Introduction

Most of the properties that comprise the area of the Proposed Action are in one or more regulatory programs and have been the subject of investigation and/or remediation. The lead environmental regulatory agencies have been the New York State Department of Environmental Conservation (DEC) and the US Environmental Protection Agency (EPA) both of which have agreed to a process that facilitates the redevelopment and reuse of the Project that entails:

1. Filing of an Environmental Easement (EE);
2. Implementation of Institutional Controls (ICs); and
3. Preparing a Site Management Plan (SMP) for each separate parcel in the Project, i.e. Captain's Cove, and Li Tungsten.

The Gladsky, Angler's Club, Sewage Pumping Station and Doxey will also likely follow these procedures, which are intended to enable the intended land use of the proposed Action to be realized. However, the regulatory program requirements will cause each property within the Proposed Action to have its own unique EE, ICs/ECs, and SMP. Some of the properties already have one or more of these in place.

COMMENT B-1 (Subsurface Environmental Conditions):
The area is still polluted to a degree that it does not meet standards for residential use .. The only way it will meet standards is to lower the standards. The area is known locally as "TOXIC."

Joan Harrison, resident, 39 Northfield, Glen Cove, NY, electronic mail, July 14, 2009, p. 1

RESPONSE B-1 (Subsurface Environmental Conditions):
The majority of the properties, including Captains Cove, Li Tungsten, Gladsky, Angler's Club, and the Pumping Station have been studied extensively to determine the nature of the contamination. As described in DEIS Section III.B, a number of properties have undergone remediation under, and are subject to, ongoing USEPA and NYSDEC environmental regulatory programs. The NYSDEC has accepted engineering and institutional controls that would enable residential use to occur for all of the properties. These controls are described in the Captains Cove SMP, accepted by the DEC in a letter dated April 29, 2010 (See Appendix A). That document will serve as the framework for the preparation and submission of SMPs for all sites for which residential development is proposed. The DEC tacitly accepted the ICs and ECs when they accepted the SMP (April 29, 2010 letter). Likewise, EPA also tacitly accepted the ICs when they accepted the EE. EPA discussed the EE with Mr. Charles Warren, Glen Isle environmental counsel, and told Mr. Warren that the state easement would be fine with them. EPA subsequently sent an email to Mr. Warren stating declining to be a signatory on the EE (June 21, 2011James Doyle email, Appendix A). EPA's guidance on ICs shows that the NYSDEC ICs and EE are equivalent to the EPA ICs. The EPA guidance is in Appendix A.

Regarding the Li Tungsten property, the USEPA remediated all parcels including Parcel A and a portion of Captains Cove. In a November 23, 2009 letter to Mayor Ralph Suozzi (Appendix B), EPA reiterated the findings of the 2005 Explanation of Significant Differences ('ESD') (see Appendix B for both) that Li Tungsten was cleaned up to a residential standard except for Parcel A. The letter further states that one of the options that will allow EPA to approve residential use

of Parcel A is "Presumptive remediation to address risk by eliminating exposure pathways… The above Parcel A discussion can be viewed in the context of the City's ongoing development of a Site Management Plan for the former facility property, which should address both the proper performance of construction activities as well as the necessary institutional controls that require implementation, e.g., no water withdrawals from the underlying Upper Glacial Aquifer, building/infrastructure designs consistent with eliminating the potential for soil vapor intrusion, etc…."

COMMENT B-2 (Subsurface Environmental Conditions):
This project has succeeded in securing public and private investment for a massive amount of Brownfields remediation.

Eric Alexander and Elissa Ward, Vision Long Island, 24 Woodbine Ave., Northport, NY, letter dated June 25, 2009, p. 1

RESPONSE B-2 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-3 (Subsurface Environmental Conditions):
The Photocircuits site and the Pall site, both of which are active NYS DEC remediation sites for TCE (Trichloroethylene) are located directly at the Headwaters of the Creek, on Sea Cliff Avenue. These sites are leaking materials into the Creek. I believe these were not included in the DEIS and they do have an impact on the Waters of the Creek.

Pat Tracy, electronic message, dated July 20, 2009

RESPONSE B-3 (Subsurface Environmental Conditions):
In the September 2005 EPA 5-Year Review Report for the Mattiace Superfund Site, EPA concluded that it is hard to separate the effect of any one contributor to the creek water and soil quality from the sum of all potential contributors. The result is that there is currently a base creek quality that is the sum of contaminated groundwater emanating from remediated and unremediated sites, and uncontrolled runoff into the creek from developed and undeveloped areas. The effect of these inputs on the creek quality will likely be reduced as the improvements resulting from completed remediation and remediation in progress continue to reduce the contaminant discharge into the creek. Additional improvements in creek quality will also occur as the uncontrolled runoff from undeveloped property is eliminated as the properties are developed.

The redevelopment will include a number of infrastructure improvements that are intended to control runoff to the Creek and contribute to improved water quality.

COMMENT B-4 (Subsurface Environmental Conditions):
So let's fast forward now to three years ago when there was a meeting here in City Hall and the head of the IDA said, "Oh, those properties are all cleaned up," while at the same time, the New York State DEC was not even invited to the meeting.

An attempt was made to intentionally suppress what was written in the New York State DEC Record of Decision of 1999 which said there could be no residential development on Captain's Creek for fifty years.

And I know that we personally have provided a copy of this Record of Decision to every member of the Planning Board. You remember that? Yes, we did…Okay. So fast forward again to today. And now it's described in the DEIS that the New York State DEC has invented a new category called Restricted Residential.

And it says, no one can use the groundwater there for any reason whatsoever and there could be no vegetable gardening or farming.

But interestingly enough, it states that an organization formed by the City, the Industrial Development Agency and the developer are now going to be charged with the responsibility to protect the people's health and safety by making sure that nobody uses the ground water, grows vegetables and that all the sub-slab depressurization devices are all working.

This is the same organization who a mere three years ago told the people, "It's all cleaned up."

And even though they mention their commitment to protecting the people's health and safety, at the end of the Site Management Report, they state that they are not going to take any responsibility for Mattiace.

And all through this DEIS, it states over and over that material coming from Mattiace is affecting the Li Tungsten and the Captain's Cove and all of the other properties.

It would seem to me that even if all the land were to be dug up and replaced with new dirt, Mattiace would still be leaking poisons into the land.

It even says in the DEIS that the pump and treatment method currently used at Mattiace is no longer working, so they are looking for some other method.

Ms. Pat Tracy, member, SOS Glen Cove, and resident, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009, Section 95, lines 9-25; Section 96, lines 1-25; Section 97, lines 1-18, 21-25; Section 98, lines 1-25; Section 99, lines 1-17 pp.84-88, and similar comment, letter dated July 16, 2009

RESPONSE B-4 (Subsurface Environmental Conditions):

The commercial use restriction in the 1999 ROD for Captain's Cove reflects the former expectation that the site was to be used for commercial purposes. The cleanup goals were based on the guidance in force at the time. Since that time, the NYSDEC has promulgated soil cleanup goals in regulation 6NYCRR Part 375 that permit a wider variety of land use, and the City of Glen Cove has rezoned the property on the north side of Glen Cove Creek to allow for residential use. Therefore, based on the NYS regulation, certain restricted residential land use is permitted as long as institutional and/or engineering controls (ICs, ECs) are enacted to provide the desired level of protection for these land uses.

The cleanup at Mattiace is the responsibility of the USEPA and they will continue until the site is cleaned up. As explained ahead, the developer responsibility is to mitigate any potential soil vapor intrusion into buildings caused by the offsite contamination migrating onto the Glen Isle property.

The USEPA cleanup is designed to remove the chemicals that were contaminating the groundwater on Mattiace and also to prevent any contaminated groundwater from leaving the

Mattiace site. Groundwater flow off of the Mattiace site and subsequent volatilization of the chemicals dissolved in that groundwater are the only mechanisms that would potentially create an exposure pathway to the chemicals formerly dumped at Mattiace. These exposure pathways are incomplete as long as groundwater isn't used for any purpose and soil vapor isn't allowed to enter residential structures. Over time groundwater quality downgradient of Mattiace will improve and eventually return to acceptable quality.

COMMENT B-5 (Subsurface Environmental Conditions):
I think that if the IDA and the developer were serious about protecting the health and safety of the public, they would implement phytoremediation. This is the planting of 400 trees per acre and it incorporates the poisons into the wood. This is not an invention by me personally, but something which is in use by the EPA.

Ms. Pat Tracy, member, SOS Glen Cove, and resident, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009; Section 99, lines 18-25; Section 100, lines 1-4, pp.88-89, and undated letter received July 16, 2009

RESPONSE B-5 (Subsurface Environmental Conditions):
The USEPA cleanup of Mattiace was designed to remove the chemicals that were contaminating the groundwater on Mattiace and also to prevent any contaminated groundwater from leaving the Mattiace site. Groundwater flow is the only mechanism that would potentially create an exposure pathway to the chemicals formerly dumped at Mattiace and the USEPA has prohibited any use of groundwater downgradient of Mattiace. The USEPA has also intercepted the groundwater leaving Mattiace, which has removed the source of offsite contaminated groundwater. Groundwater quality downgradient of Mattiace will now improve over time and eventually return to acceptable quality.

The lead regulatory agency determines and oversees remediation of environmental conditions at properties covered by one of the applicable programs. Hence the agency always has the discretion to modify the approach being taken. Of note, in the last Five-Year Review (published in 2010) for the Li Tungsten site, EPA concluded the current remedial system was performing satisfactorily.

COMMENT B-6 (Subsurface Environmental Conditions):
I wonder if all the environmental details in the DEIS will be revealed to the perspective condo purchasers. Will these perspective purchasers be notified that poisons such as trichloroethylene and perchloroethylene, known carcinogens, will be leaking under their property from Mattiace until 2031?

Or will this information be suppressed and the people be told, "Oh, it's okay, as long as you don't grow any vegetables there"?

If you read what's described in the DEIS, these properties are very far from being all cleaned up. It may be many years until people actually get sick from living or working in these buildings, but I would suggest that all the members of the Planning Board, the Mayor and the City Council should become personally liable for people who get Cancer by living there.

If this were to be the case, I think you would see no approvals to this project.

Ms. Pat Tracy, member, SOS Glen Cove, and resident, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009; Section 99, lines 18-25; Section 100, lines 5-25; Section 101, lines 1-7,pp.89-90

RESPONSE B-6 (Subsurface Environmental Conditions):
See Response B-5 above regarding the Mattiace contamination and cleanup.

