permitted to sign the document.

12 MR. STERN: There is some history -- and
13 you're all relatively young, and I guess I am,
14 too. But the history of the United States is
15 that there's been a long history of travesties
16 perpetrated against its people, whether it's
17 incarcerations, and encampments, whether it's
18 poisons, whether it's testing on prisoners, and
19 the history is that the United States
20 government has always been slow in reparations
21 to its people for the ills that it's levied
22 against them.

23 The fact is that the history of the

1 United States is also that they've been very
2 slow to enforce their environmental laws. And
3 the fact is that it's also true that,
4 specifically in the area of hazardous waste,
5 the United States government has been slower
6 than commercial enterprises in cleaning up
7 hazardous waste sites and has fought their own
8 laws as strenuously as any other government.
9 And, in fact, in this case, this site goes back
10 to being on the cleanup list in 1989 and
11 receiving national priority list siting in
12 1994, and here we are in 2001, just looking at
13 the plans at this point. So that when the
14 United States government comes to its citizens
15 and says, "This is the best plan; this will
16 protect your health," there is a question of
17 credibility that leaves a great gap in that
18 credibility, that I think the citizens look to
19 be filled.

20 I ask that when you go back to your
21 private confines and you turn your back on this
22 room that you reconsider the plan that you have
23 here, and consider that there are poisons that

1 will be leaching into the environment, and put
2 yourself back in the shadow of that shoreline
3 and consider the fact that your proposed plan
4 would continue to allow that to exist.

5 I have certain information that I
6 reached my decision on, and we all have to
7 choose who we believe. The information that I
8 have comes from environmental groups, and when
9 I choose to look at decisions concerning the
10 environment, I choose to look at them and find
11 them to be credible. The facts that I
12 understand are that one-third of the water that
13 will come through that site is from rain and
14 snow and that the cap that is proposed will
15 address rain and snow, the surface water, and
16 it will not address tidal influence. My
17 understanding is that tidal influence
18 represents two-thirds of the water flow, and
19 addressing the tidal influence would have a
20 bigger impact.

21 I also understand that the Navy has
22 separated operational units into what it is
23 calling groundwater, which would affect --

1 which would be a cap for rain and snow and then
2 a separate operational unit for the tidal
3 influence.

4 When you look at the government's
5 document on its glossary of technical terms, it
6 technically defines groundwater as a supply of
7 freshwater found beneath the earth's surface
8 that supplies wells and springs a supply of
9 freshwater. And that's how we may ordinarily
10 consider groundwater. Yet it goes on to say,
11 at Operational Unit 3, portions of the
12 groundwater are brackish, saline, because of
13 the intrusion of estuary water -- I'm sorry --
14 estaurine water.

15 So that you've created a fictitious --
16 two fictitious operational units saying that
17 they're separate entities; yet, by your own
18 definition, defined "groundwater" as brackish
19 and saline from the tidal influence, yet choose
20 not to address it or say that you're addressing
21 it by a cap, when in fact your own definition
22 says that you cannot be addressing it because
23 of the tidal influence.

1 This is a fictitious separation of
2 operational units and it's only addressing a
3 minor aspect of it. You're tailoring a remedy
4 to a budget as opposed to tailoring a budget to
5 a remedy. And, in fact, at the informational
6 session, you stated that cost is not a factor
7 in this, and I believe you should be bound to
8 that; otherwise, that has been misleading
9 information in the hearing process and the
10 decision you reached would be invalid.

11 If you have in fact said that cost is
12 not a factor, you should be bound by that and
13 you should fashion a remedy without concern for
14 cost. And if cost is a factor, then shame on
15 the government. The taxpayers are asking that
16 that site be cleaned up. And I say pay the
17 price; clean it up.

18 You're capable of doing it. The
19 government is capable of doing it. And it can
20 be done now under a single plan, faster than
21 separating it and going through a separate
22 process. There's no reason to not include that
23 process now. This is a priority site, and the

1 plan already included a barrier from the tidal
2 influence, and there was a good reason for
3 including that barrier. And now it is not
4 there under a fiction that it's going to be
5 done separately at a different time, which is
6 maybe eight years henceforth. And that's a big
7 "maybe" that no one can count on. And there is
8 not good reason for it not to be done now.

9 Thank you.

10 JOHANNA LYONS: My name is Johanna
11 Lyons, and I am the Seacoast Anti-Pollution
12 League's representative to the Restoration
13 Advisory Board. I'm going to be reading a
14 statement from the Seacoast Anti-Pollution
15 League.

16 The Seacoast Anti-Pollution League
17 offers these comments in response to the
18 proposed remedial action plan for the Jamaica
19 Island Landfill, also referred to as Operable
20 Unit 3 or OU3. SAPL is a community grassroots
21 organization whose mission to protect public
22 health and safety and monitor threats to
23 wildlife and the ecosystem in the seacoast

1 regions of New Hampshire, southern Maine, and
2 northern Massachusetts.

3 After careful and thorough review of the
4 data supporting the Navy's proposed plan, our
5 view is that the cap alone is an unfit option;
6 that a barrier is necessary to address tidal
7 migration of toxins from the landfill; that
8 serious unanswered questions about threats to
9 human health and the ecosystems remain; and
10 that the Navy needs to take immediate steps to
11 put adequate protections in place. However,
12 before we go into the details supporting these
13 views, we'd first like to comment on the
14 process.

15 To fulfill our mission, we have
16 participated on the Restoration Advisory Board
17 since 1995. That board has provided a forum in
18 which we could express community perspectives
19 on environmental conditions at the shipyard.
20 However, it has not met since November 30,
21 2000. As a result, a vital link to the
22 communications between community and the
23 shipyard was missing while some crucial

1 decisions were made about the Jamaica Island
2 Landfill. Ironically, the Navy's feasibility
3 study describing five alternatives being
4 considered for the Jamaica Island cleanup was
5 also made available to the public in November
6 2000. Any citizens who read that study would
7 have been unaware that major decisions were
8 already being made which could render some of
9 the alternatives described in the document
10 irrelevant. That's because it's not -- it was
11 only after the document was released that the
12 Navy decided to separate out the intertidal
13 zone adjacent to Operable Unit 3 into a new
14 Operable Unit 6, and to remove the Remedial
15 Action Alternative No. 5 from any further
16 current consideration.

17 Those decisions raised a whole new set
18 of unanswered questions for which the community
19 deserves some answers. For example, the
20 following questions about the new Operable Unit
21 6 are of great concern to us and impact heavily
22 on our response to the OU3 plan. What is the
23 time line for study and remediation for OU6?

1 How does the new OU6 relate to Operable Units 3
2 and 4? How will the OU3 remedy currently
3 proposed by the Navy affect this unit? What
4 funding would be available to deal with this
5 new unit? What are the risks to human health
6 from the seeps located in the unit? What the
7 risks to the estuary environment from delaying
8 remedial action for this unit?

