

In the Matter Of:

Department of Natural Resources & Environmental Control

Docket No. 2020-P-MULTI-0024

Joint Public Hearing

September 29, 2020

Wilcox & Fetzer

1330 King Street

Wilmington, DE 19801

email: depos@wilfet.com, web: www.wilfet.com

phone: 302-655-0477. fax: 302-655-0497



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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
OF THE STATE OF DELAWARE

RE: Diamond State Port Corporation)
Edgemoor Container Terminal)
Joint Public Hearing)
Docket #2020-P-MULTI-0024)
Virtual Public Hearing)

..

Virtual Public Hearing
Dial-In Number: 1-408-418-9388
Access Code: 129 275 3965

Tuesday, September 29, 2020
6:00 p.m.

..

BEFORE: Lisa Vest, Hearing Officer

-- Transcript of Proceedings --

WILCOX & FETZER
1330 King Street
Wilmington, DE 19801
(302) 655-0477
www.wilfet.com

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1 MS. VEST: The time is
2 approximately 6 p.m. on Tuesday,
3 September 29, 2020. And I want to thank
4 everybody for tuning in and attending this
5 virtual hearing.

6 Thank you again for taking the time
7 out of your busy schedules to be with us. We
8 are here this evening to provide a virtual
9 platform for the State of Delaware's
10 Department of Natural Resources and
11 Environmental Control to conduct a virtual
12 public hearing on the proposed port project
13 from Diamond State Port Corporation, or you
14 might hear us say DSPC during the course of
15 the proceedings.

16 The proposal is to build a new
17 container port on the Delaware River at
18 Edgemoor.

19 For those of you who may not
20 recognize me, my name is Lisa Vest, and
21 Secretary Garvin has appointed me to serve as
22 the Hearing Officer for tonight's
23 proceedings.

24 There have been some changes made



1 to DNREC's standard hearing protocols,
2 necessitated, of course, by the ongoing state
3 of emergency due to the COVID-19 pandemic.

4 First and foremost, this hearing is
5 being conducted virtually. No one has
6 gathered together in the same room. Everyone
7 is participating independently at their
8 respective locations.

9 While we are not physically
10 gathered together tonight, WebEx does
11 generate a list of those who are virtually
12 attending this proceeding, so the Department
13 will still collect a record of those who have
14 electronically attended tonight. And, again,
15 I thank everybody for taking the time out of
16 their schedules to do so.

17 At the conclusion of these
18 introductory remarks, I will be turning the
19 hearing over to representatives for both the
20 Department and the Applicant so that they may
21 offer their presentations for the hearing
22 record that is being generated in this
23 matter.

24 There is still a court reporter



1 virtually present. She will be preparing a
2 verbatim transcript of the hearing tonight,
3 pursuant to the statutory requirement for
4 DNREC to do so. And, as always, that
5 transcript will be posted on the hearing
6 webpage dedicated to this project as soon as
7 it has been received.

8 It should be noted that the
9 Department has offered the ability for
10 members of the public to preregister in order
11 to offer live comment during the hearing this
12 evening.

13 Once all the presentations have
14 been concluded tonight, those persons who
15 preregistered in advance of the hearing will
16 be acknowledged and provided an opportunity
17 to offer their comment in this matter, again
18 in alignment with DNREC's standard hearing
19 comment protocols.

20 It should also be noted that DNREC
21 wishes to ensure that everyone is enabled the
22 ability to offer comments for inclusion into
23 the record.

24 Therefore, the record will not



1 close at the conclusion of tonight's hearing.
2 Rather, it will remain open through
3 November 1, 2020; so, again, the public will
4 have ample opportunity to offer comment if
5 they wish to do so.

6 I would encourage those who are
7 attending the hearing tonight to tune into
8 DNREC's hearing webpage dedicated to this
9 matter. It is found in the Administrative
10 Law Section of DNREC's website.

11 All the presentations that you will
12 be seeing tonight, along with additional
13 exhibits and other documentation related to
14 this proposed project, will all be posted on
15 the hearing webpage dedicated to this matter.
16 And the public can gain a tremendous amount
17 of information by reviewing the same.

18 Of course, all mechanisms
19 previously available by which to offer
20 comments for the record remain intact. There
21 is electronic links, there is e-mail, and, of
22 course, United States Postal Service.

23 Also, please be advised that the
24 following protocols remain in place for all



1 DNREC public hearings:

2 All comment received must be
3 limited solely to the subject matter of
4 tonight's hearing.

5 All comments pertinent to the
6 proposed port will be incorporated into the
7 record being generated at this time.

8 As previously noted, in order to
9 ensure that everyone who wishes to offer
10 comment for the Secretary's consideration is
11 accommodated, the public comment period will
12 remain open following the hearing through
13 November 1, 2020.

14 There is only one authentic record
15 of this formal proceeding tonight, and it is
16 the official court reporter's verbatim
17 transcript.

18 The statutory purpose of tonight's
19 hearing is, of course, to build the record
20 with regard to these proposed matters. A
21 record consisting of the transcript of the
22 hearing tonight, all written comments, all
23 exhibits, and eventually the hearing
24 officer's formal report will all be gathered



1 together and reviewed by Secretary Garvin.

2 The Secretary will ultimately issue
3 an order following his review process, and
4 that order will contain his decision and the
5 reasons therefor.

6 Per DNREC's standard hearing
7 protocols, there will be no question and
8 answer or Q and A, nor will the chat
9 mechanism be used during the hearing tonight.

10 Those who preregistered to offer
11 their verbal comment will be acknowledged to
12 speak once the presentation portion of
13 tonight's hearing has concluded. Additional
14 instruction with regard to the offering of
15 comment will be provided by myself at that
16 time.

17 Lastly, it is important to note
18 that no decision has been made by the
19 Department, nor will any decision be made
20 regarding this proposed project tonight.

21 The public comment period remains
22 open through November 1 so that members of
23 the public do have an opportunity to voice
24 their comment and for the Secretary to review



1 the same prior to those decisions being made.

2 Pursuant to the information posted
3 on our website, comments may be submitted
4 through a comment link form on the hearing
5 page, via e-mail to
6 DNRECHearingComments@delaware.gov, or, once
7 again, through the United States Postal
8 Service with the address being the physical
9 one indicated on the hearing page, as well as
10 the public notices that have previously been
11 issued in this matter.

12 It's important to note that written
13 comments to DNREC are not accepted via social
14 media platforms such as Twitter, Facebook,
15 YouTube, or text messaging.

16 Again, please remember that all
17 comment, whether it is received
18 electronically, whether it is received via
19 physical mail and the United States Postal
20 Service, or whether it comes in verbally
21 tonight, as long as it is received by the
22 Department on or before November 1, 2020, it
23 all bears the same weight, it will all be
24 incorporated into the record, and it will all



1 be taken into consideration by Secretary
2 Garvin prior to any decisions being made on
3 this matter.

4 Lastly, the ultimate decision is
5 made by Secretary Garvin. We are here
6 tonight to extend this formal hearing as a
7 mechanism to enable us to thoroughly vet the
8 proposed project to the public and to let the
9 public know the various ways by which they
10 can submit comment for the record, if so
11 desired.

12 That being said, it is time for our
13 first presentation tonight. There will
14 actually be three sets of presentations from
15 the Department tonight given the nature and
16 scope of the project: The Division of Waste
17 and Hazardous Substances, the Division of
18 Water, and, of course, the Division of
19 Coastal all each have individual
20 presentations.

21 We will do them one at a time
22 beginning with Waste. And following that,
23 the Applicant also has a brief presentation
24 for the benefit of the record so that the



1 public can fully understand what's being
2 proposed.

3 At this time we will begin with the
4 first of the three Department presentations.
5 The Division of Waste presentation is going
6 to be narrated by Chris Brown. Mr. Brown,
7 are you ready? (No response) Mr. Brown, are
8 you ready?