With respect to the disclosure of subsurface environmental conditions to prospective condominium purchasers, Title 13 NYCRR Part 20, entitled "Regulations Governing Newly Constructed, Vacant or Non-residential Condominiums, requires that any offering statement or offering plan required by Section 352-e of the General Business Law for a condominium provide full disclosure by the project sponsor of all material facts to potential purchasers and participants. Specifically, Section 20.7, entitled "Description of Property and Specifications or Building Condition," requires a comprehensive narrative description of the buildings and property included in the project. The existence of subsurface environmental contamination is a condition that must be disclosed and described in order to comply with the requirements of Section 20.7. In addition, conditions that cannot be evaluated by a visual examination, such as subsurface environmental conditions, are likely to require additional testing and monitoring by an independent engineer or testing laboratory and the results thereof must be reported in the offering plan.

The subsurface environmental conditions of the premises will also be disclosed to prospective purchasers as a result of Environmental Easements (EEs) that will be executed and recorded as part of the remediation of any subsurface environmental conditions. The EE's will run with the land in favor of the State and will contain any use restrictions and/or prohibitions on the development and use of the premises. Once recorded in the Nassau County Clerk's office in the chain of title to the various parcels that comprise the project, the EE's will provide constructive notice to all prospective purchasers and/or their title companies of the existence of the subsurface environmental conditions on the premises.

COMMENT B-7 (Subsurface Environmental Conditions):
Neither our Mayor, nor the acting Director of the IDA is qualified to protect the health and safety of the proposed residents.

Ms. Pat Tracy, member, SOS Glen Cove, and resident, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009; Section 107, lines 13-16, pp. 95

RESPONSE B-7 (Subsurface Environmental Conditions):
Any additional remediation activities and the development of the proposed engineering and institutional controls will involve a variety of agencies including the USEPA, the NYSDEC, the NYSDOH and the NCDOH. An environmental easement is also proposed, which would directly benefit the NYSDEC and give the agency the power to enforce their environmental requirements. An environmental easement is an effective and enforceable means of ensuring the performance of maintenance, monitoring or operation requirements of the institutional controls and engineering controls.

COMMENT B-8 (Subsurface Environmental Conditions):

OVERVIEW: *The possible presence of contaminated soils in close proximity to Glen Cove Creek and Hempstead Harbor and the disturbance of them could lead to contamination of these water bodies. The HHPC feels that care must be taken during the construction process to ensure that contaminants from the soils or the contaminated soils themselves, if they exist, do not end up in our waters. The DEIS does not provide the level of detail that should be provided.*

HHPC COMMENT # 4: A description of standard sediment and erosion control measures are provided on pages IILA-14-15 and a draft Site Management Plan is found on one of the appendix disks. That draft plan states (on page 7) that a Soil Management Plan is included as Appendix 3 to the agreement but Appendix 3 is not provided (only a title page is included on one of the disks). While brief mention is made of some potential mitigation measures, the document defers details to the site plan process. The DEIS further states (at p.V-l) that " ...the Site Management Plan (SMP) is not intended to address any additional remediation if hot spots are uncovered during site excavation work or to deal with portions of the site that do not meet current standards". There does not appear to be a plan to deal with newly found hot spots that require remediation.

RECOMMENDATIONS: A more thorough discussion is needed on building on the soils on the site and the safeguards that will be utilized to ensure that contaminated soils do not enter the adjacent waters, especially with regard to new "hot spots" of contamination that would not be covered by the Site Management Plan. The FEIS should also include the Soil Management Plan (Appendix 3 to the draft Site Management Plan).

Eric Swenson, Executive Director, Hempstead Harbor Protection Committee, letter, dated July 13, 2009, p.2

RESPONSE B-8 (Subsurface Environmental Conditions):

The Draft Site Management Plan has been replaced by the approved Captain's Cove SMP that is now in the Revised ECR Appendix. It specifies how soil at the site will be handled. No distinction is made between hot spots and existing soil. Instead, the procedures for handling any excavated soil are described in detail and the engineering controls that will permit the anticipated development to proceed are listed. If soil will be removed from the site, it will be handled according to the regulations and be disposed of following the customary sampling procedures and taken to the appropriate disposal site based on the soil quality.

Sediment control during construction isn't a component of the SMP. That process will be in the Stormwater Pollution Prevention Plan (SWPPP) required by the NYSDEC to be a part of every project where soil is disturbed. The DEC will not permit any construction begin without an approved SWPPP. The construction contractor is required to prepare and submit a SWPPP for each individual site plan phase, once the details of the individual construction plans are known.

In addition, mitigation procedures will be incorporated into the construction plans to address the potential for contaminated sediments to be released during construction.

COMMENT B-9 (Subsurface Environmental Conditions):

We've known for a long time that this project was addressing serious cleanup concerns regarding brownfields. And quite frankly, it was public dollars that went into this years ago. Clearly, there's private investments to do these types of cleanups. These types of cleanups are costly, and

a project like this is perfectly appropriate to address these concerns and mitigate that contamination.

Mr. Eric Alexander, Executive Director, Vision Long Island, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009, Section 70, lines 20-25; Section 71, lines 1-8, pp.62-63

RESPONSE B-9 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-10 (Subsurface Environmental Conditions):
Given the fact that the proposed waterfront is a brownfield site, it seems logical to me that when you begin to dredge or put in pilings, once again, toxic substances will be released into the water, thereby causing a serious health hazard to people and wildlife at Sea Cliff Beach, Morgan Park and Hempstead Harbor.

Ms. Barbara Hall, resident, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009, Section 85, lines 19-25; Section 86, lines 1-4, p.76

RESPONSE B-10 (Subsurface Environmental Conditions):
The permits for the bulkhead and dock construction will contain procedures to minimize any sediment transport away from the construction area. See response to Comment B-8.

COMMENT B-11 (Subsurface Environmental Conditions):
You know, but it's interesting that the geology was not addressed in the report on the Subsurface.

Catherine Natalie, Public Hearing Transcript, City of Glen Cove Planning Board Meeting, June 25, 2009, Section 133, line25; Section 134, lines 1-3, p.119

RESPONSE B-11 (Subsurface Environmental Conditions):
Information regarding subsurface lithology is presented in DEIS Section III.A, Soils and Topography. Detailed descriptions of the geology are also included in the Malcolm Pirnie remedial investigation report and other reports that are referred to in the Environmental Conditions Report provided in Appendix F of the DEIS, and also accessible at the public library.

COMMENT B-12 (Subsurface Environmental Conditions):
The following amendments should be considered to improve the FEIS:
As recognized in the DEIS on page III.B-2, “residual environmental conditions may not meet the cleanup standards necessary to allow residential use” Their use as "Restricted Residential" will require that an Environmental Easement (EE), with both Institutional and Environmental Controls (ICs and ECs respectively), be employed, as per NYSDEC and USEPA, as well as the development of a Site Management Plan (SMP). The FEIS should explore a development alternative should the necessary easements, controls and remedial status not be achieved.

Jaime Ethier, Coastal Resources Specialist, New York State Department of State, Office of Coastal, Local Government and Community Sustainability, letter, dated July 20, 2009

RESPONSE B-12 (Subsurface Environmental Conditions):
The Captain's Cove SMP has been approved by the NYSDEC and USEPA. The ECs and ICs in it will also be used at the other properties and are achievable using today's technology. The NYSDEC has a template for preparing the EE (Appendix C). RXR Glen Isle is using the template and preparing the EE for NYSDEC approval and recording.

COMMENT B-13 (Subsurface Environmental Conditions):

Section C l (a) - Water Resources Existing Conditions. Hydrogeologic Conditions (page III.C-l) The report advises that groundwater contamination exists within the project site; and that groundwater at the Li Tungsten, Captains Cove, Anglers Club, Gladsky, Sewage Pumping Station and Doxey parcels is contaminated by volatile organic compounds and dissolved metals. The adjacent Mattiace and Crown Dykman properties are also sources of ground water contamination that are affecting the down gradient properties including Li Tungsten, Captain's Cove, Doxey, the Pumping Station, Angler's Club and Gladsky.

The nature area, extent and depth of groundwater contamination on and near the proposed Glen Isle development must be identified, further investigated and remediated as may be necessary in accordance with all federal, state and local regulations. Upon completion of all corrective actions, the property owner(s) should identify any residual soil, groundwater and soil vapor contamination at the site for Department of Health evaluation so as to determine if potential risk to human health are posed by the proposed site residential and commercial development, and determine if mitigation measures must be included as part of the development plans.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-13 (Subsurface Environmental Conditions):
The NYSDEC and USEPA have performed very thorough remedial investigations to delineate the contaminated media. RODs have been issued to memorialize the approved cleanup plan and those plans have been implemented with the result being that Captains Cove and Li Tungsten have been approved for commercial and restricted residential development by the respective agency, including Parcel A of Li Tungsten. In addition, the USEPA modified the original ROD with an Explanation of Significant Difference (ESD) for Li Tungsten from commercial to restricted residential use based on the higher level of cleanup that was attained, and concluded that Parcel A would also be suitable for restricted residential use when the ECs and ICs in the SMP are implemented and an EE is recorded.

The sources of groundwater contamination were removed from both properties and the offsite sources of groundwater contamination were also eliminated by the USEPA for Mattiace and the NYSDEC for Crown Dykman. Konica Minolta is performing the source removal activities at its property and the Slantfin property was also remediated by the responsible party. Therefore, the current groundwater quality will improve over time as the contaminants are flushed out by uncontaminated groundwater.

COMMENT B-14 (Subsurface Environmental Conditions):
ECR SECTION 2.1 LI TUNGSTEN PARCEL A

1. ECR Section 2.1.4. The EPA Site-Wide Cleanup Levels (SWCL) used in the Li Tungsten (LT) investigation for arsenic of 24 mg/Kg was selected for a commercial use of the property (Explanation of Significant Differences (ESD) Li Tungsten Superfund Site Glen Cove, New York, May 2005). Furthermore, the ESD document states that Parcel A requires further evaluation concerning its being used for residential development, due to the presence of organic contaminants in the soil and in the shallow groundwater. The NYSDEC also has the authority over the site and will be involved in the redevelopment process (ECR Section 2.1.3 sixth paragraph). Please be advised that the restricted residential limit for Arsenic in 6NYCRR Part 375 is 16 mg/Kg. Please contact the NYSDEC to clarify which limit will be used to determine the extent of the site remediation.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-14 (Subsurface Environmental Conditions):
The USEPA 24mg/kg cleanup level for arsenic and the NYSDEC 16 mg/kg arsenic cleanup level are the unrestricted residential use levels. As the properties will be approved for a restricted residential use, the higher federal cleanup level will be addressed in the SMP where appropriate ECs will be specified, such as 2-ft of clean fill over all areas not covered by roads, sidewalks, foundations, etc.