9 However, quite apart from the specific
10 concerns of that nature, SAPL, the residents
11 that it represents through its membership, and
12 other residents who voiced concerns in other
13 forums have general apprehensions about the
14 proposed remedial action plan before our
15 community and the process whereby it is being
16 implemented. First among these concerns
17 involves a lack of adequate opinion -- options.
18 In regard to providing remedial action choices
19 for the public to respond to, the Navy has
20 failed the local community. As already noted,
21 the most comprehensive choice, Alternative 5,
22 has been removed from consideration. That
23 alternative is the only one that deals with the

1 major concern of the community: the control of
2 toxic pollutants into the estuary.

3 Alternatives 1 and 2 are essentially
4 do-nothing choices. The State of Maine would
5 not agree to such choices in any event, so they
6 do not represent genuine options. Alternatives
7 3 and 4 are merely variations on the same
8 theme, capping the top of the landfill. Those
9 technical variations could just as well have
10 been left to the design phase.

11 Basically, the community has been given
12 one choice at this time: a landfill cap on the
13 center of Jamaica Island site. Additional
14 concerns about this site's impact on the
15 estuary are eschewed by a deft move: the
16 redefinition of the site's shoreline as another
17 operable unit, which is slated to be studied
18 for many years before any remedial actions, if
19 any, are finally taken.

20 We are also concerned that the
21 community's voice is not adequately being heard
22 in the process. The shipyard is, after all,
23 located in New England. In our town meeting

1 and city council hearings, we expect as a
2 matter of right to discuss all options for
3 solving a particular problem. In that regard,
4 we hope that the Environmental Protection
5 Agency and the U.S. Navy fully understand the
6 community's concerns about the Navy's proposal.

7 I'd like now to summarize the many
8 concerns you've heard SAPL and others raise at
9 public meetings regarding the proposed remedial
10 action plan for OU3.

11 First, let me explain why we feel that
12 the cap alone is an unfit option. The Jamaica
13 Island Landfill was constructed on a mud flat,
14 and so is among these unique Superfund sites
15 that is subject to both groundwater flows and
16 saltwater tidal flushings. In other words,
17 tides flush into and out of the Superfund site
18 every day. Viewing the site from a three-
19 dimensional perspective, those combined
20 hydrological flows are crucial variables in
21 regard to human risks and the health of the
22 estuary. Assuming the cap is properly
23 designed, constructed and maintained, it will

1 prevent precipitation from infiltrating the
2 site and will divert surface water drainage
3 within the boundaries of the cap. However,
4 only an estimated one-third of the water
5 currently leaching through the landfill comes
6 from precipitation. The remaining two-thirds
7 comes from tidal migration, something the cap
8 does not address at all.

9 While the cap would inhibit the vertical
10 migration from the surface down to the ground,
11 the cap does not prevent lateral migration of
12 groundwater into and out of the landfill. That
13 said, we feel the Navy must take immediate
14 steps to address tidal migration and the
15 construction of the barrier.

16 After 10 years of study, the Navy has
17 been unable to prove the barrier is not needed.
18 In its desire to take even more time to say the
19 matter not be lightly taken, when questions
20 remain regarding the health and safety of
21 people in the ecosystem after prolonged study,
22 the only responsible approach is a
23 precautionary one. In this case, that means

1 moving ahead on a barrier.

2 What are some of the serious questions
3 that remain? There are many, and I will
4 address just a few key examples, the first of
5 which involves dioxin. The Navy only began
6 testing dioxin in 1998 and did indeed find
7 dioxin on-shore at the landfill. However, even
8 after finding it on-shore, it never tested for
9 dioxin in the seeps, which means that the Navy
10 regulatory agency nor the public knows whether
11 this dangerous toxin is leaking out of the
12 landfill.

13 The Navy currently views the site as one
14 of low risk to surrounding human communities.
15 Dioxin is a known human carcinogen, even at low
16 levels, and doesn't tend to break down or
17 dilute in water. Finding dioxin in the seeps
18 could alter the risk level of the site
19 significantly, so there is a potential that all
20 the risks calculated in prior assessments are
21 too low.

22 Second, the Navy has failed to address
23 sea level rise in designing an action plan to

1 contain the toxins at the site. This is a
2 serious oversight in designing a remediation
3 plan for a site that is a daily affected by
4 tides. According to NOAH and other government
5 research agencies and much scientific research,
6 our region is expected to endure sea level rise
7 in the near future, as well as increased heavy
8 weather events brought on by global warming.
9 We refer here to events beyond the 100-year and
10 200-year storms that are factored into your
11 design. This means that portions of the site
12 that are above current sea level and that
13 contain serious toxins that have never been
14 leached out by tides will soon be exposed to
15 tidal flushing. Unless tidal migration is
16 addressed immediately, it is reasonable to
17 assume that the public and the surrounding
18 estuary will be left completely unprotected
19 from these highly probable circumstances.

20 Third, contaminants present in Sullivan
21 Point have been shown to pose a significantly
22 higher risk to human health and safety, and the
23 Navy has not been able to rule out that some of

1 these contaminants may come from the landfill.
2 There exists a possibility that fractures in
3 the bedrock allow the JILF groundwater to
4 migrate in the direction of Sullivan Point.

5 Last, important questions about how and
6 when monitoring will be implemented also remain
7 unanswered. Long-term monitoring has been
8 alluded to, but no contingency action plans are
9 tied to this monitoring. The Navy makes
10 frequent references to funding problems to
11 prevent them from pursuing comprehensive
12 remedies in the near future. These constant
13 allusions to funding problems do not reassure
14 the community that monitoring will ever result
15 in any remedial actions.

16 Please be aware that the residents of
17 the area are concerned about human risks at the
18 site, but they are also highly concerned with
19 the health of the estuary. Most of the
20 quantitative analysis to date has focused
21 solely on the human health risk at the
22 immediate landfill site. However, there has
23 been little data generated that speaks to

1 overall health and ecosystem and to those who
2 want to know if it will ever be safe to fish
3 and swim in the Piscataqua River, the
4 community's front yard, so to speak.

5 However, the Seacoast Anti-Pollution
6 League does recognize that a landfill cap would
7 be an integral part of any remedial action
8 plan. We can support the Navy's desire to
9 proceed with the capping project if certain
10 provisions are met. In that regard, we insist
11 upon two provisions: First, that the Navy
12 promulgate a contingency plan that will retain
13 the option of a tidal barrier as described in
14 their Alternative 5 in the November 2000
15 feasibility study and that the option be
16 pursued immediately; second, that the Navy
17 begin immediate testing of the seawater and
18 sediment in Operable Unit 6 to determine the
19 discharge levels of toxins, including dioxin in
20 that part of the landfill. If a time line that
21 is acceptable to the State of Maine and the
22 community should be scheduled for these tests,
23 given these two provisions are met, we support

1 the Navy's current proposal for a landfill cap.

2 In conclusion, the Seacoast
3 Anti-Pollution League believes that the Navy
4 has arrived at a proposal that ignores tidal
5 migration, the very reason for which it has
6 conducted such a careful study in the first
7 place. To be sure, a landfill cap involves
8 some of the -- to be sure, the landfill cap
9 solves some of the problems, but considered
10 apart from the tidal barrier, it raises new
11 questions and leaves many important concerns
12 unresolved. Why has the Navy spent so long to
13 come up with one solution? Landfill caps have
14 been implemented in many other Superfund sites
15 elsewhere. The technology is already well
16 developed. Well, why, then, take 10 years to
17 study the problem? How many more years might
18 it take to study the need for a barrier? And
19 what risks might the public and estuary face
20 from toxic outflows during that time?