9 MR. BROWN: Yes. Yep. I'm unmuted
10 now.

11 MS. VEST: Okay.

12 MR. BROWN: Thank you, Lisa.

13 MS. VEST: Proceed.

14 MR. BROWN: Thank you. Good
15 evening. I'm Chris Brown with the Division
16 of Waste and Hazardous Substances.

17 Frank Gavis and Wendy March, who
18 have worked on this project with the Division
19 are also participating this evening.

20 And, as Lisa had just mentioned,
21 this is the first of three presentations by
22 the Department of Natural Resources and
23 Environmental Control regarding this port
24 project.



1 Next slide, please.

2 This evening we are considering a
3 permit application submitted by the Diamond
4 State Port Corporation. The unique aspect of
5 this process is that the Division of Waste
6 and Hazardous Substances has produced a full
7 draft permit for consideration this evening
8 in the public comment period.

9 Next slide, please.

10 Some regulatory background: This
11 site is regulated by the Department of
12 Natural Resources and Environmental Control,
13 Division of Waste and Hazardous Substances
14 under Delaware's Regulations Governing
15 Hazardous Waste, as delegated by the U.S.
16 Environmental Protection Agency.

17 The EPA delegated the authority to
18 implement the Resource Conservation and
19 Recovery Act, known as RCRA. The RCRA
20 program regulates facilities that treat,
21 store, dispose of, and generate hazardous
22 waste as well as municipal waste.

23 Next slide, please.

24 The draft permit under



1 consideration is required in order to
2 implement corrective measures, impose
3 critical care at the site, as required by the
4 Hazardous Waste regulations.

5 DNREC has drafted a site-specific
6 permit that is not a one-size-fits-all
7 document.

8 Next slide, please.

9 The previous corrective action
10 permit expired under the previous site owner,
11 Chemours, who demolished the site in 2016,
12 pending its sale to the Diamond State Port
13 Corporation in February of 2017. No
14 operations have been conducted at the cite
15 since then.

16 Next slide, please.

17 This site comprises two parcels for
18 a total of 115 acres located in Edgemoor, New
19 Castle County. It's bounded by the Delaware
20 River to the east, Hay Road to the west, Fox
21 Point State Park to the north, and industrial
22 sites to the south.

23 Next slide, please.

24 In this aerial photo in the figure,



1 the site is located in the upper right-hand
2 corner of the photo, extending up to the
3 right-hand edge, and some other landmarks in
4 the area are pointed out, as well.

5 Next slide, please.

6 The site was operated as a titanium
7 dioxide production facility until it was
8 closed in 2016.

9 Under the prior corrective action
10 permit, a thorough two-phase investigation
11 and risk assessment were performed with the
12 goal of the port facility that is being
13 proposed.

14 Next slide, please.

15 The permit being considered
16 includes a proposed remedy, the details of
17 which are provided in the statement of basis
18 document that is also open for public
19 consideration in this process.

20 The permit covers the
21 implementation of the remedy and any required
22 post-closure care. It provides for future
23 enforcement, if necessary. And it has the
24 input and approval of Region 3 of the U.S.



1 Environmental Protection Agency.

2 Next slide, please.

3 The proposed remedy is based upon a
4 thorough two-phase site investigation and
5 groundwater study. It is based upon the
6 conclusions of a Human Health and Ecological
7 Risk Assessment. And it also has the input
8 and approval of Region 3 of the U.S. EPA, and
9 is consistent with the site's proposed reuse.

10 Note that active remedial measures
11 are not warranted according to the risk
12 assessment and the proposed site use.

13 Next slide, please.

14 The major components of the remedy
15 are as follows: Asphalt capping of the
16 majority of the site; implementation of a
17 Contaminated Materials Management Plan during
18 site construction; groundwater monitoring
19 according to a Post-Closure Care Plan; and an
20 Environmental Covenant to be established post
21 construction.

22 A little bit more about the
23 justification for the proposed remedy. The
24 justification of the remedy is actually



1 provided in the statement of basis document
2 that I had mentioned that is also open for
3 public consideration.

4 And also regarding post-closure
5 care, that's a program of long-term
6 monitoring, maintenance and inspection to
7 ensure the remedy, make sure that the remedy
8 remains effective.

9 Next slide, please.

10 And, as Lisa has mentioned earlier,
11 comments on the permit and statement of basis
12 are still being sought through November 1st.

13 And this concludes the presentation
14 of the Division of Waste and Hazardous
15 Substances. Thank you.

16 MS. VEST: Okay. Thank you, Mr.
17 Brown. Does the Division have exhibits that
18 they wish to have entered into the record at
19 this time?

20 MR. BROWN: Yes, we do.

21 MS. VEST: Okay. And as I see on
22 the screen that's being shared right now, are
23 the same -- are the exhibits that you wish to
24 enter into the record the same as those that



1 have been posted on the hearing webpage?

2 MR. BROWN: Yes, they are.

3 MS. VEST: Okay. And are the ones
4 that you wish to be submitted into the
5 record, have they been revised or altered in
6 any way other than what has already been
7 produced?

8 MR. BROWN: They have not.

9 MS. VEST: Excellent. Let the
10 record reflect that the exhibits proposed by
11 the Division of Waste and Hazardous
12 Substances are hereby entered into the formal
13 hearing record in this matter.

14 And, again, thank you, Chris, for
15 that. Does your division have any additional
16 comments it wishes to offer at this time?

17 MR. BROWN: We do not. Thank you.

18 MS. VEST: Thank you. Moving down
19 the line right now, we will now see and hear
20 from the Division of Water regarding their
21 portion of this project: Katie, can you hear
22 me?

23 MS. ESPOSITO: Hi. Yes.

24 MS. VEST: Okay. You may proceed.



1 MS. ESPOSITO: Hello. My name is
2 Katie Esposito, Environmental Scientist with
3 the Division of Water's Wetlands and
4 Subaqueous Lands Section.

5 Also from the Division of Water is
6 Stephen Smailer, Program Administrator.

7 Next slide, please.

8 DSPC has applied for a Subaqueous
9 Lands Permit pursuant to the Subaqueous Lands
10 Act and will be reviewed according to the
11 Regulations Governing Subaqueous Lands.

12 Next slide, please.

13 Since they have also applied to the
14 Army Corps of Engineers for an individual
15 permit, we will also be reviewing the
16 application with regards to the Clean Water
17 Act, Section 401, Water Quality
18 Certifications.

19 Next slide, please.

20 With respect to the Subaqueous
21 Lands Jurisdiction, the new port being
22 proposed will include: The construction of a
23 2,600-foot-long wharf, including 3,200 feet
24 of bulkheading occupying approximately



1 5.5 acres of subaqueous lands; dredging
2 approximately 3.3 million cubic yards of
3 sediment to a depth of 45 feet below mean
4 lower low water with the proposal to store
5 the majority of the material in existing Army
6 Corps of Engineers disposal facilities with
7 some potential on-site reuse.

8 Next slide, please.

9 The application was received on
10 March 13, 2020.

11 Next slide, please.

12 A revised application was received
13 on June 11, 2020.

14 Next slide, please.

15 Additional information was received
16 on June 19, 2020.

17 Next slide, please.

18 The project and notice of this
19 hearing were placed on public notice on
20 August 23, 2020.

21 Next slide, please.

22 We will incorporate comments
23 received through November 1, 2020 into our
24 review.



1 Next slide, please.

2 Thank you for your time.

3 MS. VEST: Okay. Thank you, Katie.

4 Does the Division of Water have exhibits that
5 they wish entered into the hearing record at
6 this time?

7 MS. ESPOSITO: Yes.

8 MS. VEST: Excellent. And, as I
9 asked the Division of Waste previously, we
10 are now seeing the list of exhibits as they
11 have been posted for view on the hearing
12 webpage.

13 Are the exhibits that the Division
14 of Water wishes entered into the record now
15 the same as those that have been posted on
16 the hearing website?

17 MS. ESPOSITO: Yes, they are.

18 MS. VEST: And have they been
19 altered or revised in any way since that
20 time?

21 MS. ESPOSITO: No, they have not.

22 MS. VEST: Excellent. Thank you.

23 Let the record reflect, then, that the
24 Division of Water exhibits, as posted on the



1 hearing webpage, are hereby incorporated into
2 the formal hearing record being generated in
3 this matter.

