



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF LAND REVITALIZATION & SUSTAINABLE MATERIALS MANAGEMENT

235 Promenade Street, Providence, Rhode Island 02908

Request for Response to Public Comments
File No. SR-22-1631B

August 31, 2020

Thomas A. Abruzese
20 West Extension LLC, TOMORL LLC, and Waites Wharf Realty Assoc., LLC
39 Agar Street
Yonkers, NY 10701

RE: Waites Wharf 2
20 West Extension Street (Lot 267 - 20 West Extension LLC)
16 Waites Wharf (Lot 248 - TOMORL LLC)
Waites Wharf (Lot 272 - Waites Wharf Realty Assoc., LLC)
Newport, Rhode Island
Plat Map 32 / Lots 267, 248 and 272 Respectively

Dear Mr. Abruzese:

Effective April 22, 2020, the Rhode Island Department of Environmental Management's (the Department) Office of Waste Management has changed the office name to the Office of Land Revitalization and Sustainable Materials Management (LRSMM), as reflected in the re-codified 250-RICR-140-30-1, Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation, and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment.

In the matter of the above-referenced property (the Site), the Department's Office of LRSMM has received the attached 22 public comments regarding the technical feasibility of the remedial actions proposed in the Site Investigation Report (SIR). Some of the submitted comments address topics beyond the scope of the SIR and the Remediation Regulations, concerning redevelopment, siting and property reuse. As such, a copy of this letter and attached comments is also being sent to the City of Newport.

Please review the attached comments and prepare written responses to each of them, as appropriate. A completed document, incorporating responses to all of the comments, must be submitted to the Department for review and approval. The Department will be conducting a review of comments specific to the Department and the Remediation Regulations, and will prepare responses to those comments, as applicable.

Due to the subject Site's coastal location and the number of public comments expressing concerns related to potential impacts from climate change, the Department requires that a comprehensive assessment of potential future climate change related impacts to the Site be performed, including evaluation of the durability and resilience of the proposed remedial design and Engineered Controls.

Items that must be addressed should include at a minimum the following:

1. An evaluation of predicted sea level rise in the area of the Site including:
 - a. The likely range of predicted sea level rise.
 - b. Potential sea level rise related impacts to the encapsulated soils, future buildings, and components of the proposed remedy such as engineered caps.
2. An evaluation of potential future flooding at the property from multiple sources (e.g. sea level rise, extreme weather, storm surge, etc.), with consideration of identified contaminants of concern and their individual and collective likelihood of flushing to the harbor or migrating to neighboring properties.
3. An evaluation of the durability and resilience of the proposed remedial design including:
 - a. Consideration of all the above-mentioned factors.
 - b. A description of each type of proposed remedial components, currently limited to a variety of engineered caps, with an evaluation of the durability and resilience of each.
 - c. Discussion of how that durability and resilience will be sustained to maintain the remedy and to keep the Site and surrounding area safe now and into the future.

It is the Department's understanding that the overall Waites Wharf redevelopment project will also include work and potential disturbance of the Department approved remedy on the original Waites Wharf Site (SR-22-1631A, formerly Case No. 96-012). As such, please be advised that any comments concerning that portion of the Site should also be addressed as appropriate in the response to public comments package.

If you have any questions regarding this letter or would like the opportunity to meet with Department personnel, please contact me by telephone at (401) 222-2797, ext. 7109, or by E-mail at joseph.martella@dem.ri.gov.

Sincerely,



Joseph T. Martella II
Environmental Engineer III
Office of Land Revitalization &
Sustainable Materials Management

Cc: Terrence Gray, RIDEM/OOD
Leo Hellested, RIDEM/Office of LRSMM

Kelly J. Owens, RIDEM/Office of LRSMM
Susan Forcier, Esq., RIDEM/OLS
Charles Horbert, RIDEM/OWR
Nicholas Pisani, RIDEM/OWR/Stormwater
Neal Personeus, RIDM/OWR/WQC
Karen Slattery, RIDEM/OAR
Ryan Mulcahey, RIDEM/Legislative Liaison
David S. Reis, RI CRMC
Patricia Reynolds, Newport Director of Planning & Economic Development
Peter Friedrichs, Newport City Planner
Kim Salerno, Chair, Newport Planning Board
Kathryn Leonard, Newport City Councilor Third Ward
Lauren H. Carson, State Representative - House District 75
Evan Ridley, RI Marine Trades Association
Jacob H. Butterworth, Sage
Amy Willoughby, National Grid

From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#)
Cc:
Subject: [EXTERNAL] : Questions on Waites Wharf SIR
Date: Tuesday, June 23, 2020 5:02:56 PM

To: Joseph Martella II, DEM

CC: Lauren Carson, State Representative House District 75

CC: Connie Bischoff

CC: Martha McConnell

CC: Emily Egginton Skeeahan

Dear Mr. Martella:

When will the two-week Public Comment Period begin for the Site Investigation Report (SIR) of Waites Wharf? Will the abutters be informed? So far, the 30 families in the Coddington Wharf Condominium and other families that I know have not been notified.

How might we be better informed on what has been happening in Tiverton RI where the same coal ash as was dumped at Waites Wharf by Newport Gas. It came from a Fall River gasification plant. The Tiverton waste site was discovered in 2000. What can we learn from Tiverton: the health problems, the arsenic, cyanide, lead and other toxic chemicals that 100 houses were built on. How can we prevent their disaster?

The same toxic chemicals found in Waites Wharf SIR were found next door during the development of the Wellington Timeshare condos in the old Newport gasification plant site. What was the mitigation done there? How much soil was removed? Are there any regrets? The danger of rising oceans and greater storms was not a scientific fact at that time. Many of the old methods of mitigation were for inland locations not at sea level on a flood plain. Capping may not be acceptable today at sea level on a flood plain.

The SIR study of Waites Wharf found arsenic, lead, and other toxic chemicals. They did not find cyanide as they did at Tiverton. Cyanide is a part of coal ash from coal gasification? Was it looked for at Waites Wharf?

The SIR of Waites Wharf covered 3 sites that represent approximately 10% of Waites Wharf. Should the other 90% have a SIR study done before the Newport Planning Board approves a Demolition Permit for the 6 buildings on Waites Wharf. The demolition of the buildings will cause a major upheaval of the soil the foundations are in. There is a risk of stirring up the toxic soil before a SIR and remediation are done.

How many of the mitigation approaches such as capping the toxic soil have been recommended for a location that is at sea level on a flood plain. New York is going to spend billions of dollars to try to prevent the ocean-driven surge they expect that could destroy their subway system. With the ocean rising and the storms that are going to be worse (175 mph for a day in the Grand Bahamas), we will be having a lot

of water coming up the Waites Wharf area in the near future. Is capping toxic wastes in this high-risk area better than removing the soil of arsenic, lead, etc. down to 7 to 12 feet where they have been found on Waites Wharf? If the toxic wastes get loose with a storm surge of waves hitting the capping over the toxic waste, the harbor and surrounding neighborhood are at risk of these toxic chemicals being spread around our area.

I would appreciate your advice on any of my questions or who I may contact to be better informed.

I think the SIR Report of Waites Wharf is an important first step in showing the danger of the coal ash wastes that were dumped here. We have the chance to be sure that any development is safe for the abutters, the city of Newport, and Newport Harbor. Thank me for whatever help you can give me.

Sincerely,
Charlie Donahue

From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#)
Cc:
Subject: [EXTERNAL] : Request for More Waites Wharf Advice
Date: Thursday, July 2, 2020 9:14:01 PM

Dear Mr. Martella,

Thank you for your help in assisting us in understanding the results of the State Investigation Report (SIR) on Waites Wharf. You can imagine that arsenic, lead, vinyl chloride, possibly cyanide and nine other toxic chemicals from the coal ash has many of us worried. We don't want to repeat another Tiverton disaster.

We have had many questions asked about the Site Investigation Report, the Remediation Plan, and the Planning Board decision to demolish the buildings on the 90% of Waites Wharf that was not tested. We are having a Press Conference and a Press Release to try to answer these questions.

We have received a lot of questions from nearby residents and businesses along Thames Street and in Ward 5. They share our sea-level location in a high flood risk zone. Can these people who are not direct abutters offer their views during the Public Comment Period. We have notified you with emails of those who have expressed interest in the Remediation Plan who are abutters. Can other members of the public contact you to be involved in the Public Comment Period? How should we tell other people in our Press Release how they can get the Remediation Plan for their comments? Could we put your email address in the press release if people want to offer their comments?

If people want to review the 250-page Site Investigation Report (SIR) how might we direct them? Should we try to make copies and distribute them ourselves?

Is there any estimate when the Public Comment Period will begin?

Thank you for your help.