21 These are all questions and concerns
22 that SAPL and the community take seriously. We
23 urge the Navy to devise precautionary

1 solutions, rather than spending more time and
2 money in the vain hope that these solutions
3 might prove to be unnecessary.

4 Thank you.

5 MATTHEW BROCK: My name is Matthew
6 Brock. I'm a resident of Kittery Point.

7 I want to focus on one issue that is of
8 concern to me, and that is that, a few weeks
9 ago, the Navy was granted a license, or
10 preliminarily granted a license for a
11 commercial hazardous waste storage facility at
12 the Portsmouth Naval Shipyard, and as part of
13 the licensing process the Navy represented to
14 the State Board of Environmental Protection
15 that it had a schedule in place to clean up the
16 Superfund site that currently exists at the
17 shipyard.

18 What I have heard tonight, though, tells
19 me that the Navy is now saying they want to
20 delay that cleanup for years. They want to
21 study it more for years, and there is no
22 schedule in place to determine when that
23 cleanup is going to be done.

1 Based on that, I'm asking the Navy to
2 withdraw its application for a commercial
3 hazardous waste storage facility license. We
4 don't need more hazardous waste brought to the
5 Town of Kittery until the current Superfund
6 problem is addressed. And I would also ask the
7 Maine DEP representative who is present here to
8 confer with your colleague, Joan Jones of the
9 Maine DEP, to be sure she understands really
10 the fact that, currently, there is in cleanup
11 schedule for -- a comprehensive cleanup
12 schedule for the Superfund site.

13 Thank you.

14 SUSAN CRESS HAMILTON: My name is Susan
15 Cress Hamilton. I would like to submit the
16 following testimony as a Kittery citizen and
17 homeowner, and as a business owner in
18 Portsmouth since 1978.

19 I have educated myself about the
20 hazardous waste cleanup process at the
21 Portsmouth Naval Shipyard since it was
22 designated a Superfund site by the EPA in 1994.
23 I have recently gotten more involved in the

1 process by attending the November 30th
2 Restoration Advisory Board meeting and the
3 Navy's informational open house on February
4 1st.

5 I take strong objection to the Navy's
6 proposed remedial action plan for the Jamaica
7 Island Landfill, both in the process in which
8 it was created and in its substance. I
9 strongly favor an action plan that would
10 include a barrier to address tidal migration of
11 contaminants from the landfill into the
12 Piscataqua River.

13 My primary objections to the plan before
14 us are as follows:

15 1.) The last-minute decision by the
16 Navy to separate off the intertidal zone as
17 OU6, thus eliminating Alternative 5 of the
18 draft plan and avoiding the migration of
19 contaminated groundwater as an issue is a
20 flagrant undermining of the process and a great
21 blow to public confidence. As late as the
22 November 30th RAB meeting, Alternative 5 was
23 still being promoted as viable to the public

1 and was eliminated after that meeting without
2 the knowledge of the Restoration Advisory Board
3 and its citizen members.

4 2.) There are no adequate choices
5 provided by this plan. In fact, the Navy's
6 Alternative 3 cannot be called an alternative
7 at all, as it is the only choice. Early on in
8 the process, the Maine DEP made it clear to the
9 Navy that it would not accept Alternatives 1
10 and 2 under any circumstance, effectively
11 eliminating them as options, and Alternative 3
12 and 4 are really only variations on the cap
13 solution. The public is being misled that
14 there are alternatives in this plan.

15 3.) The proposed plan does not even
16 look at the contact of waste materials at the
17 landfill with the tides that flow in out every
18 day. Even the Navy's own study says that
19 two-thirds of the water existing -- exiting
20 through the hazardous waste landfill comes from
21 the groundwater flow and from tidal influx and
22 only a third from precipitation. The cap
23 proposal will only inhibit vertical migration

1 of water from the surface down and will not
2 prevent lateral migration into and out of the
3 site, allowing contaminants from the waste to
4 migrate off the site into the Piscataqua
5 River.

6 4.) There should be immediate testing
7 for dioxin done now at the landfill seeps as it
8 is relevant to the action plan before us.
9 Dioxin has been detected off-shore in sediment,
10 mussels, and juvenile lobsters as recently as
11 January 2001 in the Navy's own interim
12 off-shore monitoring study. The first time the
13 Navy tested for dioxin was in 1998 at Site 29.
14 Because of the estaurine ecological risk
15 assessment, the off-shore human health risk
16 assessment, the groundwater monitoring at the
17 Jamaica Island Landfill, and the 1996-97 seep
18 sediment samplings were all conducted prior to
19 '98 without dioxin testing, there is great
20 potential that all these prior assessments are
21 too low. Dioxin is a potent carcinogen in low
22 concentrations and does not tend to break down.
23 As recently as January 19th, the National

1 Institute of Health changed its listing of
2 dioxin from, quote, reasonably anticipated
3 category to a known human carcinogen.

4 5.) It is incredulous that the Navy,
5 the polluter, has taken 10 years or more of
6 study to come up with the obvious and
7 questionable solution of a cap, a solution that
8 has been used at many other Superfund sites and
9 with already established technology. Repeated
10 questions to Fred Evans, Navy remedial project
11 manager for the specific dollar amount, spent
12 to date on JILF, have not been answered. We do
13 know that total funding to date for all the
14 shipyard Superfund sites is over \$23 million.
15 No wonder the public's frustrated and angry at
16 the inadequacy of the solution and the
17 unanswered questions left with us in this
18 process.

19 The pollution concerns involved in the
20 shoreline area now called OU6 should have been
21 addressed all along, and now the Navy wants us
22 to wait another five years. This record of
23 decision by the Navy and the EPA is of great

1 importance to our community. We have been
2 patient and tolerant with this process. The
3 Navy has been a large seacoast employer in the
4 past, but has also been the creator of
5 hazardous waste and pollution in a fragile,
6 unique estuary. It is time for the Navy to
7 take responsibility and action for its
8 Superfund sites. The Jamaica Island Landfill
9 is only one of many Superfund sites at the
10 facility to be dealt with. By choosing to
11 delay/avoid/disregard any real solution for
12 this site, the Navy has put our community on
13 alert that we cannot trust them to follow
14 through in the future.

15 The EPA has so far gone along with the
16 Navy's proposals for the Jamaica Island
17 Landfill. They now stand alone as the only
18 signatory on this decision in a position to
19 call for a real remedial action plan from the
20 polluter. There is still time for the EPA to
21 come forth to protect human health and the
22 health of our ecosystem by demanding that the
23 Navy place a barrier as well as a cap at

1 Jamaica Island Landfill.

2 MACY MORSE: My name is Macy Morse, and
3 I live in Portsmouth, New Hampshire.

4 I moved to Portsmouth in 1986, and I
5 think it was that winter that Kenneth Chen from
6 the EPA was studying the pollution at the
7 Portsmouth Naval Shipyard. I was going to say
8 it was before some of you were born, but -- I
9 was 65 years old at that time. I have now just
10 turned 80, and the EPA and the Navy have not
11 yet made a decision about what to do about the
12 Jamaica Island Landfill, although it's been
13 declared a Superfund site. I wonder why they
14 haven't done this.