COMMENT B-15 (Subsurface Environmental Conditions):
ECR Section 2.1.4, fourth paragraph, informs that a USEPA requirement, documented in the 1999 ROD, is for groundwater quality monitoring for a period of 5 years. The report should include the procedures that will be implemented if groundwater contamination, exceeding groundwater standards or limits, is detected beneath the property. The report should include the procedures that will be implemented should contamination levels gradually increase with each succeeding round of groundwater sampling? Please explain which agency will be responsible for the review of groundwater monitoring results.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-15 (Subsurface Environmental Conditions):
The EPA ROD has a very detailed description of EPA's rationale for choosing the "No Action" alternative for groundwater. The ROD specifies that EPA will collect and review the groundwater quality results after collecting five years of data. EPA collected the first round of samples in 2009. EPA believes groundwater quality will improve now that the source has been removed.

Now that groundwater discharge from Mattiace is under control and the sources of groundwater contamination have been removed from Mattiace and Li Tungsten, it is unlikely that dissolved VOC content will increase. A more likely worst case scenario could be that the chemical content in the groundwater will reach a "steady state" condition and decrease very slowly going forward. If that occurs, the soil vapor mitigation systems installed under each building will prevent any of

the vapors from infiltrating into the buildings. However, it is more likely that the VOC content of the groundwater will decrease more rapidly, as demonstrated by the monitoring data for Captains Cove, which have been collected for several years. The EPA site is also subject to statutory five-year reviews to evaluate the effectiveness of the remedy. The USEPA is currently responsible for collecting the groundwater samples at 5-year intervals and reviewing the results.

COMMENT B-16 (Subsurface Environmental Conditions):
The NYSDEC DER-10 Section 3.2 (d), General sampling considerations prescribes, for the purposes of field characterizations or remedial investigations composite sampling should not be conducted ... ECR Section 2.1.4.1.1. Li Tungsten - Parcel A the penultimate sentence of the first paragraph reads, *"These endpoint samples were composites from five locations* ". The NYSDEC should be contacted for site characterization and remedial investigation information.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-16 (Subsurface Environmental Conditions):
The NYSDEC has been and continues to be intimately involved in the Li Tungsten cleanup approach, implementation, and conclusions. As the EE, ICs, ECs and SMP are finalized, the NYSDEC will have the final authority to indicate if there is any confirmation activity they feel should be done to verify the USEPA results.

However, up to this point, the NYSDEC has accepted the EPA ESD changing the site use from commercial to residential. This implicitly demonstrates that the NYSDEC accepts the USEPA procedures and conclusions for the portion of the site cleaned up directly by USEPA contractors. Moving forward, the NYSDEC will have the ultimate authority to accept the results for the part of Li Tungsten cleaned up by the responsible party and, if necessary, will transmit any issues that will need to be clarified to the Owner.

COMMENT B-17 (Subsurface Environmental Conditions):
ECR Section 2.1.4.1.1. The fifth sentence of the last paragraph reads *"As a result, the possibility of VOC vapor intrusion into buildings constructed on the Li Tungsten Site cannot be ruled out until these groundwater plumes are defined by a future groundwater monitoring program* ", whereas, Section 2.1.3 last paragraph second **bullet,** states, *"Soil gas evaluation for VOCs and Radon The purpose of the soil gas evaluation would be to determine whether the presence of VOC or Radon in subsurface soil might have the potential to adversely affect indoor air quality in building structures;"*. It appears that the USEPA will require the restriction (second bullet) and will be binding on parties who acquire the real property in the future. According to the USEPA restriction, the soil vapor investigation study is binding and will be conducted irrespective of the presence or absence of a VOC contaminated plume beneath the property. This should be clarified.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-17 (Subsurface Environmental Conditions):
Any soil vapor or other testing will be done in accordance with DER-10 as per the SMP.

COMMENT B-18 (Subsurface Environmental Conditions):
ECR 2.1.4.1.2 LI TUNGSTEN PARCEL B
1. It should be clarified whether the confirmatory endpoint sampling conducted at this parcel was discrete or composite. See item 3 above for reference purposes. Also, it is not clear whether the PCB soil concentration at depths greater than 2 feet below ground surface is less than 10 mg/Kg.
Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-18 (Subsurface Environmental Conditions):
EPA reports that the confirmatory endpoint samples were composites. The Remedial Action Reports describe how those composite samples were taken.

EPA also reported in the "Final Site Status Report, Post Remedial Actions at Parcel A and Parcel B" that of the 24 post excavation samples collected at Parcel B analyzed for PCBs, two were just over three PPM, four were between one and two PPM, and the remainder were less than one PPM. None of these samples approached close to 10 ppm. The site was backfilled with two feet of cover because of the four samples that exceeded 1 ppm. EPA also prescribed that the cover needed to stay in place to maintain the DEC's requirement that the top two feet has to be less than 1 ppm.

COMMENT B-19 (Subsurface Environmental Conditions):
Page 9 of section 2.1.4.1.2, first paragraph line 15 reads, *"No information regarding the source and quality of the clean fill exists."* The NYSDEC should be contacted for site characterization requirements.
Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-19 (Subsurface Environmental Conditions):
The NYSDEC has final approval of the site management plan and fill requirements.

COMMENT B-20 (Subsurface Environmental Conditions):
Page 9 of section 2.1.4.1.2, first paragraph, third to the last sentence reads, *"However, a statistical analysis determined that SWCLs were met'.* This Department should be provided with a copy of the statistical analysis for information purposes.
Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-20 (Subsurface Environmental Conditions):
The statistical analysis is described in the USEPA report "Draft Final Status Survey Report, Post-Remedial Actions at Parcels A and B, Environmental Chemical Corporation, September 2008".

COMMENT B-21 (Subsurface Environmental Conditions):
ECR 2.1.4.1.3 LI TUNGSTEN LOWER PARCEL C
The report should indicate if the NYSDEC is in agreement that composite sampling of endpoints are permitted at this site although the NYSDEC DER-IO Section 3.2 (d), General sampling considerations prescribes, for the purposes of field characterizations or remedial investigations composite sampling should not be conducted.
Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-21 (Subsurface Environmental Conditions):
The NYSDEC acceptance of the EPA ESD changing the Li Tungsten and portion of Captains Cove under the federal cleanup site use from commercial to residential implicitly demonstrates that the NYSDEC accepts the USEPA procedures and conclusions.

COMMENT B-22 (Subsurface Environmental Conditions):
ECR 2.1.4.1.3 LI TUNGSTEN LOWER PARCEL C
This Department recommends a soil vapor investigation at this parcel. In addition, VOC impacted groundwater plumes do not have to necessarily mirror vapor contamination plumes and experience has shown that even cross gradient groundwater plumes can potentially contaminate soil vapors beneath foundations not situated above that groundwater plume. The New York State Department of Health (NYSDOH) *"Guidance for Evaluating Soil Vapor Intrusion in the State of New York"* should be referenced (A copy of this Guidance may be obtained from the NYSDOH website) for acceptable soil vapor study procedures.
Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-22 (Subsurface Environmental Conditions):
A soil vapor investigation will be performed and soil vapor intrusion mitigation systems will be installed below all buildings.

COMMENT B-23 (Subsurface Environmental Conditions):
ECR 2.1.4.1.3 LI TUNGSTEN LOWER PARCEL C
The fourth paragraph second sentence reads, *"Since the NYSDEC Groundwater Quality Standard of* 3 *pCi/L for Radium was exceeded in several samples with concentrations approaching* 11 *pCi/L."* The NCDH recommends the investigation of the potential for the migration of Radon gas from the groundwater into the indoor air of the proposed structures. Please contact the USEPA for guidance for Radon Mitigation in buildings.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-23 (Subsurface Environmental Conditions):
Radon gas will be part of the soil vapor investigation. The soil vapor intrusion mitigation systems that will be installed under each building for VOCs in the soil gas will also mitigate any radon gas that might be present. However, it is not known if radon gas is an issue until the survey is done.

COMMENT B-24 (Subsurface Environmental Conditions):
ECR SECTION 2.1.4.1.4 LI TUNGSTEN UPPER PARCEL C
The report should indicate if the NYSDEC is in agreement that composite sampling of endpoints are permitted at this site although the NYSDEC DER-IO Section 3.2 (d), General sampling considerations prescribes, for the purposes of field characterizations or remedial investigations composite sampling should not be conducted.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-24 (Subsurface Environmental Conditions):
See Response B-21.

COMMENT B-25 (Subsurface Environmental Conditions):
ECR SECTION 2.1.4.1.4 LI TUNGSTEN UPPER PARCEL C
Page 12, first paragraph, fifth sentence reads, *"Arsenic and lead were detected at concentrations exceeding SWCLs in endpoint samples collected in the vicinity of a storm drain system and electrical utility.*" Structures that are used for the subsurface emplacement of fluids meet the definition of a structure that is subject to the Federal UIC requirements, and this includes drains or earthen bottoms within the positive, negative, communication manhole, water meter pits, water trough pits, rectifier pits, conduit pits. Furthermore, we recommend an investigation of all storm water dry wells at all parcels related to the development, the investigation should be conducted in accordance with USEPA UIC requirements. Please contact USEPA Region 2 for UIC program regulatory requirements.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-25 (Subsurface Environmental Conditions):
Comment noted. UIC requirements will be followed.

COMMENT B-26 (Subsurface Environmental Conditions):
ECR SECTION 2.1.4.1.4 LI TUNGSTEN UPPER PARCEL C
This Department recommends a soil vapor investigation at this parcel because of the proximity of Mattiace and Crown Dykman groundwater contamination plumes. In addition, VOC impacted groundwater plumes do not have to necessarily mirror vapor contamination plumes and

experience has shown that even cross gradient groundwater plumes can potentially contaminate soil vapors beneath foundations not situated above that groundwater plume. Please reference the New York State Department of Health (NYSDOH) *"Guidance for Evaluating Soil Vapor Intrusion in the State of New York"* should be used as a reference (A copy of this Guidance may be obtained from the NYSDOH website) for acceptable soil vapor study procedures.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-26 (Subsurface Environmental Conditions):
See Response B-22.