Best,

Charles Donahue

CC: Lauren Carson ()

From: Chandler Hovey III

Sent: Friday, July 10, 2020 12:38 AM

To: 'Amy Mulhern'

Subject: RE: 20 W Extension St & 16 Waites Wharf, Newport, RI

Dear Ms. Mulhem,

Thanks for sending along that notice. It leads me to ask myself, where's the justice when only Newport abutters are notified of a development that will affect, not just abutters, but all Newporters. There's something very wrong in Newport when the CC and the Planning Board and presumably the Zoning Board can ignore Newporters' overwhelming objection to Waites Wharf's development. Snookered by very expensive developer lawyers, city government and elected officials claim to be abiding by the guide lines of Newport's Comprehensive Plan. Where's the justice when the Comprehensive Plan favors developers and ignores the wishes of Newporters. When a developer is certain that city government will bow and scrape for the way be cleared through all the hoops/hurdles for a hotel that threatens living standards/quality of life and profits an out of state developer, something's very wrong. Chandler Hovey, abutter Waites Wharf.

July 10,2020

Joseph Martella

R.I Department of Environmental Management Office of Land Revitalization and Sustainable Materials Management
235 Promenade Street
Providence, RI 02908-5767

Dear Mr. Martella,

First of all, thank you so much for notifying us about this issue. We understand that Mr. Abruzese was supposed to do this but, although we are abutters, we never heard a word.

My wife and I have owned property on Coddington Wharf for over 20 years. We thoroughly enjoy the breezes, the tiny park at the end of Coddington Wharf, the baywalk. We often walk along the water to Kings Park to visit the statue of French General Rochambeau (whose Army assisted Washington at Yorktown to win the Revolutionary War). Our grandkids like fishing off the docks here and playing in the sand on the beaches. We love to go boating here, after all, Newport is the Sailing Capital of America. In other words, life is good on Coddington Wharf... or was...

While we knew that our neighbors at Waites Wharf were planning to build a 150-room hotel, that did not strike as much horror into our hearts as the notification from SAGE about the chemicals buried in the soil next door. This, as you are aware, is a flood zone area. It is also located on Newport Harbor and is in the middle of a residential area. Recent news stories about the Connecticut River sewage spill and the continuous problems in Tiverton involving their sad story about the continuing remediation costs because the "fill and cap method of remediation" doesn't appear to have been any kind of reasonable solution. The residents there don't think it was any kind of solution.



We have the report of the scary findings of the SAGE testing but understand that only 10% of the property was tested! It appears the test borings were all on the far eastern portion of the Waite's Wharf Property. That seems very strange since history has confirmed that it is the western portion (my guess is that over 70% of the total Property) that was filled with coal ash to enlarge the property back in the early 1900's. So some of that has leached into the eastern portion. Could it be that the land to the west will have more toxic waste of different and even more damaging types? Could it be that only testing 10% (being the portion known not to have been the filled portion) might be sufficient upon which to determine the health of hundreds of neighbors...the say nothing of the Bay?

The other problem is the proposed remediation plan. We understand that they just remove some of the polluted soil and then cap it (making it a foot or more higher) creating a severe risk of overflow into the Bay and into our property on Coddington Wharf. This is critical as it affects the entire lower Thames and 3rd and 5th ward neighborhoods. The possible pollution (dust during demolition, run-off, leeching north and south) is enormous! Arsenic and cyanide...Really? Picture Newport Harbor with rain, the beaches, our entire neighborhood if the ground surface of Waite's Wharf is further raised (we have already seen it raised and asphalted the last few years) higher than the surrounding levels. We can picture this and the additional risks because this is in a flood plain. We believe the health of an entire community is at stake! Oh would they have seen this in Tiverton!

We are glad that the State of Rhode Island will be making these decisions rather than the property owner. The world has changed with global warming and sea levels rising are a reality. It is a shame that in 2020 we are still having to face the damage from the 1916 gasoline spill in Waites Wharf and more. Let us hope we do not have another Tiverton. We should know better. Thank you.

1. Richard and Connie Bischoff

● Coddington Wharf ●
Newport, Ri 02840



From: [Betsy McStay](#)
To: [Martella, Joseph \(DEM\)](#)
Cc: [Betsy McStay](#)
Subject: [EXTERNAL] : Hazardous Waste at Waites Wharf
Date: Monday, July 13, 2020 6:57:26 PM

Dear Mr. Martella,

I have lived at Coddington Landing for over 20 years and was disappointed to learn of the planned hotel proposed for next door at Waites Wharf. My family and I have enjoyed the neighborhood diversity here but this proposed development seems not to be very well thought out. This part of Thames Street/Coddington Wharf is already quite congested.

I was horrified to learn from SAGE Environmental about the chemicals buried in the soil next door.

Newport is such a very special and unique City. What a shame to have this lovely harbor spoiled when it can be saved now with a good plan.

Thank you for looking into this matter and doing whatever you can to preserve our Harbor and this special section of our city.

Sincerely,
Elizabeth McStay
Sent from my iPad

From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#)
Cc:
Subject: [EXTERNAL] : Donahue Comments on Waites Wharf Remediation
Date: Tuesday, July 14, 2020 9:12:17 PM

Joseph Martella, RI DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Public Comment on Waites Wharf Remediation of Toxic Chemicals

Dear Mr. Martella,

Thank you for the opportunity to offer Public Comments on the Proposed Remediation alternative to the toxic chemicals recently found on Waites Wharf. Arsenic, lead, and certain polynuclear aromatic hydrocarbons were found at concentration levels that exceed the Rhode Island Department of Environmental Management's Method 1 Residential Direct Exposure Criteria (R-DEC). Vinyl chloride (carcinogen – liver cancer) and other volatile toxic organic compounds were found in amounts that exceed state standards. The Site Investigation Report (SIR) was done by SAGE, an environmental company from Pawtucket. They did a great study with six soil borings in three locations.

They found many chemicals that came from the coal ash that was dumped by Newport Gas on Waites Wharf. Their findings matched the toxic chemicals that were found by the Rhode Island Department of Environmental Management in Tiverton from the same coal ash from the Fall River Gas Company – arsenic, lead, cyanide, and other toxic chemicals. An additional toxic chemical was found on Waites Wharf, vinyl chloride, from the businesses on Waites Wharf — automotive repair companies, and Standard Oil.

All these chemicals cause cancer and scare us. They could pose a public health disaster.

Could More Site Inspection Reports Be Done?

The SIR that was done covered 10% of Waites Wharf approximately 150 yards from the harbor. The owners plan is to develop the whole Waites Wharf right down to the Newport Harbor. Before we remediate 10% of the wharf, should we not study the rest of the wharf to see if we need to remediate the entire wharf and not just 10%? There is a very high probability that the same coal ash toxins and the vinyl chloride also exist throughout Waites Wharf.

Mr. Abruzese wants to develop most of Waites Wharf. Can he be asked to have a Site Investigation Report (SIR) done on the rest of the Wharf? Can we have someone else do a SIR for the rest of the Wharf?

Are We At Risk Now?

We are concerned with our health and safety and that of the hundreds of homes and businesses on the same sea level, high risk flood plain on Waites Wharf. Now that we know we have serious toxic chemicals on 10% of Waites Wharf and the likelihood it is on all of Waites Wharf, are we at risk from a storm in the near future that loosens the chemicals on the 90% of Waites Wharf that likely has the same toxins that could be spread throughout our homes, the 5th Ward, and Thames Street businesses. We must test the whole property for our health and safety.

Cost vs Harm

If we cannot do SIR studies on the whole Waites Wharf area, your preferred remediation alternative is the “encapsulation of contaminated soil.” It is definitely the cheapest remediation. Is it the best for our health and safety? Is it the least expensive if the release and flooding of arsenic, vinyl chloride, lead and cyanide pollute and destroy the value of our houses and businesses in addition to threatening our health?

Encapsulation makes sense if there is no threat for sea-level property, on a high risk flood plain with rising oceans and more serious storms predicted by climate scientists. Has the RIDEM consulted with the top climate specialists who are experts in public health and tell us that to prevent the spread of the toxic chemicals, encapsulation of arsenic, lead, vinyl chloride, and cyanide is the safest method. Can you and the RIDEM guarantee that these toxic wastes can never be let loose no matter how violent a storm hits Newport? I believe you are not choosing the safest remediation method; you are just choosing the cheapest.

Safest Method

The safest remediation method for our health and business viability is the removal of all the toxic soil. In 6.3.1 Description of Alternatives, an alternative remediation was considered “the excavation and off-site disposal at a licensed facility of impacted soils...and ultimately backfilling with clean soil. This alternative would be in compliance with Section 1.8 of Remediation. Under Technical Feasibility 6.3.3. It says removal of the toxic soil “may not be technically or financially feasible due to site features. Impacted soils were noted at approximate 10-12 feet.

It does not say “it is not financially feasible.” It says that it may not be financially feasible.” Was a study of the financial costs of removing the toxic chemicals done? The word “may” doesn’t indicate a serious effort was made to look at the cost of the “removal of soil” alternative.

This alternative would be in compliance with 6.3.4 state laws. 6.3.5 Ability to perform – the performing party is able to perform this alternative. The alternative, remove the soil, says that the performing party (owner of the property) is able to perform this alternative, remove the toxic chemicals.

Removal of the toxic soil is the best for our health, safety, and the property value of our homes and businesses. It is more expensive. It seems like the least expensive alternative, encapsulation, is winning out over our health and safety.

Who is Responsible for Removing the Toxic Wastes?

Before the Site Investigation Report (SIR) was done, we did not know how serious the toxic chemicals were on the part of Waites Wharf studied. We now know this. This is very different than six months ago when we didn't know how serious the pollution was.