15 I know that -- you know, it's been 15
16 long years, and people get tired of working on
17 something after that period of time, and coming
18 to the RAB meetings and seeing -- going over
19 this information over and over again, going
20 back to your offices, working out solutions
21 with your teams and coming up with nothing new,
22 I imagine that you really are sick and tired of
23 working on this project. I would think you

1 would be. I would be. But then I wonder,
2 who's working on this? Who are these teams?
3 How -- what experts? How expert are these
4 people? How adequate? What -- why have they
5 come up with this cap, this precipitous
6 decision to only put a cap on this dangerous
7 landfill?

8 There are plenty of people here tonight
9 who have talked about the technical aspects and
10 know the technical aspects. But I don't
11 understand why you can't come up with this, and
12 I'm very disappointed. And I hope that there
13 can be a decision.

14 AN UNIDENTIFIED VOICE: I think it --
15 myself, personally, I believe regardless of
16 what they say, the answer to your question is
17 money.

18 MS. MORSE: Well, I was going to come to
19 that.

20 If we put this cap on there, this could
21 make available for commercial use, this area.
22 And then, you know, I won't live long enough
23 probably to see the barrier put up or any --

1 any safeguard against further pollution.

2 But I do -- but I do -- I do agree with
3 you that -- that it's a commercial -- could be
4 a commercial use. And I'm disappointed.

5 LISA KEMO: Good evening. I'd like to
6 thank you for coming out this evening to hear
7 us out. My name is Lisa Kemo, I live in
8 Kittery, and the reason that I'm here is
9 because I settled in this area several years
10 ago because I wanted to raise my family in an
11 environment -- in a healthy environment against
12 the backdrop of that beautiful river and the
13 Atlantic Ocean out there. And it took me a
14 while, I have to admit, before I became
15 educated about this situation at the Portsmouth
16 Naval Shipyard.

17 Now, I have to be honest and say that
18 I -- in my life, there have been times where I
19 have wished that I could have shirked my
20 responsibilities and my duties, but common
21 decency and propriety and common sense have
22 always dictated to me that I cannot shirk my
23 duties. Yet the United States government and

1 the -- their navy seem to answer to some higher
2 code of ethics which indicates that they can
3 relieve themselves of their responsibility, and
4 that's obviously why we have to come out here
5 tonight and ask them again, ask them to clean
6 up the heinous mess that they made over 30
7 years ago.

8 And I know that I'm astounded at the
9 incredible wisdom that the Navy demonstrated
10 when they constructed a landfill out of 25
11 acres of mud flat. That's incredible. Along
12 the Piscataqua River, no less, a watershed.
13 And when we consider the heinous substances
14 that they fully planned to bury in that
15 landfill, we are further assured of the Navy's
16 profound wisdom and their care of our lands and
17 waterways.

18 These heinous substances are known
19 toxins and heavy metals, some of them named
20 tonight -- dioxin, PCBs -- regardless of the
21 flimsy reasons that the Navy offers us as to
22 why they dropped Option No. 5, which
23 specifically included capping the landfill to

1 prevent precipitation from entering it and
2 erecting a barrier that would address the tidal
3 and groundwater migration from that site into
4 surrounding areas.

5 And I'm here tonight to specifically
6 demand of you that you stop dragging your feet
7 and that you clean up your mess and that you
8 cap the thing and you put a barrier on it and
9 you contain it. Because you're already in
10 possession of data that indicates that
11 migration of those substances are in fact
12 occurring regularly -- right now, even, as the
13 tides wash in and out of that area. It's not
14 rocket science we're talking here, it's common
15 sense. And it's decency and it's a matter of
16 right and wrong, and you've been wrong for a
17 long time. And you have a chance to be right
18 and do the right thing for the people who live
19 in this area.

20 Thank you very much.

21 JOANIE PRADID: Good evening. My name
22 is Joanie Pradid and I'm a resident of
23 Kensington, New Hampshire.

1 I'm here tonight because I feel that the
2 plan presented by the Navy for addressing the
3 Jamaica Island Landfill Superfund site is
4 inadequate. I concur with the statements made
5 by the Seacoast Anti-Pollution League and many
6 others here tonight, so I won't repeat many of
7 their statements; but I do want to voice my
8 concern that the Navy's plan fails to address
9 the most significant concerns that area
10 residents have put out about their own public
11 health and safety and about the health of the
12 estuary and the wildlife it supports.

13 While the cap is a sane portion of any
14 remediation plan on such a landfill, it is a
15 small part of the necessary equation to remedy
16 this site, a site that tides wash into and out
17 of every day. This tidal migration occurs now,
18 it will occur when the cap is in place, and it
19 will occur indefinitely until the barrier is in
20 place to prevent it.

21 At the previous public meeting, the Navy
22 stated that they will address this tidal
23 migration issue separately, and indicated that

1 even that -- that even consideration of the
2 issue might be tabled for five to eight years.
3 This is an unacceptable delay in the fact-
4 finding process that has already taken 10
5 years. After years of testing, the Navy has
6 not been able to remove all doubt that
7 dangerous toxins might still be leaching from
8 the landfill into the surrounding area.
9 Moreover, you can't find what you don't test
10 for. And it is surprising to me as a citizen
11 that while dioxin has been found in the
12 landfill, no testing has been done to see if
13 this highly dangerous toxin is leaching from
14 the site.

15 There is also the notion expressed at
16 one point by the EPA that the toxins at the
17 site have long ago leached out with the
18 incoming and outgoing tides. That may be true
19 or it may not be true. We don't know yet.
20 However, what is most certainly true is this:
21 that sitting on top of that preleached section
22 is a highly toxic portion of the landfill that
23 has never been touched by the tides as it is

1 currently above sea level. But sea level, even
2 by the most conservative government estimates,
3 is rising in general and is slated to rise in
4 our area, too. Heavy weather events that swell
5 the tides temporarily are on the increase as
6 well. It is highly conceivable that, even in
7 the near term, we could see a rise in water
8 levels that exposes a whole new previous
9 unleached portion of the landfill to tidal
10 migration. Failing to account for these known
11 factors, these known probabilities, is failing
12 to adequately assure public health and safety.

13 I understand that funding is an issue,
14 both in the collection of data and in the
15 follow-through of any plan. That said, I urge
16 the Navy to adequately fund the cleanup efforts
17 of sites placed on its national priorities
18 list, this site included. Current and adequate
19 funding levels have led to a prolonged data
20 collection period and an incomplete proposed
21 plan. That's something that I think adequate
22 attention from the budgetary ranks of the Navy
23 could help to address.