COMMENT B-27 (Subsurface Environmental Conditions):
ECR SECTION 2.1.4.1.5 LI TUNGSTEN PARCEL C PRIME
This parcel has been deemed as an area that does not require remedial investigations by the USEPA. Because of the parcel's proximity to Mattiace which is a documented source of groundwater contamination, the Department recommends a soil vapor investigation at this parcel. Please be advised that VOC impacted groundwater plumes do not have to necessarily mirror vapor contamination plumes and experience has shown that even cross gradient groundwater plumes can potentially contaminate soil vapors beneath foundations not situated above that groundwater plume. Please reference the New York State Department of Health (NYSDOH) *"Guidance for Evaluating Soil Vapor Intrusion in the State of New York"* (A copy of this Guidance may be obtained from the NYS DOH website) for acceptable soil vapor study procedures.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-27 (Subsurface Environmental Conditions):
See Response B-22.

COMMENT B-28 (Subsurface Environmental Conditions):
This Department concurs with the contents of the last paragraph of section 2.1.4.5 disclosing that the groundwater sampling event, two wells in parcel C and one well in parcel A, did not include analysis of VOCs and SVOCs and that additional permanent monitoring wells should be installed inside the other parcels to determine the presence of contaminants in the groundwater.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-28 (Subsurface Environmental Conditions):
Any groundwater monitoring requirements are subject to regulatory agency (DEC or EPA) approval and, if required, incorporated into the SMP.

COMMENT B-29 (Subsurface Environmental Conditions):
ECR SECTION 2.2 CAPTAIN'S COVE

ECR Section 2.2.4.1 NYSDEC Investigation and Remedial Activities, page 18 last paragraph the penultimate sentence reads, *"A review of the data indicated that all of the 78 stockpiles exceeded TAGM RSCOs for metals (copper and zinc) and as many* 76 *stockpiles exceeded the SVOC objectives."* Based on the aforementioned, the Department recommends that the developer contact the NYSDEC to determine whether the approved stockpiles for reuse meet the criteria for soil covers and backfill for residential development.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-29 (Subsurface Environmental Conditions):
The stockpiles referred to in the ECR were used as backfill when the City remediated the landfill and do not exist anymore and will not be addressed during this process. The NYSDEC has specified that ICs and/or ECs will be used to make the site acceptable for restricted residential use given the prior remediation and restoration that occurred there.

COMMENT B-30 (Subsurface Environmental Conditions):
ECR SECTION 2.2 CAPTAIN'S COVE
ECR Section 2.2.4.1, Page 20, second paragraph last sentence informs that it is possible that radioactive material is present in deeper reused dredge spoils since the spoils were placed prior to EPA remedial action. The NYSDEC and/or the USEPA should be contacted for guidance regarding the remediation of subsurface radioactive contamination at this location.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-30 (Subsurface Environmental Conditions):
Comment noted. Radiological screening is a component of the approved SMP.

COMMENT B-31 (Subsurface Environmental Conditions):
ECR SECTION 2.2 CAPTAIN'S COVE
ECR Section 2.2.4.2. The EPA SWCL used at the Captain's Cove site investigation for Arsenic of 24 mg/Kg was selected for a commercial use of the property (Explanation of Significant Differences (ESD) Li Tungsten Superfund Site Glen Cove, New York, May 2005). The restricted residential limit for Arsenic in 6NYCRR Part 375 is 16 mg/Kg. Please contact the NYSDEC to clarify which limit will be used to determine the extent of the site remediation.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-31 (Subsurface Environmental Conditions):
The approved SMP for Captains Cove uses ICs and ECs to address the residual contamination. It serves as a model for the other properties.

COMMENT B-32 (Subsurface Environmental Conditions):
ECR SECTION 2.2 CAPTAIN'S COVE

ECR Section 2.2.4.3. This Department concurs with the second paragraph on Page 22 that reads, *"However, the borings and test pits conducted as part of the RI and GI-FVP indicated that evidence of landfill type wastes are present in this area and further investigation /remediation may be warranted."* Please contact the NYSDEC for remediation requirements for the location on the Captain's Cove site.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-32 (Subsurface Environmental Conditions):
The approved Captain's Cove SMP contains procedures for addressing the soil at the site.

COMMENT B-33 (Subsurface Environmental Conditions):
ECR SECTION 2.2 CAPTAIN'S COVE
ECR Section 2.2.4.4. This Department recommends a soil vapor intrusion study for the Captain's Cove site since the groundwater beneath this property might be impacted by radon and semi-volatiles from on site sources and volatile organics from upgradient sources (Mattiace). The soil vapor study should be conducted in accordance with the New York State Department of Health (NYSDOH) *"Guidance for Evaluating Soil Vapor Intrusion in the State of New York* (A copy of this Guidance may be obtained from the NYSDOH website). Please contact the New York State Department of Health for guidance in the preparation of soil vapor intrusion work plans and protocols.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-33 (Subsurface Environmental Conditions):
See Response B-22.

COMMENT B-34 (Subsurface Environmental Conditions):
ECR SECTION 2.3 ANGLER'S CLUB SITE
ECR Section 2.3.5. This Department concurs with the last sentence in second paragraph of this section that reads, *"A radiological survey* is *recommended due to the site's proximity to Li Tungsten and Captain's Cove and the Creek."* In addition, please contact the NYSDEC for additional remedial investigations and/or site remediation based on the Phase II site investigation conducted in 2000.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-34 (Subsurface Environmental Conditions):
The NYSDEC has been contacted to determine future actions on Angler's Club property and will have to approve any proposed activities.

COMMENT B-35 (Subsurface Environmental Conditions):
ECR SECTION 2.4 GLADSKY SITE

ECR Section 2.4.5. Please include the Department on your mailing list of all pertinent documentation, including remedial investigation reports and documentation from other regulatory agencies.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-35 (Subsurface Environmental Conditions):
Comment noted. The NCHD has been placed on the mailing list for Gladsky.

COMMENT B-36 (Subsurface Environmental Conditions):
ECR SECTION 2.5 CITY OF GLEN COVE PUMPING STATION
Section 2.5.5. We concur with the recommendation of radiological survey due to the site's proximity to Li Tungsten and Captain's Cove. Please contact the NYSDEC for additional remedial investigations and/or site remediations that might be required.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-36 (Subsurface Environmental Conditions):
Comment noted. See Response B-34.

COMMENT B-37 (Subsurface Environmental Conditions):
ECR SECTION 2.5 CITY OF GLEN COVE PUMPING STATION
The NYSDEC should be contacted for additional remedial investigations and/or site remediations that might be required since metals and SVOC contamination was detected above their respective NYSDEC RSCOs.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-37 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-38 (Subsurface Environmental Conditions):
ECR SECTION 2.7 GATEWAY PROPERTIES
The Nassau County Department of Health should be placed on your mailing list to receive copies of all reports and documents related to the proposed Phase II activities at this parcel.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-38 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-39 (Subsurface Environmental Conditions):
ECR SECTIONS 3.1 AND 3.2 MATTIACE AND CROWN DYKMAN
This Department recommends the installation of a sub slab depressurization system beneath all of the proposed building at the Glen Isle development due to their proximity to the Mattiace Federal Superfund Site and the Crown Dykman New York State Superfund Site. The two aforementioned sites have contributed to the contamination of the groundwater in the glacial aquifer and the direction of groundwater is towards the Creek and the Glen Isle properties that border the Creek. The subsurface source of contaminated vapors (e.g., contaminated soil or groundwater) does not need to be directly beneath a structure to contaminate the vapor beneath a building's foundation. Department experience (Nassau County) has shown that vapor contamination plumes do not necessarily mirror groundwater contamination plumes. Factors that affect soil vapors include the subsurface conditions beneath a site, such as dry coarse-grained soils, underground conduits with highly permeable bedding materials relative to native materials can facilitate subsurface vapor migration. Areas where the subsurface soils are protected (paved) from rain fall tend to be drier than open grassy areas and therefore are more conducive to vapor migration.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-39 (Subsurface Environmental Conditions):
See Response B-22.

COMMENT B-40 (Subsurface Environmental Conditions):
ECR SECTION 3.3 KONICA MINOLTA
This site is a New York State Superfund Site (Class 2 inactive hazardous waste site) and due to elevated levels of VOCs in the groundwater, the potential for soil vapor intrusion because of this contamination is possible. Please refer to item 26 for more information regarding soil vapor contamination.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-40 (Subsurface Environmental Conditions):
See Response B-22.

COMMENT B-41 (Subsurface Environmental Conditions):
ECR SECTION 3.4 SLANTFIN
The Department recommends a groundwater investigation to confirm the existence of groundwater contamination emanating from the site because the historical use information (Industrial) indicates the likelihood of a recognized environmental condition in connection with the property. The site should be investigated for floor drains inside the building and confirmation of the discharge point. Also, dry wells associated with the property should be investigated, the dry wells and floor drains are considered underground injection control (UIC) sources and are subject to Federal UIC requirements.

Carlos A. Pareja, P.E., Bureau of Environmental Engineering, Nassau County Department of Public Health, letter, July 13, 2009

RESPONSE B-41:
The quality of the groundwater downgradient of Slantfin will be characterized when the groundwater characterization samples are collected. However, unless Slantfin provides access to their property to install sampling points, the developer is prohibited from collecting any information on property not under their control. If groundwater contamination moving onto the property from the direction of Slantfin is suspected when the initial groundwater samples are evaluated, an effort will be made to identify the source.

COMMENT B-42 (Subsurface Environmental Conditions):
Under the summary of properties, Li Tungsten is listed as both a Federal and a State Superfund site, while Captain's Cove is listed as a State Superfund site. Actually, the Li Tungsten site is a Federal Superfund site which includes the former Li Tungsten facility property and those portions of Captain's Cove where Li Tungsten wastes were disposed; while the portion of Captain's Cove where other wastes were disposed of is designated as a NY State Superfund site. Again, same error occurs on page II-8. In section III.B "Subsurface Environmental Conditions" the discussion is much more accurate in this regard; it's the executive summary that's misleading.
Edward Als, Remedial Project Manager, NY Remediation Branch, US Environmental Protection Agency, electronic mail dated July17, 2009

RESPONSE B-42 (Subsurface Environmental Conditions):
The USEPA correction to the Executive Summary has been included above as a clarification of the FEIS.

COMMENT B- 43 (Subsurface Environmental Conditions):
Properties within the Project Site - same error: Capt's Cove is discussed only in terms of State remediation, while EPA spent about 3 years excavating and hauling away over 100,000 cubic yards of radionuclide and heavy metals-contaminated wastes that were dumped on Captain's Cove by the Li Tungsten operations. The areas of Captain's Cove where Li Tungsten wastes were disposed of were formally designated operable unit 2 of the Li Tungsten site by EPA in 1995. Again, in section III.B "Subsurface Environmental Conditions" the discussion is much more accurate in this regard.
Edward Als, Remedial Project Manager, NY Remediation Branch, US Environmental Protection Agency, electronic mail dated July17, 2009

RESPONSE B-43 (Subsurface Environmental Conditions):
The USEPA correction to the Executive Summary has been included above as a clarification of the FEIS.