If you chose encapsulation and a storm in the near future loosens the encapsulated toxic chemicals and they pollute our homes and businesses, who will be responsible? Who is responsible now for the 90% of possible toxic chemicals that are waiting to be washed into our homes and businesses during the next storm?

Who is at risk now that we know of the dangerous chemicals, the likelihood of flooding from storms, and we do nothing to prevent this potential environmental disaster?

Who Can Pay for Toxic Soil Removal?

The people of Tiverton had many of these same questions of who could pay for removal of the toxic soil in 2000 when they discovered their homes were built on a toxic waste site from the coal ash of a Fall River gasification plant — the same coal ash on Waites Wharf that produces the arsenic, lead, and cyanide. Waites Wharf also has vinyl chloride.

The State Department of Environmental Management stepped in and tested the soil for the Tiverton property owners and proved that the coal ash from Fall River was the cause. It was a toxic waste site. Tiverton residents sued the New England Gas Company over a period of 4 years. A financial settlement was made with Southern Union Company, a Texas-based utility company that was deemed responsible for the contamination. The residents received \$11.5 million to remove the contaminated soil.

Southern Union Company made it “financially feasible” to remove the toxic soil. The removal of all the toxic soil on Waites Wharf was not chosen as the Remediation Plan because it “may not be technically or financially feasible due to site features.” Who is responsible for Waites Wharf chemical pollution? Can we get them to make the removal of the toxic pollutants a “financial feasibility?”

Can the state of Rhode Island help us find a way to prevent an environmental disaster? Tiverton didn't have a chance to prevent their disaster before their homes were built on top of the toxic waste field. We have a chance to prevent our own disaster.

Can we find the responsible parties and have them pay for the safest remediation plan, removal of the toxic chemicals? Removing the toxic soil is the necessary beginning.

Thank you for your attention to this SIR study and proposing a Remediation Solution.
Thank you for letting us comment.

I don't believe so many carcinogenic chemicals have ever been found on a wharf at sea level, on a high risk flood plain with a high risk of storm surge. The area that can be polluted is a densely populated heart of Newport. Besides threatening the health and safety of hundreds of residents, it also threatens the economy of Newport that depends on tourists, restaurants, pubs, and stores on Thames Street.

Please reconsider your proposal for encapsulation and make public health and safety the major focus of your decision.

Best,

Charles Donahue

*Committee to Protect the Health of Newport Residents from the Toxic Wastes Found
on Waites Wharf, a part of the Newport Waterfront Alliance*

www.NewportWaterfrontAlliance.com [newportwaterfrontalliance.com]

nwa2020newport@gmail.com

July 14, 2020
Joseph Martella
RI Department of Environmental Management
Providence RI

Dear Mr Martella,

I am writing concerning a proposed demolition at 16 Waites Wharf in Newport RI. The developer hired Sage Environmental to conduct a survey of the property to determine the levels of contamination due to historic activity. I was notified as an abutter of the results. The survey found numerous heavy metals, and many other contaminants and proposes a remediation.

However, notably lacking was a map of the test boring sites. I have no idea what area of the property was tested or the percentage. I am unable to determine location, number of test bores or the depth.

They also proposed a remediation of "Encapsulation of the contaminated soils." They offer no explanation as to why this would be acceptable.

We as a neighborhood already endure occasional "leaks" from another historical industrial usage into the harbor. It requires floating "booms" to contain. It is disturbing and frightening for Newport visitors to view these blooms of floating contaminants along the harbor walk. That area of contamination was never cleaned up or properly contained. Most likely because no one at the time knew how or the danger involved with the contaminants. I don't want us to make that mistake again.

Please don't allow this to go forward as it now stands. More information is needed before an approval should be issued.

Regards,
Greg and Susan Zacharias
● Coddington Wharf
Newport RI

Greg Zacharias
Susan Zacharias



From: [Kate W. Haakonsen](#)
To: [Martella, Joseph \(DEM\)](#)
Subject: [EXTERNAL] : Public Comment on Waites Wharf Remediation of Toxic Chemicals
Date: Thursday, July 16, 2020 2:22:54 PM

Joseph Martella, RI DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Public Comment on Waites Wharf Remediation of Toxic Chemicals, RIDEM Case No. **SR-22-1631B**

Dear Mr. Martella:

I am responding to the opportunity to comment on the report on the property at Waites Wharf referenced above. My Newport home is across from Waites Wharf just behind the houses on the east side of Thames Street. Thus, we look down the wharf and across the harbor.

I am very concerned about the level of toxic chemicals discovered in the few borings which have been done so far on the properties. I note that these tests were conducted on only 10% of the total assembled parcels and a long way from the waterfront where we understand coal ash was historically used as fill to extend the wharf during the 20th century. That filled portion of the wharf has not been tested according to your report. One would suspect that the waterfront portion of the wharf, being comprised largely of coal ash, would contain even greater levels of the toxic chemicals found in the areas closer to Thames Street which have been tested. It would seem reckless to proceed with any demolition on this property without testing more of the property for chemicals so that an appropriate remediation can be planned.

Assuming the remainder of the property contains, at best, a similar level of toxins to the portions already tested, the proposed demolition and subsequent construction would necessarily disturb the toxin-laden soils on the wharf which would threaten to harm the harbor and the neighborhood. Chemicals could be disbursed both into the water and the air and spread throughout the city. The typical remediations of the past, i.e. capping, are woefully inadequate for a sea-level parcel in this time of rising seas and global warming. As we see more and bigger storms, this situation demands a more thorough and effective remediation in order to protect Newport, it's harbor and the surrounding neighborhoods. Without serious remediation, a flood could carry with it toxic chemicals destroying homes and businesses in the Yachting Village and the Fifth Ward as well as destroying the viability of the harbor for years to come. The cost of remediation at that point and the economic loss to the city and its citizens seems incalculable.

I urge RIDEM to require the property owner to conduct further testing and then to require a thorough and complete remediation to protect the area, the harbor and the City of Newport as a place where it's citizens and visitors can live, work and play long into the future.

Thank you for the opportunity to comment.

Kate W. Haakonsen

[REDACTED]
 [REDACTED]

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Coddington Wharf
Newport, RI 02840

Mr. Joseph Martell
R.I. Department of Environmental Management
235 Promenade Street
Providence, RI 02908-5767

July 18, 2020

Reference: RIDEM Case No. SR-22-1631B

Dear Mr. Martell:

Recently we received a report of the Site Investigation Report prepared by Sage Environmental of Pawtucket, Rhode Island for the properties located at 20 West Extension Street and Waites Wharf in Newport, Rhode Island. We were pleased that they shared the results of their analysis with us, providing a forum to raise a number of troubling concerns prior to the Newport City Planning Meeting scheduled for August 3rd. It is our understanding that the planned demolition of properties located at Waites Wharf are topics on the agenda for that meeting.

Flooding occurs on the harbor front in our neighborhoods more frequently than any of us would like. A high tide brings the waters very close to the top of the sea walls and any storm surge of note results in water in the Coddington basement of our tower. As residents of the adjacent property on Coddington Wharf we have a vested interest in ensuring that any demolition and construction done on Waites Wharf does not adversely impact health and safety of the citizens of Newport nor pollute the water in Newport Harbor for which we are so well known and admired.

When we reviewed the findings provided by Sage Environmental we were surprised to see that the survey conducted on Waites Wharf was done not only from the smallest lots that were furthest from the water front but also on lots that according to the proposed building plans will be paved over for driveways, parking and green spaces. The larger two lots (155 and 268), comprising 90 percent of the combined lots, are down hill from the surveyed lots and abut the waterfront. Most importantly, it needs to be noted that it is on the two unsurveyed lots that the majority of the demolition will occur as well as virtually all proposed new construction.

As such, the soil in these two water front lots, that were not sampled, will have the most amount of soil disturbance and penetration during the demolition and construction processes. It is the results of the soil sampling that guides the remediation process. Data from the current sampling simply does not provide sufficient information to provide an accurate or complete remediation plan for the lots that abut the water front and that will be subjected the greatest impact from the demolition and construction processes. A proper environmental review should include not only sampling from these two larger lots but also a report specifying the exact location where the samples were taken. This is critical to ensure that there is full transparency that the samples are taken from the locations that could potentially cause the most harm to health of nearby residents and to the water in the harbor.

The survey conducted by Sage Environmental on the smaller easterly lots found arsenic, lead, cyanide and vinyl chloride, all of which carcinogenic. Water runs downhill towards the waterfront and onto lots 155 and 268. The water from lots 155 and 268 run into the harbor. If there was a high contamination level on the easterly lots, one can only presume that the contamination will be higher in the lots closer to the water. Dust will be inevitably stirred up during the demolition and the pollution from almost certain runoff could harm the health of Newport residents and pollute Newport Harbor for years to come.

Many Newport residents enjoy the warmer protected waters of the south corner of Newport Harbor. The beaches and boat/kayak ramps in Kings Park and Brenton Cove are used extensively by both adults and young children alike. Special Needs groups use the park and beaches for outings and picnics. The rock off of Kings Park beach is a favorite "jumping rock" for kids of all ages. Every day you see all sorts of watersports being enjoyed by the Newport residents at this end of the harbor including swimming, sailing, paddle boarding, kayaking and just frolicking on the beach. The Jazz and Festivals brings hundreds of people on every imaginable water craft to enjoy to music from the water. The south end of Newport Harbor is truly a special place and deserves the appropriate level of consideration before embarking on a project that could have potentially devastating health and environmental consequences.