1 Finally, I'd like to say that I speak as
2 one who values the estuary and its importance
3 to the local marine ecosystem, but I also speak
4 as a parent who would like to know that when I
5 bring my child, his friends, his cousins, to
6 recreate in the area, I bring them to a place
7 that the agencies we entrust our public safety
8 to have tried their best to protect them from
9 the toxins that could harm them. Where serious
10 questions remain about safety, agencies should
11 act in the public interest. In this case, that
12 means not just a cap, but also a barrier at
13 OU3.

14 Thanks.

15 DAVID HILLS: My name is David Hills and
16 I live in Durham, New Hampshire, and I have no
17 more idea what I'm going to say tonight than
18 any of you. So I'm just going to try to speak
19 from somewhere out of my head and down a little
20 bit closer to my heart.

21 Ancestors of mine came up the Oyster
22 River in 1655 and settled in Durham, so my
23 children are the 11th generation on the farm

1 where we live, so I have a strong sense of
2 commitment to the area.

3 I want to address the Navy and the EPA
4 and the Maine Department of Environmental
5 Protection as organizations and not those of
6 you sitting here as individuals, so don't take
7 personally what I say, unless it applies, and
8 then you can take it personally.

9 I think that you've heard from
10 everybody, and I guess each of us should make
11 our own statements as a stand-alone statement
12 since they're being taken for public record,
13 but I don't really want to spend time talking
14 about what everybody else has already said.
15 It's very clear that the Navy hasn't been doing
16 the monitoring that it could have been doing.
17 It's very clear that millions of dollars have
18 been spent. I have not, to be honest with you,
19 had any interest in coming to the RAB meetings,
20 because -- and I feel guilty saying that --
21 because, from what I've heard, it's worse than
22 watching paint dry. And that may be the
23 procedure that has to occur, but I don't do

1 well with that kind of procedure, so I've just
2 stayed away because I probably would have
3 gotten arrested.

4 But I think that, you know, we all look
5 at people sitting on the street in major
6 metropolitan areas who are overdressed and are
7 babbling and we think of them as crazy. I
8 think of all of us as crazy because we're
9 coming to a meeting where we really feel like
10 the people who are sitting in front of us --
11 the organizations, excuse me, that are
12 represented by the people sitting in front of
13 us, really aren't interested in listening. If
14 they were, how would it have just occurred that
15 Alternative No. 5 just disappeared, just
16 vaporized? We thought it was one of the ones
17 that was being considered and then found out
18 that it was no longer on the list.

19 So, are we suspicious? Are we paranoid?
20 I don't know. I guess we just don't feel like
21 this is -- part of me feels like this really
22 isn't going to make any difference. And when
23 I've talked to people about coming to this

1 meeting tonight, there's sort of a
2 schizophrenia between, you have to come because
3 not to come is crazy, and yet to come is crazy,
4 too, because it's not going to make any
5 difference.

6 I'm a romantic. I'd like to think that
7 each of you, since you've all stated tonight
8 that you do have some influence -- you may not
9 be the signatories, but you do actually have
10 some influence with the bodies that you're here
11 to represent, could actually surprise people,
12 surprise all of us in this room, and maybe even
13 surprise the rest of the people on the teams
14 and say, "You know what? That feedback really
15 affected us. It really did. And even though
16 we're kind of getting a push from a certain
17 direction that may be financial, may be
18 bureaucratic, may be this is the way it's done
19 everywhere else, don't set a precedent, it's
20 just not okay in this situation, because these
21 people really touched us by what they said and
22 we really believe that this is not the right
23 solution."

1 I think that that would be my hope.
2 That would be my hope, that you would actually
3 listen, and that you more than listen: you
4 would recognize that the studies that have been
5 done, that have shown in the eel grass that
6 much of what is being said here tonight is in
7 fact true, and the fact that people have an
8 incredible amount of skepticism that everything
9 will ever be done.

10 The quick and dirty solution is put a
11 cap on it. I think it's not very hard for me
12 to imagine at all that the Navy is looking at
13 the former prison site as a valuable piece of
14 real estate, and as Macy Moore has suggested,
15 you know, that may be a great parking area once
16 you put a cap on it, and then, great, then we
17 have a revenue source for the Navy which is
18 trying for look for ways to turn property into
19 something that higher-ups can be happier about.

20 I also just want to say -- and, again,
21 try not to personalize this -- but to not have
22 the EPA here at the public meeting, I haven't
23 heard anybody address why nobody from an

1 organization of that size with that kind of a
2 budget couldn't have been here that night. I
3 think, again, it's a shame that the
4 Environmental Protection Agency wasn't here to
5 answer questions.

6 Thank you.

7 DOUG BOGAN: My name is Doug Bogan. I'm
8 community cochair of the Restoration Advisory
9 Board for the shipyard, but I'm here tonight to
10 speak in my capacity as New Hampshire program
11 director for Clean Water Action, a national
12 environmental group, and our approximately 400
13 members in the seacoast region, and also as a
14 15-year resident of Portsmouth. I can see the
15 shipyard from my back porch, actually.

16 I think from everything you've heard
17 here tonight, it's pretty clear that the public
18 was not really given much of a choice. In my
19 time watching this process for quite a few
20 years, more than I thought, I think it's clear
21 that the Navy has been very good at basically
22 whittling down the choices to the point that
23 there isn't really much of a choice and we are

1 being given the Navy's choice. And it's also
2 clear that it's not much different than what
3 they would have proposed to us five years ago.
4 And I just find that a frustration, as a member
5 of the Restoration Advisory Board and member of
6 the community here, to not see much progress in
7 that time. And I think the public opinion, as
8 expressed here tonight and in other forums, is
9 clearly on the side of dealing with the
10 containment issue with the migration of
11 pollutants from the site, of perhaps building a
12 barrier to address them, and it's unfortunate
13 that the Navy has come up with a way to leave
14 that issue aside for the time being.

15 The designation of this new operable
16 unit, Operable Unit 6, or even the original
17 split between the on-shore and the off-shore
18 units that was done quite a few years back -- I
19 think back in the early '90s -- it's all really
20 a clever bureaucratic maneuver, but it's
21 essentially a fiction. You know, the real
22 world does not consist of units, separate
23 entities. This really bears little resemblance

1 to the reality of this site or of any
2 environment. We can't deal with each of these
3 operable units in isolation. One does affect
4 the other. And to treat them independently, in
5 isolation, it really does a disservice to the
6 basic ecology of our area. To suggest that you
7 could analyze the water coming out of these
8 seeps and not worry about the fact that in
9 Operable Unit 4, the off-shore area, we
10 already have significant contamination, the
11 sediments are heavily contaminated with lead
12 and other toxins, heavy metals, and that
13 somehow it's okay. As long as the water
14 quality isn't too bad coming out of that seep,
15 it doesn't matter that you're adding on to a
16 much larger problem off-shore.

17 We understand that capping is a
18 necessity. It is a prerequisite, but it's
19 clearly not the only thing that needs to be
20 done with this site. It should be seen as a
21 bare minimum. It's really insufficient to deal
22 comprehensively with the complete landfill
23 problem.