4 And again, Katie, I thank you for
5 your presentation.

6 Does the Division of Water have any
7 additional comments they wish to put on the
8 record at this point?

9 MS. ESPOSITO: No, ma'am, not at
10 this time. Thank you.

11 MS. VEST: Thank you. Moving now
12 to the third of the three presentations on
13 behalf of the Department, Laura, are you
14 ready?

15 MS. MENSCH: Yes.

16 MS. VEST: You may proceed.

17 MS. MENSCH: All right. Thank you,
18 Lisa. Good opening, everyone. I'm Laura
19 Mensch, Regulatory Programs Manager with the
20 Delaware Coastal Programs Section within the
21 Division of Climate, Coastal and Energy.

22 I will be presenting on the Federal
23 Consistency Review of the Diamond State Port
24 Corporation's proposed port expansion project



1 at DSPC's Edgemoor property in New Castle
2 County, Delaware.

3 I will be presenting the third and
4 final portion of DNREC's presentation for
5 tonight's hearing, to be followed by a
6 presentation from the Applicant.

7 Federal Consistency is a provision
8 in the Coastal Zone Management Act that
9 requires the federal government to comply
10 with a state's federally approved Coastal
11 Management Program when taking actions that
12 are likely to affect the coastal uses and
13 resources of that state.

14 The National Oceanic and
15 Atmospheric Administration's regulation
16 implementing the Federal Consistency
17 provision of the CZMA are contained in 15
18 C.F.R. Part 930.

19 The DCMP has review authority for
20 the proposed activity being discussed tonight
21 through 15 C.F.R. Part 930, Subpart D,
22 Consistency for Activities Requiring a
23 Federal License or Permit.

24 The DCMP Consistency Policy and



1 Procedures document is used to review
2 projects for Federal Consistency.

3 The Policy and Procedures document
4 is comprised of enforceable policies based on
5 pre-existing state laws, regulations, and
6 executive orders.

7 The DCMP coordinates its
8 consistency response with the state networked
9 partners.

10 The Diamond State Port Corporation
11 has applied for a federal permit, a U.S. Army
12 Corps of Engineers' permit, pursuant to
13 Section 10 of the Rivers and Harbors Act and
14 Section 404 of the Clean Water Act.

15 The DSPC proposes to construct a
16 new container port on the Delaware River at
17 DSPC's Edgemoor property in New Castle
18 County, Delaware.

19 This project will include the
20 construction of an approximately 2,600-foot
21 long wharf structure, dredging of
22 3.3 million cubic yards of river sediments
23 and underlying soil, excavating the berth and
24 access channel to a depth of 45 feet below



1 mean lower low water, and bulkheading 3,200
2 linear feet of shoreline.

3 Dredged materials will be stored in
4 confined disposal facilities, and a portion
5 of the dredge may be used as fill. The use
6 of shoaling fans is being proposed to reduce
7 the frequency of future maintenance dredging.

8 I will now cover the DCMP's
9 regulatory timeline to date for this project.

10 On March 18, 2020, the DSPC
11 submitted a Federal Consistency Certification
12 and Completed Application Form; a copy of the
13 Army Corps Permit Application; and an
14 Environmental Assessment Technical Document
15 and Appendices.

16 On June 10, 2020, the DCMP issued
17 an extension letter to extend the review from
18 three months to six months.

19 On June 11, 2020, DSPC submitted a
20 revised Environmental Assessment Technical
21 Document and Appendices to reflect the
22 possible beneficial reuse of Strata B, to be
23 stored on site in a dedicated Confined
24 Disposal Facility.



1 On August 3, 2020, the DCMP and
2 DSPC mutually agreed to stay the six-month
3 review period.

4 On August 23, 2020, the DCMP
5 provided public notice of the proposed
6 activity and invited public participation in
7 the review by issuing a public notice of the
8 receipt of the Consistency Certification and
9 advertisement of the date of the scheduled
10 public hearing.

11 As mentioned previously, the
12 Department will accept public comment through
13 Sunday, November 1, 2020.

14 This concludes the Delaware Coastal
15 Management portion of the presentation and
16 the Department's presentation. Thank you for
17 your interest and attention.

18 MS. VEST: Thank you, Laura. And,
19 as was the case with the previous two
20 divisions, does your division have exhibits
21 that you wish to have entered into the record
22 at this time?

23 MS. MENSCH: Yes.

24 MS. VEST: Okay. And we are now



1 seeing those on the screen. Thank you.

2 As I asked the other divisions, are
3 the exhibits that you wish entered into the
4 record those that have been posted on the
5 hearing webpage in this matter?

6 MS. MENSCH: Yes.

7 MS. VEST: And are they altered or
8 revised in any way other than the way that
9 they appear on the webpage?

10 MS. MENSCH: They are not altered.

11 MS. VEST: Thank you. Let the
12 record reflect that the Coastal DCMP
13 exhibits, as referenced just now, are hereby
14 entered into the formal record being
15 generated in this matter.

16 And thank you again, Laura, for
17 your presentation.

18 Does your division have any
19 additional comments you wish to make for the
20 record at this time?

21 MS. MENSCH: No, we do not.

22 MS. VEST: Excellent. Thank you.

23 At this point the Department's entry of
24 exhibits and presentations have been



1 concluded.

2 We will now turn to the Applicant,
3 who I believe is going to be kicking off the
4 presentation with Dave Small at the helm.
5 Mr. Small, you have the floor.

6 MR. SMALL: Thank you very much,
7 Ms. Vest. And thank you to the Department
8 and all of its leadership for putting
9 together the hearing this evening.

10 We understand the challenges that
11 exist for everyone in this virtual world, and
12 we appreciate the opportunity to provide an
13 overview of the project.

14 And we also appreciate the fact
15 that the Department was able to combine these
16 three approvals into one process. I think it
17 gives a more complete view of the project and
18 the opportunity for the public to comment
19 comprehensively.

20 As Lisa said, my name is David
21 Small. I am with Duffield Associates. We
22 are here on behalf of the Applicant, the
23 Diamond State Port Corporation.

24 We have been working with DSPPC on



1 assembling the application and much of the
2 supporting documentation, some of which we
3 will cover and highlight in this evening's
4 presentation.

5 Along with me this evening, you
6 will be hearing from Gene Bailey, who is the
7 Executive Director of the Diamond State Port
8 Corporation; Mr. Brian Devine, who is
9 Technical Director and Engineer here at
10 Duffield Associates; and Mr. Eric Casey is
11 the CEO of Gulftainer Wilmington USA.

12 Next slide, please.

13 So this evening we will be giving
14 you a project overview. You have heard some
15 of that this evening through the Department's
16 presentations.

17 That will include the RCRA permit
18 renewal and process, the Subaqueous Lands
19 permit details, and some of the studies that
20 supported the permit application to the
21 Subaqueous Lands group at DNREC. And then
22 from Mr. Casey you will hear some highlights
23 on the project benefits.

24 Next slide, please.



1 At this time I would like to turn
2 it over to Mr. Gene Bailey from DSPC.

3 MR. BAILEY: Good evening. My name
4 is Gene Bailey. I'm an Executive Director
5 for the Diamond State Port Corporation.

6 Initially, I can only echo exactly
7 what Dave has said with respect to the
8 appreciation for moving this project forward
9 as a single unit. And I appreciate the time
10 and effort you have put forth to make this
11 meeting go this evening.

12 Just a quick history. Pardon me.
13 Next slide. Sorry.

14 Just a quick history. For planning
15 purposes, in 2015 the governor created a
16 group of individuals, which was then
17 supported by the General Assembly with
18 representation from Representative Potter was
19 the chairman, and the co-chair was Senator
20 Margaret Rose Henry.

21 As part of this process, and we
22 went on for many meetings, many meetings with
23 the public, many meetings individually, and
24 we decided that it would be a requirement for

1 a master plan. And we went out, and we
2 developed a master plan for the port.