COMMENT B-44 (Subsurface Environmental Conditions):
EPA's evaluation of Li Tungsten Parcel A residential use capability will also be based on site-specific risk assessment, which may make determinations that are not necessarily in keeping with the Part 375 regs.
Edward Als, Remedial Project Manager, NY Remediation Branch, US Environmental Protection Agency, electronic mail dated July17, 2009

RESPONSE B-44 (Subsurface Environmental Conditions):
The USEPA's decision on residential use on Parcel A has been added to the Environmental Conditions Report. Briefly, the USEPA will permit restricted residential use if ICs and ECs like those in the approved Captain's Cove SMP are required at Parcel A.

COMMENT B-45 (Subsurface Environmental Conditions):
[P I-5, under Required Approvals]: USEPA is listed as an approving agency for a Multi-agency Accord. From the EPA Superfund program's point of view, a multi-agency accord for "framework for handling environmental remediation" is not normally an "approval" provided by EPA's Superfund program. So I'm not sure how our Superfund program will deal with entering such an Accord. However, now that EPA has completed the clean-up of the Li Tungsten Superfund site and issued a preliminary close-out report (PCOR, Sept 2008), development of institutional controls to address various aspects of the Li Tungsten Superfund clean-up is a requirement that has been communicated by EPA to the IDA/CDA in the last several months. These required ICs may be formalized in the overall SMP, as mentioned in the EIS. From Table II-2, it appears that the EIS has a good handle on the residual issues presently characterizing the Li Tungsten and Captain's Cove properties. Obviously, EPA's Superfund program must be involved in the SMP as it relates to the Li Tungsten and Mattiace federal Superfund sites.
Edward Als, Remedial Project Manager, NY Remediation Branch, US Environmental Protection Agency, electronic mail dated July17, 2009

RESPONSE B-45 (Subsurface Environmental Conditions):
The concept of a multi-agency accord has been removed from the FEIS. Approvals from the regulatory agencies are being sought for each individual property following the SMP, IC/EC, EE, and if necessary ESD/ROD revision procedures. These are explained in more detail in Response #58 ahead.

COMMENT B-46 (Subsurface Environmental Conditions):
[P III.B-14, it states that] no sub-slab sampling was performed in the Benbow Building. At the EPA/City/Developers meeting in August 2008, after completion of the fieldwork at Li Tungsten, we provided a copy of the sampling performed under both Dickson and Benbow Buildings.
Edward Als, Remedial Project Manager, NY Remediation Branch, US Environmental Protection Agency, electronic mail dated July17, 2009

RESPONSE B-46 (Subsurface Environmental Conditions):
Comment noted. A revised ECR is included in the Appendix.

COMMENT B-47 (Subsurface Environmental Conditions):
§ III B, pg III.B-2, (following) ¶ 4
A clarification (insert) should be included that acknowledges "There is an existing administrative process/procedure to secure regulatory approval of the intended land use on properties currently in the federal or state regulatory programs. This process/procedure entails administrative filings (e.g., change in use notice, environmental easement, Site Management Plan, etc.) before or after any changes in a record of decision (ROD) or as part of an approval for alternate land use. Notwithstanding these processes/procedures, the Applicant believes it prudent for the involved agencies to coordinate their response through an agreement to ensure an efficient and consistent response to the identified environmental conditions during and after development".
Same comment for § III B, pg III.B-49, (c Multi-Agency Accord)
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B -47 (Subsurface Environmental Conditions):
Comment noted. The existing regulatory process has been used to obtain NYSDEC and USEPA approval of the Captain's Cove SMP. This process will be used for the remaining parcels.

COMMENT B-48 (Subsurface Environmental Conditions):
§ III B, pg III-3, (following) ¶ 4
Add a statement that reflects the following, " In the event any identified environmental conditions at the Angler's Club, Sewage Pump Station, Doxey and/or Gateway properties do not result in the property being placed in a federal or state regulatory program, the response to the environmental conditions (e.g., easement, remediation, institutional or engineering control) will be equal to or greater than required by regulatory agencies for similar conditions at properties that are in a regulatory program."
Same comment for § III B, pg III.B-51, (following) ¶ 2 and § III.B, pg III.B-13 thru III.B-30 and ExecSum, § C, pg I-5
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-48 (Subsurface Environmental Conditions):
The SMP for these properties will meet DEC requirements regardless of whether or not the properties are in a program.

COMMENT B-49 Subsurface Environmental Conditions):
§ III B, pg III.B-31 through III.B-39
Consider eliminating much of the text summarizing the environmental conditions at properties adjacent to the project area. This information is more thoroughly described in Appendix F (e.g., with relevant tables and figures of samples and results) in the Environmental Conditions Report (ECR). Rather, for each adjacent property simply summarize its size (acres) the regulatory program it is in (if appropriate) and status of remaining environment conditions. A reference to Appendix F for more information should be adequate. A conclusion paragraph describing how the residual environmental conditions at adjacent properties may affect the project area should be adequate (see text in § 4.8 of the ECR).

James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-49 (Subsurface Environmental Conditions):
Comment noted. The DEIS text summarized the ECR. The reader should refer to the ECR and Revised ECR provided in the Appendix for the detailed descriptions of the various properties and issues.

COMMENT B-50 (Subsurface Environmental Conditions):
§ III B, pg III.B-46 (Data Gaps)
In the early portions of this section, the commitment by the Applicant to perform additional investigations should be clearly stated. Further, after introducing Table III.B.4, there should be more description of the framework for recommended investigations at each property. (This is not meant to define each investigative element in the FEIS but simply to put a structure around how the scope of future soil, ground water, sediment, surface water and/or vapor investigations will be developed and implemented). Suggested text along the lines of, "Direct investigations that are performed prior to construction, to further characterize residual environmental conditions and/or fill data gaps, will conform to the requirements set forth in the NYSDEC Draft DER-10 *Technical Guidance for Site Investigation and Remediation*. The sampling design will be adequate to: 1) characterize the residual nature and extent of environmental impacts in target media; 2) support decisions on whether contaminant levels exceed a threshold; 3) permit the estimation of the average or upper confidence level (UCL) mean concentration of a particular contaminant; 4) identify "hot spots"; and, 5) contribute to the monitoring of trends. The sampling design will reflect a probability-based approach when the goal is to broadly characterize the residual environmental conditions at a property. A judgmental sampling approach may be added to, or follow-up, a probability-based approach to permit selection of sample points based on professional judgment and/or direct observations. The locations of environmental samples will be recorded in a common coordinate plane (x::y::z) to ensure reproducibility and application of any future remediation, EE, ICs or ECs. Future plans of investigation will be subject to regulatory agency (or designee) approval. If regulatory agencies are not involved during development of the investigative plans, the Applicant will endeavor to ensure any investigations meet the same standard as those that would be required at a regulated property."
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-50 (Subsurface Environmental Conditions):
Comment noted. The comment is consistent with the Applicant's objectives for the procedures and guidelines that will be followed for additional investigations. Any additional data collection will follow a DEC-approved plan.

COMMENT B-51 (Subsurface Environmental Conditions):
§ III B, pg III.B-47, ¶ 3
The timing of future investigations at the properties should be linked to the project phasing, whose timing and sequence may vary due to market conditions and required approvals (municipal, state and/or federal) (see § II, (10 Phasing Plan) , pg. II-46¶ 1).
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-51 (Subsurface Environmental Conditions):
The timing of agency approval for restricted residential use along with the regulatory and due diligence activities that remain before construction can begin on the property are shown in the Table "Estimated Date and Sequence to Receive Agency Approval for Residential Use; and Data Gap Details and Environmental Due Diligence Activities" that is in Appendix D.

COMMENT B- 52 (Subsurface Environmental Conditions):
§ III B, pg III.B.-12, (revise first full) ¶ 1
Clarify that "A Phase II investigation will be performed by the developer…" (regardless of whether it is before or after acquisition of the Gateway Properties).
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-52 (Subsurface Environmental Conditions):
A Phase II investigation will be performed by the developer when the timing is appropriate and access agreements are secured.

COMMENT B-53 (Subsurface Environmental Conditions):
§ III B, pg III-25, ¶ 7
Change RSCOs to SCOs or drop the reference to Part 375 if what was meant was RSCOs. (RSCOs refer to the former NYSDEC guidance while the latter represents the current NYS standards).
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-53 (Subsurface Environmental Conditions):
The correct reference is SCOs.

COMMENT B-54 (Subsurface Environmental Conditions):
Appendix F. ECR
Appendix F. ECR, pg. 5, ¶ 7
General Comment: Since the text of the ECR is repeated in a number of sections of the DEIS text, it appears that DEIS text changes have not resulted in similar changes to the text in the ECR. For example, the table labeled, "Areas of Potential or Known Remaining Impact" on pg. es-ii of the ECR should be revised to reflect Table II-2 in § II of the DEIS. Also, to the extent possible, the ECR should avoid reference to a multi-agency accord. This is adequately addressed in the DEIS text. (If mention is necessary in the ECR, it should include the clarification mentioned in the first comment in this attachment).

Consider including a table similar to the one attached that summarizes the residual soil sample statistics for results as compared to SWCL and Part 375 SCOs. (See attached table which is intended to provide a summary overview of the current data describing remaining environmental conditions and how the data compare to relevant standards).
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-54
Comment noted. The ECR has been revised with an updated table. References to the Multi-Agency Accord have been removed. The ERM summary table is included at the end of this section and presents an overview of potential issues when data are compared to certain standards.

COMMENT B-55
Elaborate on what EPA is doing to evaluate whether Li Tungsten Parcel A is suitable for residential and/or what EE, ICs or ECs will be required. (Prior discussions suggest the agency is awaiting removal of non-hazardous dredge spoils that remain on the parcel. If this is correct, then the sediment removal is the critical path to EPA's determination. It will be helpful to state who (and when—if known) the sediment removal is to occur).
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-55 (Subsurface Environmental Conditions):
The EPA has published its decision on residential use of Parcel A in its November 23, 2009 letter to the Mayor of Glen Cove that is in Appendix B. (See Response B-1 above)

COMMENT B-56 (Subsurface Environmental Conditions):
Appendix G. Draft SMP
General Comment: Edit text to remove references to MOU
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-56 (Subsurface Environmental Conditions):
The references to MOU have been removed and the approved SMP is included in the Revised ECR Appendix.