1 Everyone admits that there are
2 uncertainties in regard to the seep
3 contamination impacts. Evidently, though, only
4 the Maine Department of Environmental
5 Protection thinks that those impacts may be
6 important enough at this time to warrant
7 further investigation. The other agencies
8 evidently are not of that opinion. And we are
9 glad that DEP has stood up, I think, for that
10 concern, and it does, though, indicate much of
11 the uncertainty that exists before us here.

12 As has been mentioned by some other
13 people, there are other uncertainties that have
14 come up. I would particularly like to
15 emphasize the dioxin issue because it has only
16 been recently identified at the shipyard, and
17 we really don't know enough about the extent of
18 the contamination and whether it is coming from
19 the seeps or not and whether it is indeed
20 getting into the organisms living off-shore.
21 But the evidence does seem to indicate that
22 that is indeed occurring.

23 Unfortunately, the information that's

1 been reported, that's in the repositories,
2 that's in all the documents, is not really in a
3 form that even myself -- let alone any
4 layperson -- could really compare and contrast
5 with other sites, other studies that have been
6 done in the estuary. So it is very difficult
7 to make sense of all this. Clearly, though,
8 there is an uncertainty there.

9 Now, I would also like to mention that
10 the federal government in the form of the EPA
11 put out a report, I believe last fall, on
12 dioxin. It's an assessment that was many years
13 in the making. I believe they were probably
14 sued, as with many things that they do, it
15 takes a lot of pressure, legal pressure to get
16 them to actually cough up the report. But they
17 did put out this report, and it did indicate
18 that the risk factors for dioxin were 10 to
19 perhaps 100 times greater than what they had
20 previously thought. As was mentioned earlier
21 tonight, it's always been determined that
22 dioxin is a known human carcinogen. We are
23 learning more and more about this dangerous

1 toxin every day. And there are also many
2 uncertainties that remain in the total health
3 impact of dioxin and related compounds. We
4 know that dioxin is a hormone disrupter. We
5 know that the damage to our endocrine systems
6 could actually be much greater and much more
7 widespread than potential cancer impacts; yet
8 most risk assessments only take into account
9 the cancer impacts. And we just don't know
10 enough about what effect it has on our ability
11 to reproduce, on our children and their
12 children, and that's a very serious issue.

13 And we also know from this EPA
14 assessment that there is enough dioxin out
15 there in the environment, in our bodies, in the
16 average person's body, to cause potential
17 health problems. So it seems the obvious
18 judgment from that is that we should not be
19 putting any more dioxin into our bodies or into
20 our environment. So we really have to wonder
21 whether this site does not deserve much more
22 attention in that regard.

23 Again, this points out to the flaws in

1 the risk assessment process. Environmentalists
2 for decades have been arguing and complaining
3 about the limitations of risk assessment. And
4 there really are many reasons that I won't go
5 into tonight or bore you with, but clearly risk
6 assessment is only one way to determine whether
7 a given practice is safe or a given situation
8 warrants more protection.

9 It also was mentioned before about the
10 potential for future contamination, the fact
11 that sea level is rising, is due to rise at a
12 greater rate in future years, and also that we
13 are experiencing climate changes. Scientists
14 are more and more coming to very strong
15 conclusions that we are disrupting our global
16 climate and our local climate, and being on the
17 seacoast, we are particularly vulnerable to
18 major storms, 100-year storms, 500 year storms,
19 perhaps 1,000-year storms -- if you will, the
20 perfect storm that could cause very serious
21 erosional impacts, flooding, storm surges that
22 could overwhelm any existing capability to hold
23 back the tide. And so all these uncertainties

1 should lead to a sense of precaution, not
2 inaction. And I would like to point out that
3 the idea of precaution has been formulated into
4 a principle that's gaining more and more
5 allegiance among scientists and many other
6 public policy people.

7 And I would just like to read you a
8 definition of what the precautionary principle
9 is being described as. This is one of the one
10 formulation of it. "When an activity, or in
11 this case, a given situation, raises threats of
12 harm to human health or the environment,
13 precautionary measures should be taken, even if
14 some cause-and-effect relationships are not
15 fully established scientifically."

16 So when we have uncertainty, we really
17 need to be acting in a precautionary way. And
18 that may seem a very common-sense kind of idea,
19 but it also has been inscribed in a number of
20 international treaties. The Rio Declaration of
21 1992, which was signed by the elder President
22 Bush, incorporates that principle.

23 And I would also like to read you

1 another quote from our new EPA chief, Christie
2 Todd Whitman. This was actually stated before
3 she became EPA chief in a speech this past
4 October to the National Academy of Sciences
5 when she was just a lowly governor of the state
6 with the most toxic waste sites in the country,
7 I believe. She said, "Policymakers need to
8 take a precautionary approach to environmental
9 protection. We must acknowledge that
10 uncertainty is inherent in managing natural
11 resources, recognize it is usually better --
12 usually easier to prevent environmental damage
13 than to repair it later, and to shift the
14 burden of proof away from those advocating
15 protection toward those proposing an action
16 that may be harmful."

17 I think we would do well to take to
18 heart her words and apply them to the situation
19 with the shipyard, because, as we've all
20 described, there are many, many uncertainties
21 here, and a precautionary approach would
22 definitely say, let's address them now; let's
23 not wait five or 10 or more years to deal with

1 the problem later.

2 So I really feel that the burden of
3 proof should be on the Navy to demonstrate that
4 these seeps don't represent a threat to our
5 water quality and quality of the estuary, given
6 all these uncertainties and potential for
7 future releases. So I'm here to support the
8 recommendations described earlier by Seacoast
9 Anti-Pollution League and others for retaining
10 the cutoff barrier option, and really to
11 investigate it further as something that should
12 be instituted sooner rather than later. The
13 Navy should demonstrate why it's not needed, in
14 their view, not simply put the issue off into
15 the future. There should be immediate sampling
16 of the seeps, a determination of the localized
17 toxicity, what effect they really are having on
18 the local ecosystem, in the mud flats and
19 beyond. And, also, I would add there should be
20 a timely investigation of the likely impact of
21 sea level rise, of storm surges of other
22 impacts due to global warming, and just the
23 nature of our local environment.

1 Now, just speaking for a moment as a
2 member of the Restoration Advisory Board, I do
3 have to say in watching this process that I
4 feel we've been sold a bill of goods when we
5 chose, I think a couple years ago, to address
6 the landfill first. We were given a choice of,
7 Do you want to move forward with the landfill
8 cleanup or do you to deal with the -- it's call
9 the DRMO, the recycling center. We don't have
10 money to do both. That was basically the way
11 they presented it to us. We chose the
12 landfill, given that the landfill was bigger
13 and potentially a much more serious problem and
14 really needs to be addressed. But here we are
15 now, and we don't see a real comprehensive
16 solution for the landfill.

17 We shouldn't have to wait upwards of
18 perhaps another decade to deal with --
19 comprehensively with the landfill problems...
20 These problems need to be addressed now. We
21 need to have some assurance from the Navy that
22 they will investigate a solution to that
23 problem, and the public really deserves a

1 better response than they've gotten so far.