3 During that process we also had
4 stakeholder meetings, and we identified
5 Edgemoor as the preferred location for port
6 expansion.

7 In 2017, with the approval of our
8 board, Diamond State Port Corporation
9 purchased Edgemoor.

10 Once that was concluded, we then
11 went out and started an RFP process to select
12 an operator for the port.

13 We had many applicants. They were
14 reviewed by internal and external
15 individuals. We engaged an outside company.

16 And we were very fortunate that
17 Gulftainer applied, and it was recommended
18 that they would operate the Port of
19 Wilmington on behalf of the Diamond State
20 Port Corporation.

21 This was approved by the Diamond
22 State board on April 6, 2018 at a public
23 meeting.

24 It was approved by the Delaware



1 Capital Improvement Committee on April 19th,
2 and approved by the Delaware General Assembly
3 on April 24th. And these were all in 2018.

4 Gulftainer took the operations over
5 on October 3rd, 2018, and we are very
6 appreciative of their efforts and where we
7 are today.

8 I now go back to Brian.

9 MR. SMALL: Actually, this is David
10 Small again. And next slide, please.

11 And so this is an artist's
12 rendering of what the new proposed port would
13 look like, the container port at the Edgemoor
14 site.

15 Next slide, please.

16 So a number of these facts have
17 been covered by various Department
18 presentations that appeared earlier.

19 But a couple of things I would like
20 to highlight here is that this port will be a
21 modern facility equipped with electric cranes
22 and gantries. And it's going to be
23 configured to handle cargo with larger ships.

24 You can see in the artist's



1 rendering it was a two-slip berth. These
2 will be larger ships, more efficient, and
3 likely newer ships that are populating the
4 fleet.

5 Associated also with the project,
6 of course, much of this site has been taken
7 to grade and demolished, as you heard through
8 Mr. Brown's presentation, as far as the RCRA
9 process.

10 But there are some remaining
11 water-intake structures, the existing dock
12 structures that remain in place, the
13 industrial wastewater and outfall structures,
14 and some of the stormwater outfall structures
15 will be demolished as part of the project.

16 The two bullets at the end, I would
17 also highlight at the bottom of the slide,
18 that there is proposed in the application the
19 implementation of sedimentation controls that
20 you will hear more about in a little bit, as
21 part of the presentation, to reduce some of
22 the long-term impacts of sedimentation.

23 And, as Mr. Brown highlighted, the
24 project will replace impervious cover to

1 address the legacy environmental issues that
2 remain on site.

3 Next slide, please.

4 There was also a great deal of
5 transparency with this project leading up to
6 the submission of the applications both to
7 the Corps of Engineers and to DNREC.

8 In this image on the slide you can
9 see Mr. Casey at a public hearing that was
10 held in March of this year. This was
11 pre-COVID, of course.

12 But there is a listing of a number
13 of organizations that the team met with,
14 listened to concerns, described the project.
15 And those included the Council of Civic
16 Organizations for Brandywine Hundred, Eastern
17 Brandywine Hundred, the Edgemoor Civic
18 Association, Delaware Nature Society,
19 Brandywine Hundred Fire Company, and also
20 meetings with a number of County and State
21 elected officials.

22 And it, again, culminated with the
23 March 11th public meeting that was held in
24 the community at Mount Pleasant Elementary



1 School.

2 Next slide, please.

3 So. I'd like to expand a little
4 bit more on some of the specifics associated
5 with the RCRA permit renewal, as described by
6 Mr. Brown.

7 Next slide, please.

8 So this is an image -- and you have
9 seen an image previously in the
10 presentation -- but this is an aerial image
11 that shows the community in the Edgemoor
12 site.

13 I'm not sure if you can see it.
14 The footprint of the location is highlighted
15 in red. There is a number of images that
16 show the previous and current condition of
17 the site as it was occupied by formerly
18 DuPont and then Chemours.

19 There is probably a
20 difficult-to-read chronology. But really the
21 point there is that this site has enjoyed an
22 industrial -- or has been engaged as an
23 industrial and manufacturing use since the
24 1800s through 2016, as you heard.



1 Next slide, please.

2 Mr. Brown highlighted a number of
3 activities that were taken by DuPont and
4 Chemours to characterize the site through
5 investigation and remediation.

6 And as a result of that, one of the
7 SWMU, which is Solid Waste Management Unit,
8 was closed using lined caps, and post-closure
9 monitoring was required. And that continues.

10 There was also a no further action
11 required at the other management units that
12 were characterized.

13 And, as was noted earlier in 2017,
14 the Diamond State Port Corporation assumed
15 the long-term stewardship responsibilities
16 for the site.

17 Next slide, please.

18 This is really an area that is
19 highlighted at the north end of the site.
20 These are the closed waste lagoons that I
21 mentioned in the previous slide.

22 And there will be ongoing
23 monitoring, as required by the permit, draft
24 permit, as described by Mr. Brown, into the



1 future to assure that there is no
2 contamination escaping from the site and that
3 the structural integrity of the caps remain
4 in place as far as any future site
5 development.

6 Next slide, please.

7 So on this slide I would like to
8 highlight that the work plans, the schedules,
9 and importantly, the design for this site, as
10 it is redeveloped, and the infrastructure for
11 the port is designed, that will be subject to
12 DNREC approval, as required by the permit.

13 And I would also say that, to
14 highlight, that the elements that have been
15 identified in the draft permit and as part of
16 the Diamond State Port Corporation's plan for
17 redevelopment, working with Gulftainer, is to
18 implement elements that would limit human
19 exposure, water infiltration into the
20 environmental soils. And those include the
21 buffer and cap and the new stormwater
22 management system.

23 And at this point I would like to
24 turn the microphone over to Mr. Brian Devine



1 from Duffield.

2 MR. DEVINE: Thank you. Next
3 slide, please.

4 At this point we would like to talk
5 a little bit about the subaqueous side of the
6 project, now that Mr. Small has talked about
7 some of the RCRA issues.

8 Next slide.

9 To start off a little bit about the
10 site that we are looking at, the Edgemoor
11 terminal is located at approximately River
12 Mile 73.2.

13 It's an area that's approximately
14 2 miles north of where the Christina River
15 meets the Delaware River, which is where the
16 current Port of Wilmington is located.

17 And it is along the main channel of
18 the Delaware River in the area known by the
19 Corps as the Bellevue Range. And it abuts
20 the northern end of the Cherry Island Range.

21 And on the land side, it's to the
22 east of Route 495, and it's located between
23 the Calpine Power Plant and Fox Point State
24 Park.



1 So it's also bordered by other
2 industrial sites between the site and the
3 river.

4 This portion of the river is in the
5 area where the salt line is generally
6 delineated by DRBC. As you can see in this
7 sketch, the salt line is seasonally variable,
8 and it extends from the northern -- almost
9 the Delaware to Pennsylvania border down to
10 an area at the New Castle range area of
11 Delaware.

12 And, generally, the area of the
13 salt line is where the brackish water is
14 mixed with the saltwater from the Delaware
15 Bay and the freshwater from the Philadelphia
16 area.

17 And that mixing of the different
18 types of water creates a very turbid
19 condition.

20 That turbidity, which is the
21 measure of light, how dirty the water is to a
22 normal person, but it's the measure of light
23 penetration through the water. It is
24 generally measuring how much sediment is



1 suspended in the water.

2 Because this area is contributing
3 maximum, which generally extends from below
4 the Christina River up through past the salt
5 line, there has been a lot of monitoring long
6 term by others before we started our project.

7 And that monitoring has shown that
8 in many times the suspended sediments that
9 are located in the river column, in the water
10 column of this portion of the river, can be
11 measured up to a thousand milligrams per
12 liter, which you can see on the photograph as
13 shown here, is that picture all the way on
14 the right.

15 And that is highly variable with
16 both the tide cycles and the seasons. But it
17 is one of our considerations.

18 Next slide, please.

19 This is an outline of the site that
20 we are looking at. The land side is the gray
21 area along the top of the screen. And then
22 you can see the navigation channel
23 delineated, as well as our project area.