COMMENT B-57 (Subsurface Environmental Conditions):
ExecSum, § C, pg I-5, (following) ¶ 1
Add a statement that reflects the following, "In the event any identified environmental conditions at the Angler's Club, Sewage Pump Station, Doxey and/or Gateway properties do not result in the property being placed in a federal or state regulatory program, the response to the environmental conditions (e.g., easement, remediation, institutional or engineering control) will be equal to or greater than required by regulatory agencies for similar conditions at properties that are in a regulatory program."
James A. Perazzo, Principal, Environmental Resources Management, letter dated July 20, 2009

RESPONSE B-57 (Subsurface Environmental Conditions):
In the event any identified environmental conditions requiring remediation at the Angler's Club, Sewage Pump Station, Doxey and/or Gateway properties do not result in the property being placed in a federal or state regulatory program, the response to the environmental conditions (e.g., easement, remediation, institutional or engineering control) will be equal to or greater than

required by regulatory agencies for similar conditions at properties that are in a regulatory program.

COMMENT B-58 (Subsurface Environmental Conditions):
[Page III.B-2, 1st ¶] How would the project's goals be achieved if the proposed "multi-agency accord" cannot be established?

Pat Cleary, AICP, Cleary Consulting, letter dated July20, 2009

HHPC COMMENT # 15: If stormwater is recharged onsite, there is a potential for contact with contaminants which may remain in the soils and thus a potential for migration into the waterways either indirectly through hydraulic groundwater flow or directly though the soils and into the water. If significant quantities of contaminated soils are found, they would likely be addressed through the federal or state superfund remediation process. While the DElS does address existing subsurface conditions and a sets forth a proposed mechanism for the various parties to come to agreement on the responsibilities for such issues, no such agreement is currently in place. Given the potential for costly remediation and the current state of the economy, it is conceivable that a situation may arise where neither party is willing or able to pay for site remediation. In that case, the very future of the proposed project could be in jeopardy. This needs to be addressed. The DEIS at p.IILB-I discusses existing subsurface conditions and the Appendix disk contains a more detailed Environmental Condition Report. The DEIS states that the applicant and the city need to have a coordinated approach to handle residual environmental issues at the properties and suggest that the best approach is a multi-agency agreement that includes the applicant. A Draft Site Management Plan which is included on the Appendix disk attempts to address this but it is in draft form, not complete and apparently has not been entered into.
RECOMMENDATIONS: The FEIS should address the possibility that the various parties will not be able to reach agreement on the proposed Site Management Plan or on responsibilities in the event that additional site remediation is required and discuss how this will affect the project.

Eric Swenson, Executive Director, Hempstead Harbor Protection Committee, letter, dated July 13, 2009

RESPONSE B-58 (Subsurface Environmental Conditions):
The multi-agency accord has been withdrawn and the project is moving ahead and meeting its goals using existing regulations and procedures. Approved SMPs were achieved for Captain's Cove and the ferry terminal site improvements using these procedures. They address the existing contamination through soil management, ICs, ECs, and an EE. The approved Captain's Cove SMP and its approval process will be the template for SMPs at the other properties. It provides an acceptable procedure for developing the site that is applicable to the other properties.

The existing procedure is as follows:

<u>Captains Cove and Li Tungsten</u>
The NYSDEC, USEPA, and Nassau County Health Department have provided their requirements for restricted residential use of Captains Cove and Li Tungsten, including Parcel A, at previous meetings and in DEIS review comments. EPA has sent a letter to Mayor Suozzi

covering the requirements for residential use of Parcel A. It says that an approach similar to what has been proposed in the Captain's Cove SMP would be a presumptive remedy that would also require institutional controls as proposed in the Captains' Cove SMP. Therefore, the requirements for restricted residential use of all parcels will be a combination of Institutional Controls (ICs), Engineering Controls (ECs) and filing of an EE.

The applicant has incorporated the ICs and ECs into the SMP as described below as part of the process for changing the site use and reclassifying the sites. The steps that will be followed are:

1. Submit a Site Management Plan (SMP) incorporating the ECs, and containing the procedures that will be used to:

    a. Manage contaminated and uncontaminated media (soil and groundwater) during the construction process;

    b. Install the required ECs;

    c. Operate and maintain the ECs and monitoring systems for groundwater and soil vapor; and

    d. Perform post-construction subsurface maintenance activities that will protect workers, residents, and visitors.

    The SMP for Captain's Cove was approved by the agencies and it will serve as a template for the other properties.

2. The City (IDA) will file an Environmental Easement (EE) for each site that will run with the land. It will:

    a. Contain the specific ICs for the site :

    b. Incorporate the ECs and SMP; and

    c. Grant access to NY State to inspect the property for compliance with the SMP, ECs, and ICs.

    d. EPA has stated in the November 23, 2009 letter to the Mayor (Appendix B) that depending on how the IDA proceeds with Parcel A, it may be necessary to release another ESD.

3. Once the SMP and EE are approved by the NYSDEC and the EE is filed, a petition will be submitted to the DEC to change the Captain's Cove site use from non-residential to restricted-residential. When approved the DEC has the option of preparing an Explanation of Significant Differences (ESD) that will provide the basis for changing the site use to restricted residential use.

4. After the ESD is issued, the Captains Cove site classification will be changed from Class 2 (Significant threat to the public health or environment - action required) to Class 4 (Site properly closed - requires continued management).

5. The SMP for all parcels in Li Tungsten will be similar to the Captains Cove SMP. Once the SMP and EE are approved, as mentioned in the 11/23/2009 letter, EPA may issue an ESD for Parcel A that will provide the basis for approving restricted residential. EPA will then proceed to remove the site from the National Priorities List.

Gladsky, Anglers Club, and the Sewage Pumping Station

1. The Gladsky site has already been remediated under the NYSDEC Environmental Restoration Program (ERP). After the Remedial Action Completion Report is completed an SMP containing ICs and ECs will need to be approved and then an EE will need to be filed to permit restricted residential use.

2. The Gladsky Phase I and Phase II studies included the Anglers Club and the Pumping Station as they are all part of the same tax lot. The Phase I/II results showed that the Angler's Club and the Pumping Station did not require remediation and only Gladsky was included in the remedial action plan. As all three properties will be included under the same SMP and EE. As the three sites are on the same tax lot, the DEC has indicated that they may be included in the Gladsky site for purposes of the ERP. If included in the ERP, all sites will receive a liability release from the DEC that will shield them from the need for additional cleanup as long as the site use conforms to restricted residential.

Doxey

1. The DEC agreed that the Doxey site may be a candidate for the Brownfield Cleanup Program and suggested holding a pre-application conference to get an initial decision from the agency.

Gateway Properties

The Gateway Properties will be subject to further environmental investigation. If the results show there are environmental conditions that would prevent unrestricted residential use an application to enter the BCP may be submitted to the DEC, or alternatively the site might be entered into appropriate regulatory program to ensure any land use restrictions are properly incorporated in the development plan.

Liability Release for Contamination Emanating From Upgradient Contaminated Properties

1. The NYSDEC has confirmed that the regulations do not hold the City or developer responsible for remediating the upgradient source(s) of contamination to groundwater flowing onto the Site.

2. In addition, as the RODs for Captain's Cove and Li Tungsten state that no additional remediation is needed for the groundwater moving offsite that was affected by past operations at the landfill and manufacturing plant, the City and the developer have asked the DEC and EPA for liability releases in connection with offsite contamination.

HHPC Comment concerning stormwater recharged onsite moving contaminants into the creek.

Currently stormwater runs uncontrolled overland into the creek carrying sediment and contaminants into the creek. After development, uncontrolled overland flow will halt and all stormwater will be treated before entering the creek. Storms that produce less than two inches of precipitation (most storms), will have their runoff captured by the subsurface stormwater system where sediment will be removed and the water will seep into the ground and move into the creek as groundwater discharge. The overall effect will be to improve the quality of stormwater discharging into the creek.

Moreover, the agencies addressed this issue in the Feasibility Studies for Captain's Cove and Li Tungsten and concluded that the removal of contaminated soil would eliminate the source of groundwater contamination permitting its future quality to improve over time.

The DEC stated in the Captains Cove ROD "Alternative 4, where much of the waste is removed, would provide the highest degree of long term effectiveness. Under Alternative 4 the hazardous waste within the landfill would be removed and properly disposed of. The generation of leachate contaminated by the landfill would cease."

EPA stated in the Li Tungsten ROD "Removal of the source of groundwater contamination under any of the soil alternatives would improve the long-term effectiveness and permanence of all of the groundwater alternatives.

Contaminants would not be actively removed [from the groundwater] under alternative LW-1 except by the natural movement of groundwater. The natural movement of groundwater would dilute the remaining contaminated levels and eventually flush the inorganics into Glen Cove Creek, where they would continue to be dispersed. Given the relatively sporadic inorganic contamination that currently exists in the Upper glacial Aquifer, it is anticipated that this mechanism when combined with the soil remediation would provide long-term effectiveness in meeting groundwater standards."

Therefore, stormwater recharge will either not produce leachate (at Captains Cove according to the DEC); or will continue to dilute the remaining dissolved constituents in the groundwater (according to the EPA) and ultimately improve the quality of the creek.

COMMENT B-59 (Subsurface Environmental Conditions):
[Page III.B-48] Environmental Easement – Will the City be a party to the EA, in addition to the NYSDEC?

Pat Cleary, AICP, Cleary Consulting, letter dated July20, 2009

RESPONSE B-59 (Subsurface Environmental Conditions):
As the owner of the property the CDA will file the EE and the NYSDEC and potentially other regulatory bodies will be the beneficiaries of the EE.

COMMENT B-60 (Subsurface Environmental Conditions):
(DEC Division of Environmental Remediation comments): The Captain's Cove Condominiums Site remains a class 2 Inactive Hazardous Waste Site. The Record of Decision (ROD) for this site limits future use to commercial. Although the City has raised the issue of changing the acceptable future use to restricted residential through a ROD change or an Explanation of Significant Differences (ESD), the City has made no submission to the DEC to accomplish this change. The property cannot be developed for occupancy for any use until the deed restrictions required in the ROD are filed. The control of the property cannot be transferred to another entity until all the requirements of the Consent Order have been satisfied. It is also DER's position that the DEIS cannot be finalized until all properties are eligible to be developed as described in the DEIS.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-60 (Subsurface Environmental Conditions):
The NYSDEC and USEPA have informed the development team of what is needed to change the use. The documents necessary for the change of use are being prepared in concert with the NYSDEC and USEPA. See Response B-58.