2 Thank you.

3 MR. PLAISTED: I'm going to hesitate for
4 a moment, and ask the stenographer if she's
5 doing okay.

6 THE REPORTER: I'm fine, thank you.

7 MR. PLAISTED: Okay.

8 AN UNIDENTIFIED VOICE: I can make it
9 short. I've got one question.

10 Seeing that this is also involving New
11 Hampshire -- part of that river is in New
12 Hampshire -- how come we don't have an EPA
13 representative sitting up there from New
14 Hampshire that we can go to?

15 This is a governmental facility. It is
16 affecting two states. How come New Hampshire
17 does not have an EPA representative on that
18 board?

19 MR. PLAISTED: Anyone else?

20 DAVID BURDIK: Good evening. Thanks for
21 coming out.

22 My name is Dave Burdik. I'm a resident
23 of Portsmouth, New Hampshire. I've been a

1 resident for about 10 years. I'd just like to
2 comment on this formal hearing.

3 Since 1994 it's clear that the number-
4 one threat from the Jamaica Island Landfill is
5 through the combination of tidal action and sea
6 level rise. Yet, after six years of
7 deliberations, the EPA and Navy have decided a
8 cap over the top of the landfill is all they
9 can do. We don't know why this is, but suspect
10 it's related to the fact that we're only
11 allowed to speak and not get questions answered
12 tonight. I think it's because we're dealing
13 with large bureaucracies. The people who will
14 ultimately make decisions, the final decisions,
15 aren't in the room tonight, and they're
16 well-insulated.

17 People have thought a little bit about
18 this idea, the landfill cap. It's kind of like
19 taking three bills, say. There's groundwater
20 coming into the landfill; it's a problem.
21 There's rainfall coming into the landfill; it's
22 a problem. And there's tides coming into the
23 landfill; there could be a problem there.

1 Well, let's try to deal with two of
2 these bills, the groundwater and the rainfall.
3 We'll forget the tide. The problem is, I don't
4 think people have done their homework to know
5 what the denomination of the bills are. Okay?
6 So I haven't seen any good quantitative
7 information that says the tidal action
8 represents one-third or two-thirds or nine-
9 tenths of the water moving in and out of that
10 landfill.

11 When it's raining out, I put a hat on or
12 carry an umbrella. Works pretty well. But if
13 I go swimming, a hat or umbrella is not going
14 to do me much good. The Navy has put a toxic
15 landfill in our swimming pool and they're
16 telling us, "It's okay; we're going to put a
17 hat on it." Doesn't cut it for me.

18 Another problem is that there's no clear
19 monitoring plan in any of the alternatives and
20 the budgets. Perhaps the Navy wants you to
21 believe there's a monitoring plan. I'm sure
22 that they say there is a monitoring plan that's
23 in inaction. But if you look at the summary of

1 alternatives, Alternative 1, the do-nothing
2 alternative, I assume they would still have to
3 monitor, and yet there's no money in the
4 budget. So it's pretty clear that these
5 budgets are fairly inadequate to really help us
6 understand what these alternatives do and are.

7 Inadequate action to safeguard the
8 public health and environmental quality around
9 the shipyard. Imagine separating the treatment
10 of the landfill, the Jamaica Island Landfill,
11 into surface waters and tidal waters. It was
12 mentioned before that this was a fictional
13 separation, and I agree with that. This is one
14 system and it should be reconsidered. In fact,
15 I plead with the group here to reconsider that.
16 I'm sure the people up here, including Ken,
17 Meghan and the others, feel that they have done
18 nothing wrong over the last six years. But I
19 think it's time -- I think there's a strong
20 message that it's really -- it's time to start
21 doing something right and getting something
22 done in a positive direction, to stem the tide
23 of the toxins leaching from this landfill.

1 Please do not continue on the path you
2 have set out for yourself in November in
3 separating out Alternative 5 and separating
4 this landfill. Demand from your supervisors
5 the freedom to treat the Jamaica island
6 landfill as one unit. It is one system; it
7 should be treated that way. Demand the freedom
8 from your supervisors to do the right thing for
9 the people of Maine and the seacoast of New
10 Hampshire. Consider the significant impacts of
11 this Jamaica Island Landfill on the marshes,
12 mud flats, and sea grasses by the dumping of
13 toxins directly on these habitats. So I ask
14 you, finally, to please put forward a plan to
15 deal with the entire landfill.

16 Thanks.

17 JOHN JOYLE: Good evening. My name is
18 John Joyle. I live in Somersworth, New
19 Hampshire.

20 Lately I've been an advocate concerning
21 many issues that affect my life personally. I
22 remember when I was a young boy growing up when
23 Meldon Thompson tried to force Seabrook down

1 our throats. I wasn't too crazy about that.
2 People had to actually get dragged off fences
3 and beat by state troopers to have their
4 opinions suppressed. I had a big problem with
5 that. Of course, I was too young back then; my
6 dad wouldn't let me go be part of that.

7 I know years ago the Navy must have made
8 a lot of mistakes on the island over here, and
9 I think they realize that. They may have
10 realized that at the time, and I think they're
11 trying to do what's right to correct that a
12 little bit after the fact.

13 I stand before my neighbors from Maine
14 as a New Hampshire resident. I'm very
15 concerned about the entire river and the
16 estuary as well as the property that the Navy
17 now occupies and Maine now claims. And there
18 is a lot of uncertainty in the future, folks.
19 A lot of uncertainty. And the terminologies
20 and the words that I've been hearing tonight, I
21 can appreciate and I can associate with a lot
22 of them, believe me. "Uncertainty." I looked
23 at this report and I see the word "boundary,"

1 and I see the word "the Maine hazardous waste
2 management rules." The Piscataqua River. I
3 see a lot about groundwater migrating off-shore
4 with tidal water, river water, things that
5 affect our environment. Great Bay estuary,
6 commonly referred to as the Portsmouth Harbor.
7 There's some legends and some maps in here that
8 I've looked at. I'm not a map or a legend guy,
9 but I looked at this and I can read some of
10 this. It's fairly easy to understand. And
11 there's a lot of questions in our -- in our
12 future, and we're going to find out what those
13 might be on April 16th, believe me.

14 But I stand before this audience
15 tonight, and the folks at this table, I commend
16 you for your efforts. I know I wouldn't want
17 your job, and I can see -- and I feel the
18 emotion here as well. I hope and pray that you
19 all do what's right and the organizations that
20 you represent do what's right. But, you know,
21 you have a big problem, myself, personally,
22 trusting the Department of Environmental
23 Protection from the State of Maine, no more

1 than I trust the Revenue Service from the State
2 of Maine. They have given me nothing --
3 nothing -- for 14 and a half years. They've
4 taken some of those dollar bills out of my
5 pocket. As a matter of fact, I don't have any
6 dollar bills in my wallet. Have you got some
7 money I can borrow, there?

8 But all joking aside, folks, you know,
9 this stuff affects our habitat. It affects our
10 seafood. It affects our kids. It affects our
11 air. I mean, this stuff affects everything
12 about us as human beings. And we don't want to
13 get too greedy or generous, as far as that
14 goes. But it's -- it's hard to understand how
15 people feel about this stuff and make those
16 feelings turn into reality.