24 As we began looking at this



1 project, we performed a cultural resources
2 survey. That included a desktop review of
3 the history of the site, what we might expect
4 to find, and then it included a review on the
5 site below the water, including sonar and
6 magnetometer readings to develop what might
7 be present on the site.

8 Things that were identified during
9 that process included abandoned buoys,
10 abandoned piers, anchor chains that were
11 dropped throughout the site's history.

12 At the conclusion of that report,
13 which was then submitted to the Delaware
14 State Historic Review Office, or DSHRO,
15 included a conclusion that there were no
16 historical or cultural resources identified
17 within the project area.

18 From that conclusion, the harbor
19 was laid out along the shoreline, and that
20 was mainly developed through modeling that
21 was done at MITAGS Center in Baltimore, which
22 does a ship simulation of ships approaching
23 the site from the Delaware Memorial Bridge,
24 and then entering the site through the



1 turning basin that is roughly outlined in the
2 circle shown on the downriver portion of our
3 project.

4 And that study was supported by
5 multiple Delaware River Pilots, the pilots
6 that operate the ships that enter the
7 Delaware River to our site, as well as any
8 other site.

9 And through that study, several
10 modifications to the project were added.
11 That included some slight changes to the
12 footprint, as well as the location of the
13 pier was shifted slightly.

14 Next slide, please. This shows a
15 little bit of an outline of the grading that
16 we are proposing, as well as the pier
17 structure.

18 We have reviewed that the harbor
19 and the pier area covers approximately
20 64 acres of maintained channel. And to
21 create that with the grading along the side
22 slopes results to a disturbance area of just
23 under 87 acres that we propose to dredge in
24 the harbor area to maintain 45 feet of mean



1 lower low water. And then we were adding the
2 piers and the bulkheads as discussed
3 previously.

4 In the outline we are proposing a
5 high-deck structure that is pile supported.
6 That piles are roughly spaced 5 to 10 feet
7 beneath the high-deck structure. And those
8 pier elevations, the locations of the
9 bulkhead, were all determined based on the
10 environmental legacy of the site, limiting
11 the disturbance into the site of potential
12 impacts to the lagoons that Mr. Small
13 discussed.

14 And then the elevations overall
15 were developed based on the combination of
16 potential sea level rise from today's
17 conditions.

18 Next slide.

19 To create that grade that was
20 shown, we are proposing a dredging program.
21 Through our on-site studies, we determined
22 that there are essentially three main soil
23 particulates on the site. There is a strata
24 of silt on the surface, a second Strata B of



1 sands, which is the strata that was mentioned
2 earlier as the beneficial use material. And
3 then the lower material is a natural Potomac
4 clay or clay sand material.

5 In order to remove that material
6 from our harbor area, we propose to use a
7 cutterhead dredge. The cutterhead dredging
8 is a suction-type dredge which sucks the
9 material off of the base of the river, as
10 shown in this illustration, and it pumps it
11 through a pipeline to shore.

12 It's the method that's used
13 throughout the river by the Corps to maintain
14 their channel, and it's a method which
15 generally limits the turbidity, because it
16 sucks the material and water from the
17 surrounding area, and it also limits the
18 double and triple handling of the sediment
19 that's removed that's typical with other
20 materials, other dredge methods such as
21 bucket dredging.

22 The material would then be pumped
23 to a confined disposal facility. That would
24 be done through a combination of floating and

1 submerged pipelines that are situated on the
2 river in a method to not impact any of the
3 operations on the river. So anywhere where
4 boats are active, that pipeline is submerged
5 temporarily.

6 And this method is something that
7 is done seasonally, so there are established
8 dredge windows by both DNREC and the Corps of
9 Engineers of when this type of method is
10 allowable on the Delaware River. And our
11 project will adhere to those windows.

12 Next slide, please.

13 We have included in our application
14 four confined disposal sites along the
15 Delaware shoreline of the Delaware River. As
16 was mentioned, these are all current disposal
17 areas, facilities that are in use or have
18 been in use by the Corps of Engineers.

19 And just to talk a little bit about
20 what confined disposal is, confined disposal
21 is when the material is pumped into an upland
22 site.

23 As you can see in the figure in the
24 top right, that site typically has perimeter



1 berms built around it to create a bowl. And
2 when that material is pumped into it, the
3 bowl, through a sluice box, the material is
4 held in that bowl while the slurry, which is
5 the mixing of the soil and the sucked water
6 that came from the river, that creates a
7 slurry with a very high suspended sediment
8 load. It holds that material while that
9 sediment slowly settles out of the slurry
10 until you have clear enough water to meet the
11 regulatory standards for discharge back into
12 the river.

13 Next slide, please.

14 So numerous hydraulic studies that
15 are performed on the river for over 20 years
16 in both the Port of Wilmington, the Christina
17 River, and the eastern portion of the
18 Delaware River have shown that the
19 sedimentation that is experienced is a
20 function of tidal velocity.

21 The sediment, the yearly sediment
22 that's developed in this area, is primarily a
23 fine-grade sediment, which settles onto the
24 riverbed through the tide cycles.



1 It's typical for this sediment to
2 settle and mobilize during ebb-and-flow
3 tides, and then settle during slack tides.

4 And the purpose of these fans -- or
5 excuse me -- and then in high-tidal
6 velocities, there is little to no
7 accumulation of sediment in a yearly basis.
8 That managed dredging occurs annually,
9 biannually or during longer periods.

10 And that the areas where sediment
11 accumulates coordinates with areas that have
12 low flow and have lower tidal velocities.
13 And this results in sedimentation hotspots.

14 That results in a majority of the
15 yearly sediment in the river coming from
16 several areas of the river, not uniformly
17 throughout the river basin.

18 The purpose of these fans is to
19 mimic the tidal flow that's experienced in
20 the higher-velocity portions of the river by
21 artificially increasing the flow rate in
22 areas that may be lower.

23 This is done through a rotating
24 turbo fan that you can see a picture of it,

1 the white unit. It's approximately 14 feet
2 high. And it mimics the higher tides by
3 slowly rotating through the tidal zone twice
4 a day, mashed with the ebb-and-flood tides.

5 Next slide.

6 At this point I'm going to turn it
7 back over to Mr. Small, who is going to take
8 you through some more of our studies.

9 MR. SMALL: Thank you, Brian. Yes.
10 What we would like to do now is talk a little
11 bit about some of the studies that were
12 conducted in order to support the application
13 to both DNREC and to the Corps of Engineers.
14 And a lot of that involved field survey work,
15 as you can expect.

16 Next slide, please.

17 So a little bit about the process.
18 Some of you are probably familiar with the
19 joint permitting process meeting. This is an
20 assembling of the regulatory agencies at the
21 State and Federal level. And that was held
22 back in April of 2018.

23 The Diamond State Port Corporation
24 developed an Environmental Assessment



1 Technical Document, which was really
2 assembled under the guidance of the National
3 Environmental Policy Act.

4 Following that, a NEPA scoping
5 letter was issued to interested Federal and
6 State agencies by the Corps of Engineers in
7 December of 2018.

8 And the technical document, as you
9 might imagine, addresses really the full
10 suite of issues to be considered through the
11 NEPA process.

12 But for tonight's purposes we would
13 like to really highlight four of those areas
14 that are most germane to the Subaqueous Lands
15 application this evening.

16 And those are essential fish
17 habitat, endangered species, and then
18 sediment and water quality.

19 Next slide, please.

20 And the images are just
21 representations of the studies and reports
22 that were conducted. The considerations for
23 habitat, as part of the Subaqueous Lands
24 application, was essential fish habitat. And



1 there is a mapping tool that is -- and a
2 series of maps that are developed by the
3 National Marine Fisheries Service that
4 identifies areas near coastal areas, offshore
5 areas that are essential for fish, fish and
6 aquatic life.

7 We looked at the local affected
8 environment around the project area. And we
9 also evaluated the quality and quantity of
10 the existing natural resources in the
11 immediate project area.