We can only speculate as to why the easterly lots were chosen to survey. It is the responsibility of the R.I. Department of Environmental Management and the Newport City Planning Board to protect the health and safety of the citizens of Newport as well as the pristine environment that we now enjoy. In looking at photographs from circa the 1960s you can see what appear to be large chemical or petroleum storage containers right at the waters edge on Waites Wharf. As we all know environmental awareness and precautions were not what they are today. We implore you take a closer look at this situation before creating a potential health and environmental catastrophe.

Respectfully,

The image shows two handwritten signatures in black ink. The first signature is 'William Firth' and the second is 'Carolyn Firth'. Both are written in a cursive, flowing style.

William and Carolyn Firth
Coddington Landing Owners and Residents

Joseph Martella, RI DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Public Comment on Waites Wharf Remediation of Toxic Chemicals

Dear Mr. Martella,

Thank you for the opportunity to offer public comments on the site investigation report (SIR) prepared by Sage Environmental on behalf of Waites Wharf Realty LLC.

Two large hotels with a combined total of over 140 rooms have been built on America's Cup Avenue and two more on Broadway and Memorial have been approved. The unforeseen impacts of these facilities relative to the depletion of our limited water supply; increased risk of flooding; increased discharge of wastewater; obstructed views and access to Newport's harbor; and increased traffic patterns are of major concern to many residents across Aquidneck Island. Now, we are facing another hotel proposal, this time on Waites Wharf.

This proposed project consists of two massive five-story buildings (beyond zoning dimensional allowances) with 150 transient guest rooms; a restaurant, banquet and wedding facilities; 266 off street parking on non-contiguous lots (over 34 spots short of the parking space density requirement); and private use of the public right-of-way to the tidal waters. We need the City and the State to consider the cumulative impacts of this proposal in relation to the City of Newport's Comprehensive Land Use Plan and the recent development.

The developers and the State of RI benefit, while the City's goal to "strive to be the most diverse, livable and welcoming city in New England: an innovative place to live, work, learn, play and raise a family" fades away. "It appears that the City has taken its priceless harbor and ocean-front assets for granted and perhaps lost sight of the basic fact that Newport's harbor and shoreline is the fundamental economic engine that drives our local economy" (Harbor Management Plan, 2010).

We, the Newport Waterfront Alliance, are not opposed to responsible development with the proper environmental assessments. Our mission is focused on preserving the visual integrity and architectural character of Newport while addressing the pressing issues of climate change, sewage and water infrastructure, traffic and parking, which collectively strain our natural resources. Our goal is to foster constructive discussions and creative solutions, which benefit the needs of all residents and visitors, while striving for a balance of economic prosperity with environmental stewardship. We are opposed to the proposed 150-room hotel on Waites Wharf because the health of Narragansett Bay and the waterfront are critical to Rhode Island's economy. When making decisions, the Rhode Island Department of Environmental Management as well as the Newport Planning and Zoning boards need to take into account future conditions such extreme weather events, and other hazards that are expected to increase in frequency and severity due to climate change. Climate change and development are putting additional strains on our infrastructure and natural resources.

As a result of urban development, the Rhode Island Department of Health (RIDOH) frequently closes Easton's Beach in Newport for swimming due to high bacteria levels. According to RIDOH, historically, beach closures in Rhode Island have been closely tied to precipitation. Stormwater runoff from roads, parking lots, and other impervious surfaces transports contamination (including bacteria) to our fresh and saltwater bodies. Adding

more impervious surface such as the Waites Wharf proposal will cause additional runoff into Narragansett Bay, which impacts the safe use of our waterways for swimming and fishing.

In addition, as sea levels rise and weather patterns change, flood risks will increase. On July 23, 2020 a fast-moving storm brought flooding, damage and power outages across parts of Newport County. Several roadways were impassable including to emergency vehicles. Sea level rise, an increase in heavy rain events, and more impervious cover have contributed to more frequent flooding due to extreme high tides, storm surge, and stormwater runoff. Floods can damage state and municipal infrastructure, prevent first responders from reaching emergencies, and cause costly damage and disruption to businesses and residences.

Approximately 985 properties are already at risk in Newport, and within the next 30 years, about 1,403 will be at risk (Flood Factor 2020). A changing environment means higher seas, new weather patterns, and stronger storms. As the atmosphere warms, there is more evaporation and more water available when it rains. A warmer atmosphere also means warmer oceans, which can intensify flooding from hurricanes and offshore storms. Sea level rise also increases coastal flood risks, as higher seas mean there is more water available when high tides and coastal storms cause flooding (Flood Factor 2020). Waites wharf has an Extreme Flood Factor of 10 out of 10 because the site has a 99% chance of flooding at least once over the next 30 years. During Hurricane Sandy in 2012, water reached up to 1.6 feet at this property which can impact the interior and exterior of the building, electrical outlets, furnaces, HVAC systems, utilities, and vehicle accessibility. With additional flooding in the future, we will also see impacts to our water supply, sewage, plumbing, and infrastructure. Under every possible future climate change scenario, flooding could occur between 5.5-12.7 ft at the Waites Wharf property.

It is my understanding that Coastal Resource Center is working with the City of Newport, to identify priority assets – neighborhoods, business areas, utilities and roadways, for instance – and develop practical policies and plans to increase their resiliency and adaptation to storms and rising water. In addition, University of Rhode Island, specifically Dr. Isaac Ginis is utilizing hydrodynamic models to assess the potential impacts of hurricanes on critical infrastructure and communities in RI. The results will allow Department of Homeland Security and Rhode Island Emergency Management Agency to better understand the consequences of coastal and inland hazards associated with hurricanes and sea level rise to better prepare coastal communities for future risks. It is imperative the State and City use the best available science in Rhode Island when permitting new development.

Beyond the obvious dangers of building in a flood zone and in an area very difficult for public safety vehicles to access, this site contains contaminated soil from the former Newport Gas Light Company, a coal gasification plant. Based on Sage Environmentalist SIR, arsenic, lead, and certain polynuclear aromatic hydrocarbons were found at concentration levels that exceed the Rhode Island Department of Environmental Management's Method 1 Residential Direct Exposure Criteria (R-DEC). These chemicals have many health impacts including:

- Exposure to **vinyl chloride** may increase a person's risk of developing cancer (liver cancer, specifically hepatic angiosarcoma, as well as brain and lung cancers, lymphoma, and leukemia) and affect a person's liver, kidney, lung, spleen, nervous system and blood.
- Both the EPA and the World Health Organization have determined that **arsenic** is a "known human carcinogen" based on indisputable evidence that arsenic exposures increase the risk of bladder, lung and skin cancer. Other evidence suggests it can cause liver, kidney and prostate cancers. Arsenic can also cause skin lesions, harm to the kidneys and other internal organs, and cardiovascular disease.
- **Lead** is a potent neurotoxin that impairs children's intellectual development and alters their behavior and ability to concentrate. The impacts of lead exposure during childhood are permanent.
- **Cyanide** is a toxic chemical that causes central nervous system and thyroid toxicity.

All these chemicals pose significant public health risks. Many of these chemicals are already present in our environment but our local government can take further steps to protect our right to swimmable, fishable, drinkable water in Newport. Environmental Working Group's drinking water quality report shows the results of tests conducted by the water utility and provided to the Environmental Working Group by the Rhode Island Department of Health, as well as information from the U.S. EPA Enforcement and Compliance History database (ECHO). The Environmental Working Group determined that 11 contaminants exceed EWG health guidelines in Newport, RI including:

- Arsenic
- Benzo[a]pyrene
- Bromodichloromethane
- Chloroform
- Dibromoacetic acid
- Dibromochloromethane
- Dichloroacetic acid
- Haloacetic acids (HAA5)
- Nitrate
- Total trihalomethanes (TTHMs)
- Trichloroacetic acid

According to data from the U.S. EPA Safe Drinking Water Information System, the City of Newport utility, and federal water quality regulations from January 2014 - December 2016, 90 percent of lead samples collected by this utility measured below 8.3 parts per billion (ppb) but any additional lead exposure can have deleterious impacts on children. Rhode Island Department of Environmental Management must ensure source water protection measures, like buffer zones around the harbor are utilized. I strongly recommend that the most conservative remediation alternative (removal) is used when building new facilities. Since the state legislature has failed to require important source water protection measures in the past, the City water utility has had to invest heavily in treatment to remove these chemicals, which has caused our water bills to go up year after year.

Could Additional Site Investigations Be Done?

The SIR that was done covered 10% of Waites Wharf approximately 150 yards from the harbor. Could a random sampling methodology be used to further investigate the soil conditions throughout the Waites Wharf proposed project area?

Remediation Alternatives

The alternative to remove the soil including the toxic chemicals is the best option for our health, safety, and economy. Besides threatening the health and safety of hundreds of residents, it also threatens the economy of Newport that depends on a clean environment. Please consider the health and safety of all Newport residents in your decision making process.

