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Petroleum Contaminated Soil Re-use Application in Dover

"Soil contaminated by virgin petroleum products leaking from underground storage tanks is a pervasive problem throughout the U.S…..disposal of such soils is costly, both in terms of money and landfill resources."

EPA, "Potential Reuse of Petroleum-Contaminated Soil" 1992

By Antonia Shoumatoff

Finding a place to get rid of petroleum-contaminated soils (PCS) is a headache for both the small gasoline station and the private landowner who need to have their old underground oil tanks removed but are left with a pile of contaminated soil. The disposal of these soils has recently become even more of an issue since most banks will not grant a mortgage for houses with underground oil tanks. A few years ago, many small gas station owners were forced to clean up MTBE-contaminated soils. MTBE is a major ground water contaminant due to its volatility. New York banned MTBE as an additive to gasoline in 2004.

In Dover Plains, at the Mid-Hudson Recycling Center, on a three acre site south of where Cricket Valley Energy is applying to build a power plant, an application has been submitted by Rasco, the New York branch of Concord Environmental Construction Services, Inc. of Kent, CT to conduct a business that turns low-level petroleum contaminated soils (PCS) into asphalt. Concord Environmental removes many of the buried oil tanks in the area and "is fully licensed and insured to haul contaminated soils" according to their website, concordenviro.com.

The cold asphalt process that sprays an emulsion of asphalt into the contaminated soils has been determined to be "a beneficial re-use" by the NYS DEC. The material that is produced can be used as a road base or asphalt component for lower grade pavement or light use.

At a public hearing of the Dover Town Planning Board on March 15th, Rasco presented their application.

Rasco is applying to the Dover Planning Board for a grandfathered-in use permit, arguing that they will be continuing the same use that T&T Materials operated on the same site until 2004 when it was closed down by the NYS DEC for having uncovered material, a

violation of the DEC permit. It has taken Rasco three years to get a Beneficial Use Determination (BUD) from the DEC. The operation would bring in 1,000 tons of the PCS soils at a time from areas of Connecticut and Westchester and produce a cold asphalt mix that will be marketed as a base for parking lots and roads in a fifty-mile radius. Sibyll Gilbert of the Oblong Land Conservancy, which owns the 'Carruth Preserve' adjacent to and north of the plant, was clear in outlining her distress with the RASCO application.

"We have concerns about the contaminated soil leeching through the Swamp River and traveling up to our reserve," she said from the podium. "Why should the Harlem Valley be the site for contaminated soil dumping from other areas?"

Gilbert suggested RASCO go through the State Environmental Quality Review, or SEQR, and that the planning board extend the public hearing period. She also submitted at letter to the Planning Board that stated: "The Oblong's preserve, located downstream on the Swamp River, could be damaged by spills of soluble contamination, and the conservation of amphibian and reptilian species, for which this preserve was created, could be irreparably harmed. These species are particularly vulnerable to low levels of contamination." She also stated that the environmental impacts are very complicated and "require knowledgeable technical support to provide adequate advice to the Planning Board. The SEQR process must be used to advantage to provide adequate time and the necessary resources to review this application."

The Housatonic Valley Association stated in their written comments that they are concerned that the proposed operation involving the storage and use of petroleum contaminated soils (PCS) is close to a New York State-designated Critical Environmental Area (CEA) and that they would like to see a full environmental review (SEQR) conducted for the project: "We believe that the DEC permit was issued prematurely and that a more thorough review should have been taken by the agency to account for any remnant contamination that may be present on the site."

The 1992 NYS DEC Petroleum-Contaminated Soil Guidance Policy, Stars #1, guidelines booklet states that there are five criteria that must be addressed in relation to petroleum contaminated soils: Protection of Groundwater, Protection of Human Health, Protection of Fish and Wildlife and Protection against Objectionable Nuisance Characteristics which include noise, vibration and odors.

The Planning Board proposed an enforcement action against the property owner, Howland Partners, requiring them to clean up the entire site and remove all industrial waste materials and directed the Town attorney to prepare a draft letter to present to the Town Board at their next meeting on March 24th. The Town engineer, Joe Berger recommended that an independent inspection of the site be undertaken by the Town.

The Planning Board, co-chaired by David Wylock and Valerie LaRobardier, voted to delay their decision on the application and adjourned the hearing to April 5 at 7 p.m.