COMMENT B-61 (Subsurface Environmental Conditions):
The Li Tungsten Site continues to be on the EPA's National Priorities List (NPL) as well as on the Registry of Inactive Hazardous Waste Site. Although EPA has indicated that three of the four parcels comprising the site are suitable for residential development if proper institutional controls are implemented, these controls are yet to be formalized. As such, these parcels cannot, as of yet, be developed. The fourth parcel continues to be commercial use only although the USEPA is considering a change to the usage as requested by the City.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-61 (Subsurface Environmental Conditions):
Comment noted. See Response B-60.

COMMENT B-62 (Subsurface Environmental Conditions):
Other properties within the project are described differently in various sections of the DEIS. Only the Gladsky site which is in the Environmental Restoration Program (ERP) is in a regulatory program for remediating environmental conditions on the site. The Doxey, Angler's Club, Gateway and Pump Station parcels are not in a program (ERP, Brownfields, or Superfund). Applications have not been received for admission to the Brownfields Cleanup Program (BCP) for any sites in the project area and applications are not being approved for the ERP as there are no funds available in that Program. References that the environmental cleanup of these parcels will be addressed through the BCP and/or ERP must be clarified and be consistent through the document. It should be clear to all who read the document that although the developer may apply for admission to the BCP for certain parcels, no applications have been made, and no

assurance can be given that admission of any of these sites will occur. The documents currently imply just the opposite to the casual reader.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-62 (Subsurface Environmental Conditions):
As pointed out by the NYSDEC, applications for the BCP have not been submitted for any of the sites not currently in a regulatory program. However, the Angler's Club and Sewage Pumping Station were originally included with Gladsky in the Phase I investigation site map for the ERP in that area. The NYSDEC has been asked to confirm that the Angler's Club and Sewage Pumping Station are within the ERP boundaries, although at the time of the Phase 1 and Phase 2 reports the environmental conditions on these two properties were not deemed to require remediation as part of the Gladsky ERP funding.

If the Angler's Club and Sewage Pumping Station are confirmed to be within the boundaries of the Gladsky site, they will be subject to the same EE, IC/EC requirements. If not, these properties will be subject to testing by the applicant pursuant to Table III-B-4 in the DEIS and the results will be used to ensure the environmental conditions are addressed, if necessary, in a similar manner as the other properties (e.g., SMP, ICs/ECs, and EE).

COMMENT B-63 (Subsurface Environmental Conditions):
Throughout the document and several of the appendices, there are references to a "multi-agency accord" or "multi-agency agreement" to address environmental conditions on the properties. The language referring to this document has been very carefully structured to be correct in the absolute. However, a person not privy to facts surrounding the "multi-agency accord" would assume that the various agencies have been actively involved in developing such a document. DER is not aware that any of the mentioned agencies is planning to sign such a document. None have been involved in developing one. DER, specifically, has stated to the City and developer, prior to the release of the DEIS, that it had no intention of signing such a document. The DEIS should be revised to reflect that although the developed may want such a document, no agreement has been signed or agreed to by any of the agencies. As it appears that all the sections relating to environmental conditions refer back to this document, all of these sections need to be revised to provide the public with the factual information which cannot be misconstrued.

The environmental conditions on the various parcels will be addressed through the programs they are in, or are eligible to participate in. If a parcel is not eligible for a program, all work is the responsibility of the property owner.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-63 (Subsurface Environmental Conditions):
Comment noted. References to the multi-agency accord have been removed from the Environmental Conditions Report and the existing programs are being used to address the future use of the properties. See Comment B-58 for additional information.

COMMENT B-64 (Subsurface Environmental Conditions):
Appendix G is the Draft Site Management Plan. Although this document is listed as draft, it gives a clear implication that the DEC has reviewed the document. It is recommended that a watermark be added to each page as follows, "DRAFT – not submitted to NYSDEC." As this document refers to a "multi-agency agreement," no detailed review was made of this document. Additionally, this document can only be reviewed relative to the ROD (or ESD) and the Environmental Easement (or deed restrictions) associated with the Site Management Plan. This document does not stand on its own.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-64 (Subsurface Environmental Conditions):
Comment noted. The draft SMP has been replaced with the approved SMP for the Captain's Cove property that will be a template for the other properties.

COMMENT B-65 (Subsurface Environmental Conditions):
The DEIS indicates that the NYS Department of Health (NYSDOH) has to "certify compliance with public health and safety" with respect to the environmental remediation of properties. NYSDOH does not administer any regulatory programs with respect to remediation of sites but works through the NYSDEC to assure that actions are protective of public health.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-65 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-66 (Subsurface Environmental Conditions):
All requirements of the Division of Environmental Remediation must be met.

Roger Evans, Regional Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, Region One, letter dated July 31, 2009

RESPONSE B-66 (Subsurface Environmental Conditions):
Comment noted.

COMMENT B-67 (Subsurface Environmental Conditions):
The area is still toxic for residential use.

Susan Kotta, email dated July 17, 2009.

RESPONSE B-67 (Subsurface Environmental Conditions):
The site has not yet been approved for residential use. NYSDEC and USEPA have approved ECs and ICs in the Captain's Cove SMP and an Environmental Easement that will permit restricted residential use is being prepared for NYSDEC approval. Upon implementation of

those controls and completion of the administrative process (Response B-58), the site will be suitable for its intended use.

COMMENT B-68 (Subsurface Environmental Conditions):
We are told in the DEIS (Draft Environmental Impact Statement) for the proposed Glen Isle RXR Development that the project will have a great amount of public open space. Let's look in detail at the grassy public amphitheater proposed. Exactly what is the developer giving to the public? This proposed public space will be located on Parcel A of the Li Tungsten site. It is the area adjacent to the Li Tungsten old loading dock, and directly across the Creek from the Sewage Treatment Plant. In the EPA Explanation of Significant Differences of May 2005, the EPA stated that this area was “under review". Mysteriously, now nearly 5 years later, in the DEIS it states that this area is still "under review". We don't know why this area is still under review or why the developer has not chosen to build anything there. Could it be because this area still is the most polluted and least suitable for any other income producing purpose, so it becomes our public park?

Let's read back into other documents published by the EPA. In the documents regarding the dredging of the Creek, we learn that this is the "area used for "de-watering" the radioactive material which was dredged from the Creek. This means the radioactive material which was dug out of the creek was placed on Parcel A to drain before it was supposedly tested and then removed to a supposedly secure location for the disposal of radioactive material. What about the TCE (Trichloroethylene) and PCB's leaking in the groundwater from Mattiace, and the PERC (Perchloroethylene - Dry cleaning fluid) leaking in from the Crown Dykman site across the street? This material is in the groundwater and leaks out into the creek and then was dumped back on Parcel A for the de-watering. We learn from the EPA documents that the radioactive material is found everywhere in the Creek, but the recent dredging only went down to a certain depth. Did anyone ever hear of HEAVY METAL? The reason it is called that is because it is heavier than water, and sinks down into the sand and silt of the Creek bed. Below the depth that the Army Corps of Engineers went, there still exits radioactive material which the DEIS says will have to be removed on the second pass of dredging to create the new boat slips.

We have been lifelong residents of Glen Cove. Family members who live in the Landing all remember the time when there was a giant explosion at Li Tungsten, long before someone hatched the preposterous idea to build luxury residences there. How could chunks of radioactive material be everywhere in the Creek and all over Parcel A if there had NOT been a major explosion there?

So, to recap, the EPA won't even tell anyone the status of Parcel A. By reading the publicly available documents from the EPA and the NYSDEC, and even in the DEIS, we know that Parcel A contains radiation, TCE, PCE, PCB's, lead, arsenic and a witch's brew of other chemicals, I ask the members of the Planning Board and the City Council: "Is this a place you would take your children or grandchildren to play?"

Maureen Tracy, email dated July 18, 2009

RESPONSE B-68 (Subsurface Environmental Conditions):
EPA announced in its 2005 ESD (Appendix B) that all radioactive materials above the action limit has been removed, including Parcel A. The developer has confirmed the removal on Parcel A and Lower C by digging 38 test pits and testing the soil for radioactivity (Metron Development Services, May 2004).

EPA was able to remediate all of the Parcels except Parcel A to a restricted residential standard. Parcel A was remediated for a commercial/retail use as specified in the ROD. That is why the 2005 ESD specified that Parcel A needed further analysis to determine what is needed to support residential use. If all that was being placed on Parcel A was the amphitheater, EPA would approve the use without any further cleanup. However, EPA has specified in a 11/23/2009 letter to the Mayor of Glen Cove the additional procedures that would be needed for EPA to deem Parcel A suitable for restricted-residential use (see Appendix B and Response B-1).

The dewatering process for the dredge spoils was not done on unprotected ground. It was done on an impermeable membrane that prevented any liquids and solids from contacting the ground. Therefore, none of the dredge components infiltrated into the soil. This will be confirmed through testing when all of the spoils are removed from the site, and, if needed, any excursions will be corrected.

The groundwater plume emanating from Mattiace does not contain PCBs. According to the EPA remedial investigation report (Malcolm Pirnie, May 1998) PCBs were not detected in the groundwater under Li Tungsten. Dissolved volatile organic chemicals (VOCs), such as trichloroethylene (TCE) and perchloroethylene (PCE) among others were detected. Some of the dissolved chemicals came from Mattiace and some from Crown Dykman. Li Tungsten also released a small amount of VOCs. The sources of these chemicals have been removed and according to the Record of Decision their concentration in the groundwater will decrease over time. All buildings constructed on the Glen Isle property will contain soil vapor mitigation systems to prevent any of the chemicals in the groundwater from moving into the buildings; and periodic monitoring of the groundwater will confirm that the concentration of the dissolved contamination is decreasing and the mitigation systems are operating correctly.

The groundwater flowing from Mattiace and Crown Dykman is ultimately discharging into the creek. However, any sediment that was dredged and deposited onto Parcel A would likely have such a low VOC concentration the VOCs would probably be undetectable. Also, once spread on the ground and dewatered, the dissolved VOCs would evaporate.

The term “Heavy Metals” is an imprecise term because it can refer to heavy and light metallic elements. When found in the soil, these elements are generally not in their native state, but combined with other elements forming a solid compound that contains the metallic element. As such, it will not sink through the soil but can dissolve in water moving through the soil and enter the groundwater system. Therefore, when any of these metals are found in groundwater it is in the dissolved state, and as such the distribution of the metal will be determined by molecular forces and not gravity. This means that the compound will not “sink” to deeper depths.

The radioactive nodules removed by the Army Corps of Engineers (ACOE) did not sink through the creek sediments. They were likely dropped in the creek from barges used to remove the slag from the refining operation, and mixed into the sediments by former dredging and sedimentation of the creek. The ACOE has removed all of the nodules to a depth at least one-foot deeper than will need to be done to maintain the navigation channel; and the EPA has determined that whatever may have been left behind at that depth will not present an unreasonable risk to future users of the creek and workers that will be dredging the creek in the future.