Regarding the encapsulation alternative, did the developer's consultants utilize storm surge modeling and sea level rise and flood risk assessments to test the long-term sustainability of this strategy and flooding impacts on the adjacent properties? I would suggest additional modeling be completed to ensure toxic waste would not be unearthed during a hurricane and flooding risks would not be exacerbated by the encapsulation alternative. I would recommend the applicant hire a consultant with the following expertise to ensure the site investigation addresses:

- Marine, harbor, and coastal processes,
- Storm surge and river, estuarine and flood inundation,
- Oil and chemical fate, transport and effects,
- Sediment transport and shoreline changes, and
- Water quality and hydrology impacts to Narragansett Bay and the municipal wastewater system.

As we encounter more extreme weather events it is essential that we strive to sustain our coastlines with responsible and forward-looking planning. By taking a long-term, strategic approach and denying this proposal, the State and City of Newport will be protecting its people and property from environmental contamination, impacts from major storms, and helping to prepare the City for rising sea levels.

Thank you for your attention to this SIR and proposing the safest remediation solution.

Best,

Emily Sheehan, MS Marine Science

Member of the Newport Waterfront Alliance

www.NewportWaterfrontAlliance.com

nwa2020newport@gmail.com

From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#)
Subject: [EXTERNAL] : Newport Flood Problem for Waites Wharf
Date: Friday, July 17, 2020 8:10:50 PM
Attachments: [Graphic RI Coastal Resources Landscape.docx](#)

Joseph Martella, R.I. DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

July 17, 2020

Recent Newport Flood — A Warning for the Spread of the Toxic Chemicals Found on Waites Wharf

We recently found out that there are toxic chemicals down to 12 feet on Waites Wharf that are above the safety standards of the Rhode Island Department of Environmental Management. We didn't know this 6 months ago. There is a good chance that these toxic chemicals from dumped coal ash are all over Waites Wharf, not just the 10% studied. The coal ash was dumped all over the wharf. Some of the chemicals are arsenic, lead, and vinyl chloride. Cyanide has been found on similar coal ash and toxic waste sites. All these chemicals cause cancer.

We Cannot Afford to Wait — We Need to Act

We are concerned that these toxic chemicals could be spread around the homes in the area and in the 5th Ward and to the Thames Street businesses. We feel this could be an environmental disaster waiting to happen. As recently as July 14, a fast moving storm flooded Newport with as much as 3 -4 feet of water in some places, waves washed into some houses. The Police Station was flooded. This shows a flood could occur almost anytime. We must be prepared to act as soon as possible while we have a chance.

What if this 3 to 4 feet of water was dumped on Waites Wharf which is already at sea level, on a high risk flood plain with its toxic chemicals. This flooding was not even caused by a hurricane or a nor'easter, storms we can expect in the future with high winds and pounding waves inland. We need to know as soon as possible if these toxic chemicals are all over Waites Wharf and can be washed into our homes, businesses, and have an impact on our health. How do you clean up with arsenic, lead, vinyl chloride and cyanide on your floors or businesses or the police station? The state of RI Department of Public Health needs to act as soon as possible. The recent flood was a warning. We still have a chance to prevent an environmental disaster if we act now.

Attached is a sea-level map developed by the Rhode Island Coastal Resources Management

Council. It shows scenarios of 1, 2, and 5 foot sea level rises along Waites Wharf. It shows extensive flooding along Waites Wharf up to and including Thames Street (Bouchard's Restaurant on lower right). We need to begin to prepare for these storms of the future to prevent the spread of the toxic chemicals from Waites Wharf. We cannot be deers in the headlights. We must act.

The future of Newport as a tourist destination could be threatened if the toxic chemicals spread along the high risk flood plain along Thames Street. Tourists will avoid locations that have been polluted with water with arsenic, cyanide, lead, and vinyl chloride. Newport Harbor is just as likely to be polluted.

We have only known of these toxic chemicals for a short time. It is a far greater problem than remediating 10% of a potential toxic waste site. It deserves the major attention of the Rhode Island Department of Public Health and the State itself to avoid an environmental disaster. We cannot fool around with cyanide, arsenic, vinyl chloride, and lead on a high risk flood plain. It is a major environmental catastrophe that we could prevent if we act. If we don't act, we will have a lot to regret.

Thank you for your consideration.

Best,

Charles Donahue

*Committee to Protect the Health of Newport Residents from the Toxic Wastes Found
on Waites Wharf, a part of the Newport Waterfront Alliance*
www.NewportWaterfrontAlliance.com [newportwaterfrontalliance.com]
nwa2020newport@gmail.com

NAME: Abruzese
CRMC FILE NUMBER: 2019-02-007
Page 4 of 6



Figure 1: 1, 2 and 5 feet of sea level rise scenarios.

Rhode Island Coastal Resources Council



Joseph Martella, R.I. DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Public Comment on Waites Wharf Remediation of Toxic Chemicals

Dear Mr. Martella,

Thank you for the opportunity to offer Public Comments on the Proposed Remediation alternative to the toxic chemicals recently found on Waites Wharf. Arsenic, lead, and certain polynuclear aromatic hydrocarbons were found at concentration levels that exceed the Rhode Island Department of Environmental Management's Method 1 Residential Direct Exposure Criteria (R-DEC).

Vinyl chloride (carcinogen – liver cancer) and other volatile toxic organic compounds were found in amounts that exceed state standards. The Site Investigation Report (SIR) was done by SAGE, an environmental company from Pawtucket. They did a great study with six soil borings in three locations.

They found many chemicals that came from the coal ash that was dumped by Newport Gas on Waites Wharf. Their findings matched the toxic chemicals that were found by the Rhode Island Department of Environmental Management in Tiverton from the same coal ash from the Fall River Gas Company – arsenic, lead, cyanide, and other toxic chemicals. An additional toxic chemical was found on Waites Wharf, vinyl chloride, from the businesses on Waites Wharf – automotive repair companies, and Standard Oil.

All these chemicals cause cancer and scare us. They could pose a public health disaster.

Could More Site Inspection Reports Be Done?

The SIR that was done covered 10% of Waites Wharf approximately 150 yards from the harbor. The owners plan is to develop the whole Waites Wharf right down to the Newport Harbor. Before we remediate 10% of the wharf, should we not study the rest of the wharf to see if we need to remediate the entire wharf and not just 10%? There is a very high probability that the same coal ash toxins and the vinyl chloride also exist throughout Waites Wharf.

Mr. Abruzese wants to develop most of Waites Wharf. Can he be asked to have a Site Investigation Report (SIR) done on the rest of the Wharf? Can we have someone else do a SIR for the rest of the Wharf?

Are We At Risk Now?

We are concerned with our health and safety and that of the hundreds of homes and businesses on the same sea level, high risk flood plain on Waites Wharf.



Now that we know we have serious toxic chemicals on 10% of Waites Wharf and the likelihood it is on all of Waites Wharf, are we at risk from a storm in the near future that loosens the chemicals on the 90% of Waites Wharf that likely has the same toxins that could be spread throughout our homes, the 5th Ward, and Thames Street businesses. We must test the whole property for our health and safety.

Cost vs Harm

If we cannot do SIR studies on the whole Waites Wharf area, your preferred remediation alternative is the “encapsulation of contaminated soil.” It is definitely the cheapest remediation. Is it the best for our health and safety? Is it the least expensive if the release and flooding of arsenic, vinyl chloride, lead and cyanide pollute and destroy the value of our houses and businesses in addition to threatening our health?

Encapsulation makes sense if there is no threat for sea-level property, on a high risk flood plain with rising oceans and more serious storms predicted by climate scientists. Has the RIDEM consulted with the top climate specialists who are experts in public health and tell us that to prevent the spread of the toxic chemicals, encapsulation of arsenic, lead, vinyl chloride, and cyanide is the safest method. Can you and the RIDEM guarantee that these toxic wastes can never be let loose no matter how violent a storm hits Newport? I believe you are not choosing the safest remediation method; you are just choosing the cheapest.

Safest Method

The safest remediation method for our health and business viability is the removal of all the toxic soil. In 6.3.1 Description of Alternatives, an alternative remediation was considered “the excavation and off-site disposal at a licensed facility of impacted soils...and ultimately backfilling with clean soil. This alternative would be in compliance with Section 1.8 of Remediation. Under Technical Feasibility 6.3.3. It says removal of the toxic soil “may not be technically or financially feasible due to site features. Impacted soils were noted at approximate 10-12 feet.

It does not say “it is not financially feasible.” It says that it may not be financially feasible.” Was a study of the financial costs of removing the toxic chemicals done? The word “may” doesn’t indicate a serious effort was made to look at the cost of the “removal of soil” alternative.

This alternative would be in compliance with 6.3.4 state laws. 6.3.5 Ability to perform – the performing party is able to perform this alternative. The alternative, remove the soil, says that the performing party (owner of the property) is able to perform this alternative, remove the toxic chemicals.

Removal of the toxic soil is the best for our health, safety, and the property value of our homes and businesses. It is more expensive. It seems like the least expensive alternative, encapsulation, is winning out over our health and safety.

Who is Responsible for Removing the Toxic Wastes?