12 And those included wetlands,
13 subaqueous vegetation, or SAV, as it's also
14 known, and we also looked at the benthic
15 community, those -- that aquatic life that is
16 found in the sediments in the project area.

17 In addition to that, we also
18 reviewed a lot of information regarding
19 commercial and recreational species in the
20 project area.

21 Next slide, please.

22 So these images, as I think you can
23 surmise, show a combination of the shoreline
24 as it exists. You can see the interphase



1 between the -- I will call it the beach area
2 and the existing seawall that exists.

3 You can see one of the structures
4 that we spoke of earlier that would be
5 demolished as part of the project, and then
6 an image looking toward the site from the
7 existing pier area.

8 And then also what you will see are
9 some of the samples that were collected in
10 search of submerged aquatic vegetation from
11 the project area.

12 And part of this investigation also
13 included on-site survey for wetlands. And
14 conclusions from this work were that there
15 are no wetlands in the project area, and
16 there was no submerged aquatic vegetation
17 found in the project area.

18 Next slide, please.

19 So continuing discussion of
20 habitat: Some of the conclusions that we
21 reached here, as a result again of field
22 study and collecting specimens from the area,
23 the conclusion was that the organisms that
24 were identified in the immediate project area



1 don't necessarily represent a diverse
2 assemblage of aquatic life.

3 They are typically found fairly
4 ubiquitous in this area of the river. They
5 are pollutant tolerant for the conditions in
6 the area, and are found, you know, in
7 adjacent areas to the project area.

8 As Mr. Devine spoke to earlier, the
9 project is in a very high-turbidity area, and
10 the species that are found in this region are
11 accustomed to those high-turbidity
12 conditions.

13 Many may be aware of the rocky
14 riverbed that is located north of the project
15 site, as well as Cherry Island Flats. Both
16 are known for their attributes to support
17 aquatic life, and those areas will not be
18 impacted by the disturbance.

19 So, as a result of our field work
20 and accompanying literature review and the
21 reports that were developed with that
22 information, there was no indication that the
23 area includes essential fish habitat for
24 spawning, breeding, and feeding and growth



1 for aquatic life in the local assessed area.

2 The images that you see are what
3 was collected as a result of a netting
4 survey, and then a table that shows the
5 species and number of species that were
6 brought to survey.

7 Next slide, please.

8 So some of the considerations
9 regarding endangered species:

10 As many of you know, the Delaware
11 River has fairly recently been classified as
12 critical habitat for Atlantic Sturgeon. And
13 there are additional potential endangered
14 species that could potentially be found at
15 the site.

16 Those include Shortnose Sturgeon, a
17 variety of turtles, whales, and bats on the
18 upland portion of the site.

19 You know, other considerations were
20 the types of construction activities that you
21 have heard previously mentioned, the
22 additional shipping traffic that may result
23 from the construction of the project, and
24 then, as Mr. Devine outlined, the

1 sedimentation fans.

2 Next slide, please.

3 So regarding our conclusions around
4 the issue of endangered species: Apologies
5 for a little bit of redundancy here.

6 But, again, the project is in a
7 high-turbidity area, and that the
8 construction turbidity where the dredge is
9 actually pulling material sediments from the
10 bottom is unlikely to impact species that are
11 accustomed to those existing conditions of
12 high turbidity.

13 Our assumption is also that the
14 construction of the project will occur
15 outside the migratory spawning window, which
16 is from March 1st to July 1st.

17 And that, finally, the removal of
18 contaminated sediments will be beneficial to
19 the aquatic food chain.

20 The conclusions of the biological
21 assessment was that the critical habitats of
22 sturgeon that are found in the Delaware River
23 are not significantly impacted by the
24 project.



1 There is a low probability that
2 there are potential ship strikes insomuch as
3 one additional, based on the calculations.
4 And what we know about ship traffic and
5 projected ship traffic in the river, we
6 believe that there could be one additional
7 Atlantic Sturgeon mortality that might occur
8 every five-and-a-half years, and an
9 additional Shortnose mortality about one
10 every 85 years.

11 And, as a result of that, we
12 believe that the project is not likely to
13 adversely affect the continued existence of
14 endangered species at the project site or in
15 the action area.

16 And so when we looked -- I should
17 add that when we looked at the distribution
18 of endangered species, we looked at both the
19 immediate project area as well as the
20 Delaware River and Bay down to the capes,
21 Cape May and Cape Lewes area.

22 Next slide, please.

23 So continuing in looking at some of
24 these key areas, sediments, of course, are a



1 consideration. And we took a lot of time to
2 look at the quality of the material that
3 could be potentially reused and the
4 environmental condition of those sediments
5 that would be dredged from the location.

6 And the conclusions there were
7 that -- and I should say that the material
8 was screened against the Delaware Hazardous
9 Substances Cleanup Act Risk Screening levels,
10 and those were used to really determine the
11 levels of contaminants that could be found at
12 this site.

13 And so, as far as the silts and
14 sands at the location, this is the immediate
15 project site, we found that benzopyrenes,
16 PCBs, or polychlorinated biphenyls, dioxin,
17 arsenic, thallium were above HSCA screening
18 levels.

19 And in the clays we found that
20 arsenic and vanadium in the clays were also
21 elevated, but, because they were found in the
22 undisturbed area of Potomac soils, it would
23 suggest that those are naturally occurring
24 levels.



1 And, again, a conclusion here is
2 that removing sediments that contain those
3 levels of contaminants from the river provide
4 a positive benefit to local ecosystems and
5 support fishable goals.

6 I think many folks know that a
7 number of these can bio-accumulate,
8 particularly PCBs, in aquatic life. And for
9 a number of years, the State of Delaware has
10 had fish consumption advisories in this area
11 in place. And we believe that removing that
12 contaminant sediment supports that fishable
13 goal long term.

14 And, in addition, we also examined
15 how the material would be handled through the
16 dredging process and then the placement in
17 the storage facilities. And we have
18 concluded that the sediment management
19 techniques will maintain acceptable risks for
20 human exposure through the construction
21 process.

22 Next slide, please. We thank you
23 for your attention. We are into the
24 homestretch here.



1 Also on water quality, the
2 considerations here, of course, are impacts
3 during the dredging. In other words, what
4 will the water quality look like in our
5 predictions during the dredging and in the
6 area around the cutterhead as it is
7 performing its function?

8 And then also what will the
9 discharge from the confined disposable
10 facility back to the river look like?

11 And our conclusions are these:
12 That the river in this area currently exceeds
13 Delaware River Basin Commission and Delaware
14 standards for aluminum, copper, PCBs, lead,
15 arsenic, and iron.

16 And as a result of that, because of
17 those current conditions exceeding those
18 standards, we don't expect that the dredging
19 to significantly change those current
20 conditions.

21 We also believe that the effluent
22 that will be discharged from those CDFs will
23 meet regulatory requirements.

24 And, again, just to quantify the



1 amount of material, we estimate that about
2 2.7 tons of sediments containing PCBs will be
3 expected to be removed from the project site.

4 So, with that, I would like to turn
5 the microphone over to Mr. Eric Casey, who is
6 the CEO of the Gulftainer Wilmington USA.

7 MR. CASEY: Thank you. Thank you,
8 and good evening, ladies and gentlemen.
9 Thank you for your time tonight. I know it's
10 a busy night with the debate going on and
11 everything else, so I will be very brief.

12 I just wanted to give a quick
13 overview of -- next slide, please. One more.
14 Okay.

15 Just to give you a quick overview
16 of why are we doing this: To start with, the
17 Gulftainer came into this agreement with the
18 Diamond State Port Corporation in the State
19 of Delaware because we saw the value of the
20 investment in the Delaware River, and we saw
21 the value of the investment in this whole
22 region, and to support the state and also our
23 neighboring partners in growth, in economic
24 growth in bringing more population to the



1 area through new jobs, and also a commitment
2 to make sure that what we do supports the
3 state and supports the local environment for
4 making it better for everyone.