In regard to the proposed marina, any spoils removed from the creek during widening and/or deepening operations will be tested to locate and remove any nodules that may be present.

COMMENT B-69 (Subsurface Environmental Conditions):
The dangers of transporting materials and vehicles exposed to radioactive and carcinogenic matter through residential communities dense with children and women of child bearing age.

Eileen Aherne, email dated July 20, 2009.

RESPONSE B-69 (Subsurface Environmental Conditions):
Essentially all of the radioactive material has been removed from the site. See Response B-69.

In addition, EPA and the City of Glen Cove have already removed the majority of the contaminated soil from the site without incident. More than 100,000 cubic yards of soil and debris containing varying amounts of chemicals and radioactive wastes, including the nodules dredged from the creek, were removed using primary trucking routes that did not go through any residential neighborhoods. Any additional excavation and removal will do the same, following similar safety procedures that are protective of the surrounding neighborhood. All procedures and routes will be approved by the NYSDEC; and all excavation and trucking activities will be monitored by the NYSDEC.

COMMENT B-70 (Subsurface Environmental Conditions):
SECTION III-Existing Conditions, Anticipated Impacts and Mitigation
Pages B 8-9
The Gateway Properties are described as critical to the success of the waterfront development, yet they remain privately owned. The Phase 1 environmental site assessment (ESA) of the properties has identified potential contamination of the properties with various hazardous substances. Although the DEIS recommends a detailed site inspection and sampling of soil on these properties and creek sediments adjacent to these properties, it is unclear as to who will perform Phase I ESA activities, stating that such activities will "likely be performed by the developer prior to acquiring the Gateway properties and prior to development of the project." Further, the DEIS does not outline the effects that a required cleanup of hazardous wastes on these properties will have on the project plan and phasing.

Karen Papasergious and Carol DiPaolo, President and Programs Director and Water-Monitoring Coordinator, Coalition to Save Hempstead Harbor, letter dated July 20, 2009.

RESPONSE B-70 (Subsurface Environmental Conditions):
The developer will perform the Phase II for the Gateway properties. As indicated in the comment, the Gateway properties are currently owned by other parties. The Applicant will attempt to acquire these parcels through negotiations with the current property owners. As described in the LDA, in the event negotiations are unsuccessful, the IDA/CDA can act to acquire these properties to assemble the site.

COMMENT B-71 (Subsurface Environmental Conditions):
2. Section IIIB.l.b.3 *(Environmental Impacts and Mitigation Measures: Surface and Subsurface Environmental Conditions: Existing Conditions: Status and Remediation of Properties Controlled by the Municipal Entities or Developer, Angler's Club Site),* page III.B-22, last ¶- The DEIS states that areas of impact on the Angler's Club Site are shown in figures 4A and 4B. The location of these figures (i.e., within the DEIS, or an attached appendix) is not indicated. Discussion regarding the Gladsky property on page III.B-23 refers to figure 4A in the Environmental Conditions Report (ECR), however, the electronically attached ECR contains no figures.

Steven Perotta, Cashin Spinelli & Ferretti, LLC, letter dated July 20, 2009

RESPONSE B-71 (Subsurface Environmental Conditions):
DEIS Item Appendix F.1 includes the figures. (Note Appendix F.1 is included on a separate, individual disk attached in the rear of the printed DEIS volumes. It is also available, with figures, on the City's website.)

COMMENT B-72 (Subsurface Environmental Conditions):
3. Section III.B.1.b4 *(Environmental Impacts and Mitigation Measures: Surface and Subsurface Environmental Conditions: Existing Conditions: Status and Remediation of Properties Controlled by the Municipal Entities or Developer, Gladsky),* page III.B-26, 1st ¶ -The DEIS states "remedial activities have not yet begun. However, the City has been approved to perform the remedial activities under the NYSDEC ERP Program." Page III.B-44 indicates that the City intends to commence remediation work in the spring of 2009, indicating that this work should have already been started, and that the work plan for remedial activities should have been completed by the time of the DEIS submission. Information regarding remediation activities, and the intended level of cleanup, should be discussed in the FEIS.

Steven Perotta, Cashin Spinelli & Ferretti, LLC, letter dated July 20, 2009

RESPONSE B-72 (Subsurface Environmental Conditions):
The Gladsky remediation began in April 2010 and is essentially complete except for reinforcing the bulkhead and seeding the land surface. The memo updating the ECR and the FEIS text has been revised with the current status and cleanup goals.

COMMENT B-73 (Subsurface Environmental Conditions):
4. Section III.B.1.b.5 *(Environmental Impacts and Mitigation Measures: Surface and Subsurface Environmental Conditions: Existing Conditions: Status and Remediation of Properties*

Controlled by the Municipal Entities or Developer, Pumping Station), page III.B28 - Several issues arise regarding the summary and restrictions regarding the pumping station property:
a. The first paragraph on page III.B-28 states "the Site contamination should still be properly handled for a park/esplanade reuse." The FEIS should present more specific information regarding what is intended with respect to the proper handling of site contamination.
b. The second paragraph mentions that an evaluation for radiological contamination has not been conducted, and that a survey of this contamination is warranted. The FEIS should describe details of this evaluation, and any mitigation measures that would be implemented regarding same, along with identifying who will conduct the testing.

Steven Perotta, Cashin Spinelli & Ferretti, LLC, letter dated July 20, 2009

RESPONSE B-73 (Subsurface Environmental Conditions):
The Angler's Club and Pumping Station were originally included in the Gladsky Phase 1 study as all three areas are in the same tax map parcel. After the Phase 1 and Phase 2 testing was done the NYSDEC concluded that only the Gladsky boat yard property required additional remediation for the original intended commercial use and the Angler's Club and Pumping Station didn't exceed the commercial use standards. The new property use is restricted residential whereby none of the properties meet uncontrolled use. Gladsky has been remediated to a restricted residential use through soil removal, and an SMP, ICs, ECs, and an EE will insure that the standards will be implemented and maintained.

The SMP, ICs, ECs and EE still need to be written and accepted by the NYSDEC. However, an SMP for Captain's Cove has been accepted and will serve as the template for the other properties, all of which will need to meet restricted residential use.

The CC SMP contains the procedures for handling and testing the soil as well as the ICs and ECs that will become part of the EE. Those will be the same or similar to what will be required for the Gladsky properties.

Although the CC SMP is the template for the others, the SMP for each property will also address any unique conditions that may occur on that site. For instance, the Ferry Terminal SMP required specific testing and procedures to address the conditions on the parcel. Therefore, the SMP will follow the template but be specific for each parcel.

See Response B-62 for additional information on the Angler's Club and Pumping Station properties.

COMMENT B-74 (Subsurface Environmental Conditions):
5. Section III.B.2 *(Environmental Impacts and Mitigation Measures: Surface and Subsurface Environmental Conditions: Potential Impacts)* - The impacts associated with continued environmental contamination of adjacent, upgradient properties - including Konica Minolta (Powers Chemco), Mattiace, Crown Dykman, and Slantfin - should be evaluated with respect to potential continuing impacts to the subject property.

Steven Perotta, Cashin Spinelli & Ferretti, LLC, letter dated July 20, 2009

RESPONSE B-74 (Subsurface Environmental Conditions):
The Konica-Minolta groundwater issue has been described by NYSDEC as contained onsite. This will be confirmed through groundwater sampling when access to the Gateway properties is obtained. If contaminated groundwater from Konica-Minolta is discovered, it will be evaluated and the appropriate actions will be presented to the NYSDEC to eliminate the source. Any buildings on the Gateway properties will have soil vapor mitigation systems installed regardless of the findings due to the VOC-contaminated groundwater under other parts of the property.

The quality of the groundwater leaving Slantfin will also be confirmed by installing wells on the upgradient side of Captains Cove to document the quality of groundwater moving onsite. Once that data is reviewed, a decision will be made on whether more information concerning Slantfin will be needed. Soil vapor intrusion mitigation is already included in any buildings constructed on Captains Cove. Therefore, if Slantfin is found to be adding to the existing groundwater problem, it will be mitigated onsite by the already-proposed soil vapor intrusion systems.

Mattiace and Crown Dykman are former sources of groundwater contamination. The Mattiace sources have been removed and the groundwater pump and treat system on Mattiace property is containing the remaining contaminated groundwater onsite. The Crown Dykman site is under the auspices of the NYSDEC. The source of the groundwater contamination was removed and the recently-completed NYSDEC RI/FS contained recommendations for additional remediation that was memorialized in the March 2010 Record of Decision. Therefore, the downgradient groundwater contamination should improve over time and the developer will monitor that process along with the EPA and NYSDEC. Soil vapor mitigation will be installed and operated under all residential buildings until the threat from the soil vapor subsides.

COMMENT B-75 (Subsurface Environmental Conditions):
6. Section III.B.2 *(Environmental Impacts and Mitigation Measures: Surface and Subsurface Environmental Conditions: Potential Impacts),* page III.B-41, Table III.B-3 – The information provided for the contaminants SVOCs/metals/PCBs/asbestos, SVOCs/metals, and SVOCs/metals/pesticides for the Gladsky, pumping station, and Doxey properties, respectively, all state that "residual levels in excess of cleanup standards or NYS SCOs for restricted residential but." This sentence should be completed.

RESPONSE B-75 (Subsurface Environmental Conditions):
Comment noted. The phrases should read “residual levels in excess of cleanup standards or NYS SCOs for restricted residential.”

Steven Perotta, Cashin Spinelli & Ferretti, LLC, letter dated July 20, 2009

COMMENT B-76 (Subsurface Environmental Conditions):
There are too many unanswered questions on the suitability of this land for residential development because of its toxicity.

Unknown commentor, copy of petition in Record Pilot, dated April 2007.

RESPONSE B-76 (Subsurface Environmental Conditions):
The majority of the properties do not have unanswered questions about their suitability for restricted residential development. The investigations and cleanups that have already been done at Captain's Cove, Li Tungsten, and Gladsky, which is a majority of the property in the Project Area, has answered many of the questions regarding their environmental conditions and suitability for certain land use. The results of the investigations are the completed cleanup plans that have removed various contaminants at each site to levels that, in combination with SMPs containing ICs and ECs, will permit restricted residential use. The remaining properties, which represent a small portion of the Project Area, will be subject to investigation and, if necessary, cleanup in the manner similar to that carried out at the other properties, prior to SMPs containing ICs and ECs.