17 But I just wanted to let you all know
18 that when the word "uncertainty" came up, my
19 mind started thinking. Yeah, there is
20 definitely a lot of uncertainty in the future.
21 And the gentleman that was sitting next to me,
22 I have to agree with him. The State of New
23 Hampshire -- folks, I'm not here to represent

1 the State of New Hampshire. I'm a resident of
2 the State of New Hampshire, a very loud,
3 outspoken advocate, as being a resident of the
4 State of New Hampshire. The State of New
5 Hampshire has laid claim to that entire river
6 and all of those islands over there. Okay?
7 And I'm not here to argue and bicker about that
8 issue. That's out of our hands, pretty well
9 much like this may be out of our hands. But
10 I'm very, very distressed and disturbed to the
11 fact that the folks that may be on this board
12 or the organizations that represent this action
13 did not afford the State of New Hampshire the
14 opportunity to partake in this process.

15 And for the record, I want that
16 definitely mentioned for the record. Because
17 another word that comes to my mind is
18 "liability." And I don't know how that works.
19 I'm not a lawyer. But, you know, that's a big
20 thing. I have two young children, and my kids
21 like to go in the ocean and pick up shells and
22 play at Prescott Park and etc., etc. But, you
23 know, it's a concern of people. And I hope and

1 pray again that the Navy does do what's right
2 and that the professionals involved in your EPA
3 does what's right.

4 I don't honestly think the DEP from the
5 State of Maine knows what is right, to be
6 perfectly honest with you, no more than the
7 revenue service of the State of Maine knows
8 what's right. I don't trust the Department of
9 Environmental Protection from the State of
10 Maine no more than I trust the bureaucrats from
11 the local areas in the State of Maine, nor the
12 State of Maine itself. If they don't blink an
13 eye while they're stealing my money, they sure
14 are not going to blink an eye while they're
15 trying to hoodwink New Hampshire's southern
16 property concerning toxins.

17 Thank you very much.

18 DAVID SLANTS: My name is Dave Slants
19 and I'm a resident of Portsmouth, and I'd like
20 to just relay a story.

21 One time I was down at Pierce Island one
22 summer day, letting my dog swim off in the
23 water, and somebody came up to me and said,

1 "How can you do that to your dog? How can you
2 let your dog" -- as though I was being guilty
3 of some immense cruelty by letting my dog cool
4 off in the water out at Pierce Island, because
5 of what's -- not what's at the Navy yard. It's
6 what's unknown that's buried there, I think, is
7 the biggest problem. And I think that -- I'm
8 not a scientist. I'm just a -- what the plan
9 to cap it over, to cover it, seems
10 counter-intuitive. That's exactly what it's
11 doing, covering over the problem. It isn't --
12 it isn't getting to -- if there are barrels
13 down there full of stuff that are going to
14 eventually rust through, or batteries that are
15 going to leak through and all the stuff, the
16 tidal waters -- just capping it isn't going to
17 stop it from leaking out the sides. It
18 doesn't -- or out the bottom. Capping it seems
19 to be causing more of a problem by giving a
20 false sense of security, and making the --
21 what's eventually going to have to be done more
22 difficult.

23 I would rather see the money that's

1 spent building that -- or doing that and
2 monitoring that, cleaning up, even if it's only
3 able to clean up a quarter of it, at least
4 getting down there and figuring out what's
5 there, because nobody really knows. Get rid
6 of -- you know, spend that same money doing the
7 right thing to a smaller section, and then wait
8 for more money to move on to another section.
9 But covering it over is exactly, I think, what
10 this solution does. It covers it over. It
11 doesn't solve it at all.

12 That's my opinion.

13 PHILIP McDONOUGH: Hello. For the
14 record, my name is Philip McDonough. I
15 currently live in Rye, New Hampshire.

16 I grew up on the banks of the Piscataqua
17 River, right across the river from Clark's
18 Cove. I saw the causeway being built between
19 Clark's Island and the shipyard. Since 1948 we
20 lived on the banks of the Piscataqua in New
21 Castle. And I'm here today to say that I'm
22 very disappointed in the process's result, not
23 necessarily the process, because I had a lot of

1 lot of hope -- I had much hope in that this
2 process that was going on here with the --
3 because of the process of the civilian
4 oversight, of the Navy's plans, EPA's
5 involvement, the Maine DEP's involvement, and I
6 will say I'm very disappointed that the State
7 of New Hampshire wasn't involved -- didn't deem
8 to become involved, as I understand it -- and
9 that an environmental group, the Seacoast
10 Anti-Pollution League, of which I am a former
11 president, was invited to participate and
12 monitor for the civilian population what was
13 going on.

14 It's clear from the process right now
15 that alternative -- well, it's clear from the
16 process that Alternative 5 would be the
17 comprehensive solution. You've heard that
18 before tonight. And this process seemed to
19 promise that the government, the federal
20 government would take a responsible and a
21 leadership role in cleaning up Superfund sites,
22 plural, okay, its own sites.

23 Instead, the Navy appears to have taken

1 the position that the government itself would
2 not allow private industry to take in a similar
3 situation. I can't believe that they would
4 allow a private contractor, a responsible --
5 deemed responsible for a site to separate off
6 and put out into the future with no -- no time
7 line, no monitoring proposals.

8 And the purpose of my comments is to
9 urge the organizations represented here -- not
10 EPA, Navy, DEP -- to reverse what I call the
11 behind-the-closed-doors decision represented in
12 this document right here, okay, OU3, which used
13 to be -- which used to have the entire island,
14 okay, that site, and now it's just separating
15 one of the most crucial parts of
16 it, represented in this document and to take a
17 responsible and comprehensive conclusion. It's
18 not too late, as you have been urged here.
19 It's imperative for public confidence and
20 safety to make the right decisions and not just
21 the economic ones. If the federal government
22 is going to take a role, a leadership role in
23 cleaning up the Superfund sites, they need to

1 do it right, not on a half-assed basis, which
2 is what I see this as being.

3 Thank you.

4 DANIEL GAIRE: Hi. My name is Dan
5 Gaire, Eliot resident. And there's been a lot
6 of words tonight. I'm sure everyone is tired
7 and emotionally drained, and I just want to
8 offer up three simple words. Hopefully you'll
9 take these with you and think about them on the
10 way home, think about them when you get up in
11 the morning and as you go forward with this
12 process. That's "Do The Right Thing."

13 Thank you.

14 MR. PLAISTED: Are there any further
15 comments?

16 (No response.)

17 MR. PLAISTED: If not, then I declare
18 this public hearing closed.

19 MR. GAIRE: Four words.

20 MR. PLAISTED: Thank you very much, and
21 have a safe ride home.

22 (Proceedings concluded at 8:30 p.m.)

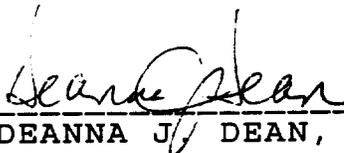
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I, DEANNA DEAN, a Notary Public and Certified Shorthand Reporter of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of the proceedings on the date hereinbefore set forth.

I do further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



DEANNA J. DEAN, CSR, CRR.