Before the Site Investigation Report (SIR) was done, we did not know how serious the toxic chemicals were on the part of Waites Wharf studied. We now know this. This is very different than six months ago when we didn't know how serious the pollution was.

If you chose encapsulation and a storm in the near future loosens the encapsulated toxic chemicals and they pollute our homes and businesses, who will be responsible? Who is responsible now for the 90% of possible toxic chemicals that are waiting to be washed into our homes and businesses during the next storm?

Who is at risk now that we know of the dangerous chemicals, the likelihood of flooding from storms, and we do nothing to prevent this potential environmental disaster?

Who Can Pay for Toxic Soil Removal?

The people of Tiverton had many of these same questions of who could pay for removal of the toxic soil in 2000 when they discovered their homes were built on a toxic waste site from the coal ash of a Fall River gasification plant — the same coal ash on Waites Wharf that produces the arsenic, lead, and cyanide. Waites Wharf also has vinyl chloride.

The State Department of Environmental Management stepped in and tested the soil for the Tiverton property owners and proved that the coal ash from Fall River was the cause. It was a toxic waste site. Tiverton residents sued the New England Gas Company over a period of 4 years. A financial settlement was made with Southern Union Company, a Texas-based utility company that was deemed responsible for the contamination. The residents received \$11.5 million to remove the contaminated soil.

Southern Union Company made it “financially feasible” to remove the toxic soil. The removal of all the toxic soil on Waites Wharf was not chosen as the Remediation Plan because it “may not be technically or financially feasible due to site features.”

Who is responsible for Waites Wharf chemical pollution? Can we get them to make the removal of the toxic pollutants a “financial feasibility?”

Can the state of Rhode Island help us find a way to prevent an environmental disaster? Tiverton didn't have a chance to prevent their disaster before their homes were built on top of the toxic waste field. We have a chance to prevent our own disaster.

Can we find the responsible parties and have them pay for the safest remediation plan, removal of the toxic chemicals? Removing the toxic soil is the necessary beginning.

Thank you for your attention to this SIR study and proposing a Remediation Solution. Thank you for letting us comment.

I don't believe so many carcinogenic chemicals have ever been found on a wharf at sea level, on a high risk flood plain with a high risk of storm surge. The area that can be polluted is a densely populated

heart of Newport. Besides threatening the health and safety of hundreds of residents, it also threatens the economy of Newport that depends on tourists, restaurants, pubs, and stores on Thames Street.

Please reconsider your proposal for encapsulation and make public health and safety the major focus of your decision.

Best,

Charles Donahue

Committee to Protect the Health of Newport Residents from the Toxic Wastes Found on Waites Wharf, a part of the Newport Waterfront Alliance

www.NewportWaterfrontAlliance.com

nwa2020newport@gmail.com

Hugh Mellor II

● Coddington Wharf ●

Newport, R.I 02084

● hmellor@reservoirmanor.com ●

7/21/2020

Joseph Martella

R.I Department of Environmental Management

235 Promenade Street

Providence, R.I 02908-5767

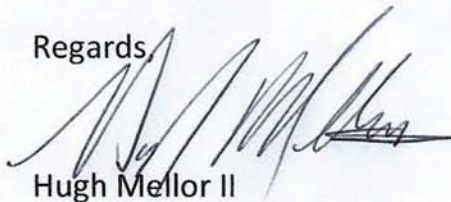
Email joseph. martella@dem.ri.gov

Re: Waites Wharf Project

Dear, Mr Martella

I have lived at Coddington Wharf for over 20 years . I find that having only 10% of the of the property tested and relying on a twenty year old report unacceptable due to the size and scope of the project. And especially due to the high level of contaminants found in the recent testing. The entire property should be re tested In the areas where the buildings are to be built. The recent testing were done at the back of the property for the proposed parking lot.

Regards



Hugh Mellor II

From: [REDACTED]
To: [Martella, Joseph \(DEM\)](#)
Cc: [Charles Donahue](#); [Connie Bischoff](#); [Martha McConnell](#); [Marion F. Maroney](#)
Subject: [EXTERNAL] : Waite's Wharf, Newport, RI
Date: Tuesday, July 21, 2020 12:05:28 PM

Dear Mr. Martella,

Regarding the proposed Waite's Wharf project, Newport, RI., please accept this email is formal request to extend the public comment period on the Site Investigation Report (SIR) and remediation plans.

As I understand it, the current SIR only addresses a small percentage of the total proposed project area and that the two largest lots on the western waterfront of the property have SIRs and some form of remediation performed in the 1990s. Could you please confirm that those SIRs and means and methods of remediation, performed roughly 25 years ago, are compliant with current DEM regulations. An example of concern would be the widespread use of those larger lots for boatyard activities including grinding and sanding of boat hulls with little to no encapsulation or air quality control. Much of the area that was not recently tested has been covered with a thin layer of asphalt and there is no indication that appropriate precautions were taken and/or any remediation was done prior to paving those areas.

I would also like to know if any site inspection has been conducted to determine the following;

1. The integrity of the remediations performed in the mid-90s. Specifically, have the means and methods installed proven to be effective and have those remedies been maintained (degradation, erosion, etc.),
2. Have any modifications (demolition, refurbishment, new construction) to the project area been performed in a manner so as to not disturb or degrade the remediation performed in the 1990s, and
3. Are the current operations being conducted on these properties licensed and certified compliant with DEM regulations?

Your time and consideration in this matter are greatly appreciated. If you have any questions on the above, please feel free to respond to this email or contact me as provided below.

Sincerely,

E.A. Mike Maroney

[REDACTED] Coddington Wharf

Newport, RI 02840

[REDACTED]

From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#);
Subject: [EXTERNAL] : 1995 Waites Wharf Environmental Inspection
Date: Tuesday, July 21, 2020 4:51:55 PM

Joseph Martella, R.I. DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

I was recently informed that a Site Investigation Report (SIR) was done in the western portion of Waites Wharf in the 1990s. I am surprised this was not mentioned in the excellent Site Investigation Report (SIR) recently done at Waites Wharf by Sage Environmental. Can I receive a copy of this SIR or what the study was called in 1995?

I have some questions about the 1995 study:

- Were maps done showing the locations of the soil borings on Waites Wharf as SAGE Environmental did in the recent Site Investigation Report (SIR)?
- Were soil borings done at a depth of 7 to 12 feet?
- Were arsenic, lead, vinyl chloride and 3 other VOCs, 10 PAHs found above the Rhode Island Department of Environmental Management Method 1 Residential Direct Exposure Criteria?
- Did this method of Residential Direct Exposure Criteria to identify toxic sites exist in 1995?
- What was the remediation done in 1995? Has it been monitored?

When you issued your “Letter of Compliance” on March 5, 1996, 25 years ago were standards as comprehensive as the RI DEM Method, Residential Direct Exposure Criteria used in 2020 in the SIR by Sage Environmental?

In 1995, little was known about rising oceans and harbors and the prediction of severe storms. Waites Wharf being at sea-level on a high-risk flood plain is at much greater risk from nor’easters and hurricanes today than 25 years ago. We didn’t know this 25 years ago. Would a decision of 25 years ago comply with today’s concerns?

Does your “Letter of Compliance” of nearly 25 years ago need to be updated?

Who can assure us that the release of ocean water in the storms of the future with the toxic chemicals of Waites Wharf cannot pollute our homes and businesses and endanger our health with these carcinogenic chemicals?

We feel only the removal of these toxic chemicals can protect us and the economy of an important part of Newport. I am looking forward to your continued help.

Thank you for your response.

Best,

Charles Donahue

CC: Lauren Carson

July 17, 2020



Joseph Martella
R.I Department of Environmental Management Office of Land Revitalization and
Sustainable Materials Management
235 Promenade Street
Providence, RI 02908-5767

Dear Mr. Martella,

Thank you so much for notifying my neighbors about this issue. They have informed me, and I am also concerned.

I own property in Connecticut, but I have been renting and living at Coddington Landing on Coddington Wharf since June of 2019. I signed on to live here through May 2021 and I have no plans to leave. My work keeps me here, and I enjoy working in this lovely and safe, peaceful and quiet, Newport neighborhood.

I had heard that our neighbors at Waites Wharf were planning to build a 150-room hotel, and subsequently became aware of the notification from SAGE about the chemicals buried in the soil next door. I have the same concerns as my neighbors: This is a flood zone area. It is also located on Newport Harbor and is in the middle of a residential area.

The findings of the SAGE testing covered 10% of the property and that was on the eastern side. SAGE omitted the entire western section of the property which was built and filled in with coal ash. The questions raised by my neighbors are concerning: Who makes that decision of where to test and how much? Couldn't it be that the portion where the land fill is on the west side would have more toxic waste of different and even more damaging types?

I have reviewed the information that was "unearthed" by my neighbors, and it is compelling:

If the suggested remediation is to remove some of the polluted soil and then cap it—making it a foot or two higher—this does not seem wise. It would create a severe risk of overflow into the Bay, into our property on Coddington Wharf and into all surrounding residential properties. This is critical as it affects the entire lower Thames and 3rd and 5th ward neighborhoods. The possible pollution (dust during demolition, killing the fish in Newport Harbor, thunderstorms bringing flash floods, having to close the beaches, the flooding of our entire neighborhood if the Waites Wharf ground surface is raised higher than the surrounding levels and the additional damages as Waites Wharf is in a flood plain) can affect the health of the community.