5 And the Edgemoor site kind of hits
6 every single one of our wickets we are
7 looking for in terms of growth.

8 First off, it allows us to bring
9 the State of Delaware further and also the
10 Delaware River region further into projected
11 growth in the container business and through
12 the maritime industry, to enhance the
13 capabilities of this region to be a critical
14 link worldwide, not only to the local area,
15 but to international entities, and also
16 through the midwest and into the further
17 United States for growth and opportunities in
18 cargoes and new goods and services.

19 And we are also looking at, as we
20 develop this project, we are taking a legacy
21 chemical site that has had some history to
22 it, and we are offering a capability to be
23 able to secure those contaminants and put
24 them away where they are not going to



1 continue to cause problems or potential
2 issues in the future.

3 So we are enhancing the ability of
4 this state to control a space that they
5 noticed as an issue and took on the
6 responsibility of managing.

7 We are now helping to further that
8 goal by investing a little over \$400 million
9 into that site in order to make it something
10 that is usable that is also going to benefit
11 the community.

12 We are talking about creating over
13 2,000 jobs locally with a value of over
14 \$385 million annually.

15 And we are also looking at direct
16 and indirect jobs over 3,000 going into the
17 communities around the region, not just the
18 Edgemoor area, but the whole region in
19 supporting the state.

20 By new jobs, new conduits for
21 imports and exports, and also new growth of
22 ancillary businesses to support the maritime
23 industry and the future growth of the State
24 of Delaware.



1 All of this helps maintain our
2 commitment to the state and maintain our
3 commitment to the region to help develop this
4 area stronger, better, and more beneficial so
5 that, as we continue to grow together and
6 partner in this progress, everybody comes out
7 a winner.

8 We are bringing in new people. We
9 are bringing in new jobs. There is going to
10 be new opportunities. And it's going to
11 bring more economic development into the
12 region to support growth all up and down the
13 Delaware River.

14 And we hope that that's going to
15 come to fruition very quickly so that
16 everybody can benefit in the short term, mid
17 term, and long term with the growth of this
18 state and the growth of GTUSA Wilmington, and
19 continue our footprint to growth here.

20 And, with that, I turn it back over
21 to Mr. Small.

22 MR. SMALL: Thank you, Mr. Casey.
23 Ms. Vest, that concludes the presentation on
24 behalf of Diamond State Port Corporation.



1 MS. VEST: Okay. Thank you, Dave.

2 I appreciate that very thorough presentation.

3 And a little housekeeping for the record.

4 We are going to be posting the
5 complete Power Point, as now just presented
6 by the Applicant, on the hearing webpage.

7 So, for those of you in attendance
8 virtually tonight, I know sometimes the
9 details are a little bit small to look at
10 online, but if you go on the hearing webpage,
11 you can call up that presentation. It will
12 pop up in full size.

13 And I would encourage, again,
14 anybody wanting to review that material again
15 to please do so.

16 It will be on the hearing webpage
17 labeled as Applicant's Exhibit Number 1, and
18 it will be the complete Power Point
19 presentation.

20 And, again, thank you.

21 Now that all of the presentations
22 have concluded from both the Department and
23 the Applicant, we are going to turn our
24 attention to those who preregistered for the



1 opportunity to offer live verbal comment at
2 tonight's proceedings. Bear with us. This
3 is our first time that we are doing this.

4 I want to make sure that the person
5 operating the timer has the ability to do so.
6 So, if Laura would make sure that Leslie is
7 equipped with that while I give these
8 explanatory comments right now, that would be
9 good.

10 Pursuant to the protocols set forth
11 on DNREC's Public Hearing webpage, those
12 wishing to offer verbal comment tonight must
13 have preregistered with DNREC no later than
14 noon on the day of the hearing, which, of
15 course, was today.

16 The order of those commenting
17 tonight was established as a direct result of
18 the Department's preregistration process.

19 All commenters must adhere to the
20 Department's protocols with regard to
21 offering verbal comment, including making
22 their comments as concise as possible,
23 respecting the three-minute time limit that
24 is allotted for each commenter, and, of



1 course, to limiting their comments to the
2 subject matter of this hearing, which, as we
3 know, was the proposed port project.

4 For this particular hearing, there
5 were three people who preregistered to offer
6 live comment at tonight's proceedings. I
7 will be identifying the first speaker to
8 offer comment, as well as noting the next
9 name of the next speaker to be acknowledged
10 so that they can prepare themselves and be
11 ready to offer comment when it is their turn.

12 To assist the commenter with regard
13 to the amount of time that they have, there
14 will be a three-minute timer that will appear
15 on the screen that will be counting down the
16 three minutes that are available.

17 When it is that speaker's turn to
18 comment, the speaker's audio will be unmuted
19 by the system, their identity will be
20 confirmed for the benefit of the record, and
21 the three-minute timer will begin.

22 At the end of the three minutes,
23 the speaker's audio will automatically be
24 placed back on mute, and we will immediately



1 move to the next person to be acknowledged to
2 offer their comment.

3 Please note that no commenter will
4 have video feed during their comments. It is
5 just audio only. And, of course, all
6 comments will be transcribed by the court
7 reporter and be incorporated into the hearing
8 in the case -- into the hearing record.

9 Are we in the process of getting
10 that timer up, hopefully? There we go.

11 If, for any reason, the speaker is
12 not able to completely finish their comments
13 within the three-minute period, we would
14 certainly encourage that person to submit
15 their comments in full to the Department in
16 writing so that they can be incorporated into
17 the record and, of course, so the Secretary
18 can consider the same prior to his making a
19 decision.

20 As pursuant to the protocols that
21 we always have with you of with our hearings,
22 the three-minute time allowance is the
23 maximum. No commenter will be granted more
24 than three minutes of time to speak for any



1 reason.

2 As I said, we have three that have
3 preregistered. Mr. Hahn, it's either Simeon
4 or Simon. I'm not sure how you pronounce
5 your first name. But H-A-H-N. I'm going to
6 ask if he is here, his mike be unmuted. Mr.
7 Hahn, if you are here, can you please
8 identify yourself for the record? Mr. Hahn,
9 are you here?

10 MR. HAHN: Yes. This is Simeon
11 Hahn. Can you hear me?

12 MS. VEST: I can. Thank you very
13 much, sir. Thank you for attending and
14 offering comment. You are the first one.

15 MR. HAHN: Okay.

16 MS. VEST: If you are ready, I will
17 instruct the timer to begin, and you may
18 proceed.

19 MR. HAHN: Okay. Thank you for the
20 opportunity to comment. I understand the
21 concept of Brownfield Redevelopment. I work
22 on Brownfield Redevelopments in urban areas,
23 especially, and urban water, urban river
24 areas.



1 And I think one of the things in
2 reviewing the environmental assessment that
3 was included in there and not discussed
4 tonight is the concept of this area being an
5 Environmental Justice community and the
6 cumulative impacts in this community.

7 But getting back to the
8 Brownfields, you know, what was DuPont's role
9 in regarding this cleanup, or Chemours? It
10 was stated that you are helping the state.
11 Really, the polluter is supposed to pay for
12 environmental impacts from pollutants.

13 So, anyway, but the DuPont,
14 investigation did not really look at impacts,
15 and it wasn't presented tonight, to releases
16 from that facility to the Delaware River.

17 It was stated that this facility
18 has -- it is known as a source of PCBs and a
19 specific PCB conjoiner. In the studies of
20 the Delaware River and PCBs, that this area
21 is a source.

22 But there really was no
23 contaminated sediment assessment for this
24 site, nor really for the iron-rich pal, which



1 was the waste material generated from this
2 site.

3 So I believe that -- and I work in
4 this field -- that the level of
5 characterization of those sediments as
6 presented in the report is inadequate. Some
7 more ought to be done. There is other data
8 that has been collected. Um, let's see --

9 MS. VEST: Mr. Hahn, you are on
10 your last minute, just FYI.

11 MR. HAHN: So, real quickly, then,
12 I think -- you know, I have some experience
13 working with the Virginia Port Expansion.

14 I think, in working in this urban
15 area, it's going to be really important to
16 have engagement with the community to address
17 these Environmental Justice concerns.

