

March 15, 2010

Mr. David Wylock, and  
Ms. Valerie LaRobardier, Co-Chairs  
Members of the Board  
Town of Dover Planning Board  
126 East Duncan Hill Road  
Dover Plains, NY 12522

RE: Rasco Materials, Site Plan Approval

Dear Board Members:

Thank you for sending written notice to the Oblong Land Conservancy about this public hearing for site plan approval. As you know, Oblong owns adjacent land to the north, which is managed as a wildlife preserve and a scientific study area. We call this our "Carruth Preserve", for the generous family that donated it so that it could be conserved permanently. "Carruth" is partially in the Great Swamp, on the Swamp River.

Oblong has serious concerns about this proposal to approve a site plan for Rasco Materials to receive, store and handle "non-hazardous" petroleum product containing soil (PCS) to produce cold mix asphalt. The former operation, TT Materials, which produced the same product, subject to the same process, had a sorry history of very serious problems, which finally resulted in the termination of their permit by the NYS DEC.

Oblong's preserve, which is located just 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 petroleum contamination. Chippawalla Properties, the former Mission Camp, on the other side of the river is a remarkable wildlife reserve and recreational resource that the current owner is desirous of protecting. These are important assets that contribute to the Town of Dover.

***Of greater concern to Oblong, is the potential impacts of this proposal to the entire Harlem Valley.*** Dover has historically been the recipient of dumping from other regions, and proposals for more of the same; because Dover is a "poor" town with limited financial resources. Finally, Dover residents rebelled, organized in an effective resistance movement and fought back. Dover now has a strong protective code. However, the public, as yet, knows very little about Rasco's plan to resume the TT operation.

It is clear that Rasco Materials is poised to sell their asphalt product to the Dover Knolls construction site as well as to the Cricket Valley Energy Center, in Dover, and to Silo Ridge in Amenia, possibly to Durst/Carvel in Pine Plains, and potential development sites in Pawling and Patterson. Most of this development takes place adjacent to the slow flowing Swamp River, and the Great Swamp.

***The entire Harlem Valley would therefore be the recipient of this product, as hauling the material is a major cost factor. According to the EPA Publication, "Potential Reuse of Petroleum Contaminated Soil"; "Data from tests on asphalt plant(s)...in recycling soil are limited". Of greater concern, is the historic lack of quality control in New York and Connecticut of the quality of the incoming product and the critical nature of controlling the mix, so that the mineral particles of PCS binds with the asphalt emulsion. In addition, incoming PCS shipments with high clay fractions will not bind properly.***

Oblong recognizes that Rasco has obtained a permit from NYS DEC to resume the operation conducted by TT Materials. The new permit is subject to further restrictions on the use of the product, such as limiting its use as a base material, subject to being sealed with a final coat of "clean" asphalt, and to limited uses in low traffic areas and as a patch material.

This DEC Application, # 3-1326-00144/00005, was not subjected to a coordinated review, as required by state law. The area is located in an official Critical Environmental Area (CEA). Had this coordinated review been performed, as required by law, other agencies and parties of interest would have been provided with the opportunity to share information, and DEC would have likely reconsidered the granting of the permit.

***Clean aggregate products from local Harlem Valley mines are readily available. We ask why the Valley should be the disposal site for PCS imported from a region to the south, mostly from out of state? Surely there is no shortage of existing brownfields downstate, and suitable structures in blighted industrial zones where this operation would be more appropriately conducted.***

Up to 60 trailer trucks destined for Rasco, are presently estimated to travel our two lane Route 22; in addition to all the other heavy construction vehicles that this highway serves. It is our families that will pay the price with more fatalities and injuries. Air quality will also be degraded.

The valley's groundwater is vulnerable to pollution: The underlying Stockbridge Formation is calcareous and water soluble. Therefore, underground cavities tend to be interconnected. Pollution, therefore may not be confined to a small area.

### **Issues with PCS**

1. Quality control at the source: lack of adequate inspections by independent qualified staff.
2. NYS DEC has been understaffed for years, and the Environmental Protection Fund Budget is currently proposed for severe cuts. CT DEP's staffing is more or less token.
3. Management of sample handling at approved labs is historically questionable.
4. Mixing of the product and its components is critical. The minerals must bind with the emulsion, in order to render the finished product inert.
5. Final use/applications and destinations of the PCS is the most difficult to control.

### ***THE PAWLING EXPERIENCE***

The "Wern Site" Parcel #259650, located in the Town of Pawling on the western side of Rt. 22, with frontage on Rt. 22 and the MTA tracks, a ½ acre site consisting mainly of wetlands, with hydrological direct connections to The Great Swamp, was partially filled with TT Materials PCS.

Norm Benson, Pawling's Environmental Director at the time, and former Director of Dutchess County Soil and Water Conservation District, kept meticulous and extensive records for the Town of Pawling in responses to this threat. The owner, a Robert Wern, used the TT product to partially fill his ½ acre site. Mr. Wern, when issued a stop work order by the Town of Pawling, claimed that he had not been informed that the product was not approved for fill in wetlands. By the time that the action was effectively stopped, fill to a depth of almost 20 feet of this material had been dumped on this very low value, non-conforming lot. Neighbors sent letters of complaint that it was spilling onto their properties. (see copy of old air photo, which shows extent of fill). Visual examinations of the material indicated that it smelled of petroleum, and contained fragments of wood and other unidentifiable material, that suggested that it could have originated from a C&D Site.

Mr. Benson was most concerned that the contaminated material could, in time, pollute the primary production well for the Village of Pawling, which is located a mere 250' from this site. The Village Water System has endured recurring problems of low water supplies, and additional well explorations have not been very productive.

A copy of a tax parcel map is enclosed to illustrate the location of the production well. Copies of letters that illustrate the involvement of only a few of the agencies that responded to the Town of Pawling repeated requests for support, are also attached.

***AS OF TODAY, ALMOST 10 YEARS LATER, NO ACTION BY THE OWNER HAS BEEN TAKEN TO CLEAN UP THE SITE AND REMOVE THIS STUFF! (nor has any remediation taken place)***

**IN CONCLUSION:**

The Oblong Land Conservancy respectfully requests that the Dover Planning Board extend the public comment period, so that other members of the public, those potentially affected by this proposal will have adequate time to respond.

Furthermore, it should be noted that a coordinated review is legally required in this application for a permit.

The issue of “grandfathering” this proposal must be subject to thorough research. If indeed this were to be the case, then it would seem that Rasco would be responsible for the clean up at the Pawling Site, and that the Town of Dover may have a legal responsibility in sharing in that responsibility.

The issues that are discussed in this letter, are very complicated, and they require knowledgeable independent technical support to provide competent advice to the Planning Board. The SEQRA process must be used to advantage to provide adequate time and the necessary resources to Dover to review this application. We regard it as unconscionable that so much is being imposed on the Town of Dover all at once.

And, a cleanup of the existing site should be effected as soon as possible, by Rasco, TT, or the current landlord.

If you require additional information, or have questions, please do not hesitate to contact the Oblong Land Conservancy.

Very truly yours,

Sibyll Gilbert  
Vice Chair

Encl: 4  
Cc: Town of Pawling  
Village of Pawling  
FrOGS  
HVA  
Michael D. Merriman  
NYS DEC Region 3 Headquarters