I join my other Newport neighbors, hoping for protection and a higher comfort level, with the State of Rhode Island making these decisions rather than the property owner. The world has changed with climate change, global warming and rising sea levels rising. It is a shame that in 2020 we are still having to face the damage from the 1916 gasoline spill in Waites Wharf and more. Thank you again for your attention to this matter.

Linda Rawlings

● Coddington Wharf

●

Newport, RI 02840



July 15, 2020

Joseph Martella
RI Department of Environmental Management
Office of Land Revitalization and Sustainable Materials Management
235 Promenade Street
Providence, RI 02908-5767

Dear Sir,

As an abutter to the property at 20 West Extension Street and 16 Waites Wharf, I am concerned about the toxic waste dust that will be released into the air not only in this neighborhood but possibly all of Newport.

Any development of that property should be looked at very carefully.

Thanks you.



Mary Jennings


Newport, RI, 02840



Dear Mr. Martell,

I write to you as an owner at Coddington Wharf. Before any demolition can occur, it is necessary. All of the property not just the east side. ^{the west} The environmental impact of this willy-nilly clearing would be disastrous to the wharf community. The State needs to be involved in this topic waste removal.

My children and grandchildren enjoy Coddington immensely, but this lack of State involvement in removal, puts their lives at risk.

Please consider my pleas and those of others at Coddington. Have the area tested on the west side and get the state involved.

Sincerely
Rita Steele



Joseph Martella, RI DEM
Office of Land Revitalization & Sustainable Materials Management
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908

Public Comment on Waites Wharf Remediation of Toxic Chemicals

Dear Mr. Martella,

Thank you for the opportunity to offer public comments on the site investigation report (SIR) prepared by Sage Environmental on behalf of Waites Wharf Realty LLC.

Two large hotels with a combined total of over 140 rooms have been built on America's Cup Avenue and two more on Broadway and Memorial have been approved. The unforeseen impacts of these facilities relative to the depletion of our limited water supply; increased risk of flooding; increased discharge of wastewater; obstructed views and access to Newport's harbor; and increased traffic patterns are of major concern to many residents across Aquidneck Island. Now, we are facing another hotel proposal, this time on Waites Wharf.

This proposed project consists of two massive five-story buildings (beyond zoning dimensional allowances) with 150 transient guest rooms; a restaurant, banquet and wedding facilities; 266 off street parking on non-contiguous lots (over 34 spots short of the parking space density requirement); and private use of the public right-of-way to the tidal waters. We need the City and the State to consider the cumulative impacts of this proposal in relation to the City of Newport's Comprehensive Land Use Plan and the recent development.

The developers and the State of RI benefit, while the City's goal to "strive to be the most diverse, livable and welcoming city in New England: an innovative place to live, work, learn, play and raise a family" fades away. "It appears that the City has taken its priceless harbor and ocean-front assets for granted and perhaps lost sight of the basic fact that Newport's harbor and shoreline is the fundamental economic engine that drives our local economy" (Harbor Management Plan 2010).

I am not opposed to responsible development with the proper environmental assessments. **I am opposed to the proposed 150-room hotel on Waites Wharf because the health of Narragansett Bay and the waterfront are critical to Rhode Island's economy.** When making decisions, the Rhode Island Department of Environmental Management as well as the Newport Planning and Zoning boards need to take into account future conditions such extreme weather events, and other hazards that are expected to increase in frequency and severity due to climate change. Climate change and development are putting additional strains on our infrastructure and natural resources.

As a result of urban development, the Rhode Island Department of Health (RIDOH) frequently closes Easton's Beach in Newport for swimming due to high bacteria levels. According to RIDOH, historically, beach closures in Rhode Island have been closely tied to precipitation. Stormwater runoff from roads, parking lots, and other impervious surfaces transports contamination (including bacteria) to our fresh and saltwater bodies. Adding more impervious surface such as the Waites Wharf proposal will cause additional runoff into Narragansett Bay, which impacts the safe use of our waterways for swimming and fishing.

In addition, as sea levels rise and weather patterns change, flood risks will increase. Approximately 985 properties are already at risk in Newport, and within the next 30 years, about 1,403 will be at risk (Flood Factor 2020). A changing environment means higher seas, new weather patterns, and stronger storms. As the atmosphere warms, there is more evaporation and more water available when it rains. A warmer atmosphere also means warmer oceans, which can intensify flooding from hurricanes and offshore storms. Sea level rise also increases coastal flood risks, as higher seas mean there is more water available when high tides and coastal storms cause flooding (Flood Factor 2020). Waites wharf has an Extreme Flood Factor of 10 out of 10 because the site has a 99% chance of flooding at least once over the next 30 years. During Hurricane Sandy in 2012, water reached up to 1.6 feet at this property which can impact the interior and exterior of the building, electrical outlets, furnaces, HVAC systems, utilities, and vehicle accessibility. With additional flooding in the future, we will also see impacts to our water supply, sewage, plumbing, and infrastructure. Under every possible future climate change scenario, flooding could occur between 5.5-12.7 ft at the Waites Wharf property.

It is my understanding that Coastal Resource Center is working with the City of Newport, to identify priority assets – neighborhoods, business areas, utilities and roadways, for instance – and develop practical policies and plans to increase their resiliency and adaptation to storms and rising water. In addition, University of Rhode Island, specifically Dr. Isaac Ginis is utilizing hydrodynamic models to assess the potential impacts of hurricanes on critical infrastructure and communities in RI. The results will allow Department of Homeland Security and Rhode Island Emergency Management Agency to better understand the consequences of coastal and inland hazards associated with hurricanes and sea level rise to better prepare coastal communities for future risks. It is imperative the State and City use the best available science in Rhode Island when permitting new development

Beyond the obvious dangers of building in a flood zone and in an area very difficult for public safety vehicles to access, this site contains contaminated soil from the former Newport Gas Light Company, a coal gasification plant. Based on Sage Environmental's SIR, arsenic, lead, and certain polynuclear aromatic hydrocarbons were found at concentration levels that exceed the Rhode Island Department of Environmental Management's Method 1 Residential Direct Exposure Criteria (R-DEC). These chemicals have many health impacts including:

- Exposure to vinyl chloride may increase a person's risk of developing cancer (liver cancer, specifically hepatic angiosarcoma, as well as brain and lung cancers, lymphoma, and leukemia) and affect a person's liver, kidney, lung, spleen, nervous system and blood.

- Both the EPA and the World Health Organization have determined that arsenic is a “known human carcinogen” based on indisputable evidence that arsenic exposures increase the risk of bladder, lung and skin cancer. Other evidence suggests it can cause liver, kidney and prostate cancers. Arsenic can also cause skin lesions, harm to the kidneys and other internal organs, and cardiovascular disease.
- Lead is a potent neurotoxin that impairs children’s intellectual development and alters their behavior and ability to concentrate. The impacts of lead exposure during childhood are permanent.
- Cyanide is a toxic chemical that causes central nervous system and thyroid toxicity.

All these chemicals pose significant public health risks. Many of these chemicals are already present in our environment but our local government can take further steps to protect our right to swimmable, fishable, drinkable water in Newport. Environmental Working Group's drinking water quality report shows the results of tests conducted by the water utility and provided to the Environmental Working Group by the Rhode Island Department of Health, as well as information from the U.S. EPA Enforcement and Compliance History database (ECHO). The Environmental Working Group determined that 11 contaminants exceed EWG health guidelines in Newport, RI including:

- Arsenic
- Benzo[a]pyrene
- Bromodichloromethane
- Chloroform
- Dibromoacetic acid
- Dibromochloromethane
- Dichloroacetic acid
- Haloacetic acids (HAA5)
- Nitrate
- Total trihalomethanes (TTHMs)
- Trichloroacetic acid

According data from the U.S. EPA Safe Drinking Water Information System, the City of Newport utility, and federal water quality regulations from January 2014 - December 2016, 90 percent of lead samples collected by this utility measured below 8.3 parts per billion (ppb) but any additional lead exposure can have deleterious impacts on children. Rhode Island Department of Environmental Management must ensure source water protection measures, like buffer zones around the harbor are utilized. **I strongly recommend that the most conservative remediation alternative (removal) is used when building new facilities.** Since the state legislatures has failed to require important source water protection measures in the past, the City water utility has had to invest heavily in treatment to remove these chemicals, which has caused our water bills to go up year after year.

Remediation Alternatives

The alternative to remove the soil including the toxic chemicals is the best option for our health, safety, and economy. Besides threatening the health and safety of hundreds of residents, it also threatens the economy of Newport that depends on a clean environment. Please consider the health and safety of all Newport residents in your decision making process.

Regarding the encapsulation alternative, did the developer's consultants utilize storm surge modeling and sea level rise and flood risk assessments to test the long-term sustainability of this strategy and flooding impacts on the adjacent properties? I would suggest additional modeling be completed to ensure toxic waste would not be unearthed during a hurricane and flooding risks would not be exacerbated by the encapsulation alternative. I would recommend the applicant hire a consultant with the following expertise to ensure the site investigation addresses:

- Marine, harbor, and coastal processes,
- Storm surge and river, estuarine and flood inundation,
- Oil and chemical fate, transport and effects,
- Sediment transport and shoreline changes, and
- Water quality and hydrology impacts to Narragansett Bay and the municipal wastewater system.