18 To suggest, as the report did, that
19 there would not be further environmental
20 impacts, or it doesn't consider what the
21 impacts are today, is inadequate.

22 So we will have to have further
23 discussions. And I will, because I know my
24 time -- I can't see the timer, because I'm



1 looking at some notes. But I will be
2 following up with some written comments by
3 November 1st as well.

4 So thank you for the opportunity to
5 comment.

6 MS. VEST: Excellent. Excellent.
7 Yeah, you timed that almost perfectly,
8 Mr. Hahn. Thank you for your comment.

9 And again, absolutely, as long as
10 the comments that you wish to submit are
11 received on or before November 1, they all
12 bear the same weight, and they will all be
13 taken into consideration prior to a decision
14 being made.

15 And thanks again.

16 Next up is Jakim Mohammed. I'm
17 going to ask that the timer be reset. And as
18 soon as we can find him, Mr. Mohammed, I'm
19 assuming that you are still on with us in
20 attendance. Can you let me know if you are
21 there?

22 MR. MOHAMMED: Yes, I am.

23 MS. VEST: Excellent. Well, the
24 timer is set, so it will begin when you do.



1 MR. MOHAMMED: All right. Well,
2 thank you again for allowing me this time to
3 speak.

4 Um, again, like Mr. Hahn, I am
5 concerned about all the PCBs that we have
6 there and the lack of container --
7 contaminant assessment that this report has
8 come out with.

9 I am also concerned about the
10 aluminum. There is a lot of aluminum, and I
11 see that we have copper, and we have a lot of
12 other contaminants that are in the silt and
13 soil over there.

14 I'm also concerned that why is
15 not -- why is DuPont or Chemours not cleaning
16 up that site before they vacated that site?
17 And why are we not holding their feet to the
18 fire about it?

19 The other third thing that I would
20 like to talk about is, again, what we call
21 Environmental Justice about the communities,
22 the fence-line communities that surround that
23 area, especially when the community that I am
24 in, which is the Route 9 corridor, we have



1 seen what the port has done so far over
2 there.

3 There are some things they are
4 lacking on already over there on the Route 9
5 area, especially on the Terminal Avenue area.
6 I just don't want the same thing to happen in
7 Edgemoor or the Claymont area.

8 So I would want them to have a more
9 detailed report, especially on what they are
10 proposing on jobs.

11 I see on the report that they are
12 proposing 400 million and creating 2,000
13 jobs. Hopefully, these 2,000 jobs are not
14 jobs from New Jersey and Maryland and
15 Pennsylvania and would be jobs that would be
16 here.

17 And I think we need to nail down
18 the port people on that, because their
19 history hasn't been so clear, hasn't been so
20 great in our Terminal Avenue area.

21 One more issue. I see that I only
22 have a final minute. Um, I'm concerned about
23 some wildlife that is there. I'm
24 concerned -- I cannot see on the slides what

1 actual wildlife they collected.

2 I saw that they had some fishery
3 and stuff like that. I see that we have got
4 30 seconds. I would like for them to have a
5 more detailed report.

6 Thank you for allowing me to speak
7 tonight.

8 MS. VEST: Awesome. Thank you very
9 much, Mr. Mohammed. Again, I appreciate your
10 comments. And if you do wish to supplement
11 anything that you said live tonight, by all
12 means, please do so.

13 People can submit as much as they
14 want, as many times as they want, again as
15 long as it is received by the Department on
16 or before November 1st. And, again, thank
17 you.

18 Lastly tonight, we have Jeffrey
19 Richardson that has registered to speak.
20 Mr. Richardson, are you on the line?

21 MR. RICHARDSON: I am on the line.

22 MS. VEST: Excellent. Well, the
23 timer is ready to go. You may proceed.

24 MR. RICHARDSON: Thank you very



1 much for this opportunity. I want to concur
2 with the other speakers.

3 I think, you know, this is very
4 important for the economy of the state. The
5 community has been mentioned.

6 And one of the things in looking at
7 this over time, I'm speaking with the
8 Delaware community benefits with being in the
9 coalition.

10 And I've been working with a lot of
11 really beautiful people in the community that
12 surrounds the port. And a lot of them really
13 want to really investigate this as much as
14 possible, how this is going to impact the
15 communities and the environments that
16 surround the port.

17 And so this group coming together
18 with many different groups, cutting across
19 race and class lines, to come together to
20 address these issues is really, really
21 important and exciting.

22 So what I would like to do is to
23 just put out just a couple of questions,
24 because I realize tonight you are sharing



1 information.

2 For me, one of them is in the
3 process issues printed here, can you outline
4 and either at this point or later -- but I
5 will put this in writing -- the community
6 engagement process and participation from the
7 communities, and the calendar for how that's
8 going to take place between now and the
9 finalization of these key decisions for
10 moving the port forward? So that's one.

11 The other one is how does the
12 process address, as has been mentioned, some
13 of the issues related to Environmental
14 Justice concerns, economic issues, and
15 community economic impacts, which is slightly
16 different in terms of the port expansion and
17 opportunities for the existing communities as
18 in terms of community benefits for those
19 communities that are close to the port.

20 And the other one is a deeper
21 understanding of the review and approve-ment
22 process in advance of final decisions. Can
23 you lay them out in some public way so that
24 communities have some understanding of the



1 timeline, how will this be done, what are the
2 key milestones that will be placed for
3 decisions, and key decisions related to the
4 advancement of the project as a whole?

5 And so we also look forward to
6 speaking with you further. I think there are
7 many community groups that would like to
8 participate in this and get a sense of how
9 that interface should take place.

10 We would like to have a
11 collaborative discussion, um, a friendly,
12 cordial discussion, because you are a
13 neighbor, the communities are neighbors. How
14 do we develop this in a way that benefits all
15 that have been stated, but addresses all the
16 concerns that communities have in the most
17 direct and robust way.

18 Thank you very much are very, very
19 much.

20 MS. VEST: Thank you,
21 Mr. Richardson. I appreciate it. At this
22 point -- and, by all means, as I told the
23 other two commenters, if you wish to add to
24 your comments or supplement them, by all



1 means, the public may comment as many times
2 as they wish for as long as they wish, with
3 as much information as possible. We welcome
4 it into the record.

5 At this time, since all of the
6 commenters that preregistered have been
7 acknowledged and given the opportunity to
8 speak, we are going to come to the conclusion
9 of these proceedings tonight.

10 Again, to reiterate, I would
11 encourage any person that's watching this at
12 this point to please visit the hearing
13 webpage that is dedicated to this matter.

14 It's a one-stop shop, if you will.
15 It gives an in-depth understanding to the
16 viewer of all of the documents that were
17 entered into the record, all of the
18 divisional exhibits, once again the
19 Applicant's very detailed and thorough Power
20 Point.

21 And it also connects the viewer to
22 an associative page which gives even more
23 documentation pertaining to the project and
24 all of the background information and kind of



1 a how we got here where we are tonight. So
2 please take your time and look at that.

3 I also want to remind people that,
4 again, the record is open all the way from
5 now through November 1, 2020.

6 All the record bears the same
7 comments. So the three gentlemen that spoke
8 tonight, their comment isn't any more
9 important than anybody else's. As long as it
10 gets received by the Department on or before
11 November 1, it all bears the same weight.

12 Also, if you visit the webpage, you
13 will see various connections and people
14 within the Department that are experts in
15 their field.

16 If you have additional questions or
17 wish to download documents, you can
18 communicate directly with the divisions for
19 clarity purposes.

20 But, again, I think this was very
21 good. I think we did a thorough vetting of
22 the proposed project. To those that were in
23 attendance, I want to thank everybody for
24 their patience as we continue to evolve and



1 get better with our presentations and making
2 the public aware of all of the aspects of
3 these hearing matters.

4 Thank you again for your
5 attendance. And this hearing is formally
6 concluded at this time.

7 (Concluded at 7:20 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 3rd day of October 2020.



Lorena J. Hartnett
Registered Professional Reporter

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