As we encounter more extreme weather events it is essential that we strive to sustain our coastlines with responsible and forward-looking planning. By taking a long-term, strategic approach and denying this proposal, the State and City of Newport will be protecting its people and property from environmental contamination, impacts from major storms, and helping to prepare the City for rising sea levels.

Thank you for your attention to this SIR and proposing the safest remediation solution.

Best,

Patricia Thibodeau, Ph.D. Marine Science

RI C-AIM Postdoctoral Fellow

University of Rhode Island

Graduate School of Oceanography

From: [Henry Risman](#)
To: [Martella, Joseph \(DEM\)](#)
Subject: [EXTERNAL] : Re: 20 West Extension LLC, Tomorl, LLC and Waites Wharf Realty Assoc.
Date: Saturday, July 25, 2020 1:07:21 PM

Dear Mr. Martella,

Having lived and owned next door to this property the report is disconcerting and scary. The testing and remediation plan is not sufficient to protect the neighbors health and property.

I do not understand with the hazardous chemicals found that only ten percent of the property was tested nor was the testing done on all locations and sections of the property. It's possible or even very likely that the hazardous chemicals exist in even higher percentages in other parts of the property.

Being in a high hazard flood area which has flooded a number of times the proposed remediation plan clearly leaves the neighborhood and harbor at high risk of serious contamination. This would be hazardous to our health as well as the property values.

Please do not allow this inadequate testing and remediation plan to destroy our health and neighborhood.

Thank you for your consideration.

Sincerely,

Amy and Henry Risman

█ Coddington Wharf, █

Newport, RI

Mr. Joseph Martell
R.I. Department of Environmental Management
235 Promenade Street
Providence, RI 02908-5767
RE: RIDEM Case #SR-22-16331B

Dear Mr. Martel,

We are Richard and Vivian P. Hyde, owners and residents of property directly adjacent to Waites Wharf in Newport Rhode Island.

Through a report issued by your office and prepared by Sage Environmental of Pawtucket RI, we have been made aware of soil samples taken at Waites Wharf and tested. The outcome of this testing shows dangerous and cancer causing properties in the soil. (see above Case # report)

It appears that the samples taken were restricted to the east side of the property.

We feel strongly that the testing performed by Sage Environmental was not adequate in order to provide a true and total analysis of the existing site conditions.

We urge you to insist upon further sampling of the entire Waites Wharf site in order to determine the actual extent of exposure to our neighborhood and the City of Newport.

Very truly yours,



Richard W. Hyde, Jr.

Vivian P Hyde

1 Coddington Wharf

Newport 02840



From: [Charles Donahue](#)
To: [Martella, Joseph \(DEM\)](#)
Cc: [Gray, Terry \(DEM\)](#); [Hellested, Leo \(DEM\)](#); [Owens, Kelly \(DEM\)](#); [Forcier, Susan \(DEM\)](#); [rep-carson](#)
Subject: [EXTERNAL] : Public Comments on Waites Wharf 2020 and 1993 Site Inspection Reports (SIR)
Date: Saturday, August 8, 2020 1:51:02 PM

Dear Mr. Martella,

Attached please find my comments on the impact of the 1993 SIR on the 2020 SIR.

Public Comments on Waites Wharf 2020 and 1993 Site Inspection Reports (SIR)

Importance of 1993 Site Investigation Report for 2020 SIR Review

Many of us have asked that all of Waites Wharf be studied with a high-quality SIR as was recently done in 2020. The recent study covered 2 sites with 6 borings in the 10% of Waites Wharf 150 yards from the Newport Harbor. Fifteen toxic chemicals, including arsenic, lead, vinyl chloride, and many benzene chemicals were found in the six borings, some as deep as 12 feet. We feel that these same toxic chemicals extend down to the harbor and cover the whole wharf. We need to know if the rest of the wharf is as dangerous as the 10% studied.

Demolition Permit

The owner of Waites Wharf would like to receive a Demolition Permit from the Newport Planning Board to build a 150-room hotel on Waites Wharf. It would be very helpful if he could tell the Planning Board that he had the approval of the Rhode Island Department of Environmental Management (RIDEM) for the whole property. The owner's attorney recently said that they have the approval of the RIDEM for the whole wharf because they received a Letter of Compliance in 1996 based on a Site Investigation Report (SIR) done in 1993. I am not sure if the RIDEM in their Letter of Compliance of 1996 feels that this is an approval for a 2020 Demolition Permit. I have asked them if that was their intention.

I feel a lot of things have changed in the last 27 years so that an updated study and plan would be appropriate and necessary. We have learned a lot about the dangers of these toxic chemicals, oceans rising, health and safety dangers, environmental risks, increased nor'easters, storms and hurricanes that could flood the neighborhoods, 5th Ward residents, and businesses on Thames Street. Waites Wharf is at sea level on a high-risk flood plain and represents a possible future environmental and health disaster.

Issues with the 1993 Site Investigation Report (SIR)

Water was discussed in the 1993 SIR report. There was no discussion of the movement of the toxic chemicals they found into the neighborhoods. Storm surges

were not a worry. Even dumping the toxic chemicals into the harbor was not a major issue, they would be diluted. Below are some examples of how tidal fluctuations, storms and risks to aquatic life were handled in 1993.

- Tidal Fluctuations / Flushing Mechanism / Absence of Contaminants

1993 SIR page 4 #6 - It is the opinion of Triangle Environmental that tidal fluctuations may provide a flushing mechanism for the site. This may account for the absence of contaminants in some portions of the site. It is assumed that the contaminants flushed to Narragansett Bay would be diluted to a concentration less than the detection limit for that substance, and therefore would not present a significant risk to human health or the environment.

- Potential Migration Pathways - Contaminants into Harbor / Storms

1993 SIR page 4 #9 - Flushing of contaminants into the harbor via tidal forces and storms. This mechanism may have been significant in the past; however, tidal flushing of the area, especially during storms may have removed a majority of the contaminants.

- Risk to Human Health or the Environment

1993 SIR page 5 - The contaminants at the site may present a risk to aquatic life if discharged into the bay (Newport Harbor); however, it is assumed that contaminants migrating into the bay would be diluted to a concentration of less than the detectable limit, and would therefore not present a significant risk to human health or the environment.

I don't know what the "detections limit" was in 1993 to dump toxic wastes into Newport Harbor. I doubt if they are acceptable today. The risk to human health is not just with polluting the harbors, it is in polluting the neighborhoods and businesses on Thames Street with cyanide, arsenic, lead, vinyl chloride, and 11 other benzene chemicals.

Newport Harbor is in a Degraded Condition

1993 SIR page 5 #3 - The closest surface water body is Newport Harbor and Narragansett Bay. Newport Harbor is classified class SC; therefore, it is considered to be in a degraded condition by the Rhode Island Department of Environmental Management (RIDEM) Division of Water Resources.

Newport Harbor is not considered in a "degraded condition" in 2020 and it is not acceptable to flush toxic chemicals to be diluted in the Harbor.

Storage Tank

1993 SIR page 4 #7 - There are a minimum of two underground storage tanks at the site which have neither been registered nor closed in accordance with the Rhode Island Department of Environmental Management (RIDEM) regulations.

There were 5 storage tanks for companies like Standard Oil on Waites Wharf. Some had never been registered or closed in accordance with RIDEM regulations. This was a source of the vinyl chloride and benzene products found in 2020. How many tanks have been left? Are they still polluting?

Spills

Remediation Investigation Report 1994 - Page 4 - A portion of the contamination may have originated from a 10,000-gallon petroleum spill release at the site in 1964. There was no spill report found in the RI Department of Environmental Management (RIDEM) files.

Remediation Investigation Report 1994 - Page 13 - The RI Department of Environmental Management official who investigated the 10,000-gallon spill has since left the Department and moved out of state.

In 1993, they could not investigate the 10,000-gallon spill because the "spill report" was missing and the investigator had moved out of state. They also did not mention the 1,000-gallon spill of gasoline on Waites Wharf in 1916 from a Texas Oil Company.

Recommendation

Waites Wharf has two sources of contamination: 1) The spills and leaking causing the vinyl chloride and benzene products and 2) coal ash from the Newport gasification plant for the arsenic, lead, and cyanide.

The SIR may have been state of the art in 1993, but it is unacceptable with our 2020 standards. The 2020 SIR map of where the borings were done, the charts of the depths where the coal ash was found, and the list of all the toxic chemicals and those that were above the RIDEM Method I Residential needing a Remediation Study and Recommendations were not done in 1993 to the level of today's standards.

We all want a safe Waites Wharf for today and in the future. Due to its location, we are looking at a very serious environmental problem that could create a potential threat to our health, the economic viability of Thames Street, and the preservation of Newport Harbor. We need to begin to study the rest of Waites Wharf.

Thank you for letting me comment on my concerns.

I want to thank you and the RI Department of Environmental Management for the important work you do for all of us.

Best,

Charles Donahue

