Environmental Social Movements Since Love Canal

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The Watchperson Project

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My name is Samara Swanston. I am an environmental lawyer and environmental activist. I have spent thirteen years working in government doing environmental work. During that time, I spent two years working with the town and the remainder with the county. I also litigated the Long Island Pine Barrens Society Case in Suffolk County, New York. Then I went to the Environmental Protection Agency (EPA) where I became involved in the environmental justice movement and was a drafter of the Environmental Equity Report. Next, I went to the Department of Environmental Conservation (DEC) where I managed to superfund a brownfield unit. I now have a community-based organization practice, which includes being the Executive Director of the Watchperson Project of Greenpoint-Williamsburg. The Watchperson Project is a novel entity. It is the kind of organization that has the resources to watch and inform the community about government activity.

The following is a little background on the Watchperson Project. The Watchperson Project was formed as a result of a community initiative to use an $850,000 fine imposed by the DEC on the Department of Environmental Protection (DEP) for New York City’s operation of the Newtown Creek Sewage Treatment Plant in violation of the Clean Water Act. Ultimately, the DEC imposed a fine as a result of communities who complained vigorously about the odors and other problems at the Newtown Creek sewage treatment plant. The DEC imposed an $850,000 fine on the City of New York.

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However, our community was not happy with the proposed use of the fine because the fine was going into the general fund, which is typical in this type of situation. Placing the fine into the general fund is the same as throwing it in the garbage. The community will never improve. Our community was successful in getting the DEC to create an environmental benefits package for the community. The community decided how it wanted that $850,000 spent. The money went to health studies. The community also identified what they wanted studied. The money went to develop a Geographic Information System (GIS) with data on our community that would be located in the community. The money went to fund a Baseline Aggregate Environmental Loading study that would develop a protocol to view the permits and look at loading in the areas and actually spatially represent the areas that were receiving the greatest loading, whether it was reproductive toxins or carcinogens. And so that was one of the benefits that the community demanded. Moreover, the community asked for environmental education and the creation of a Watchperson Project to monitor the municipal government to make sure they did the right thing. Unfortunately, the City of New York was made the environmental monitor of the fund. So essentially, it was the fox watching the chicken house.

DEC and the City of New York insisted that the money for the projects had to be funded through city organizations. Thus, the New York City Department of Health (DOH) conducted the health study. The same organization that was supposed to be protecting our health was now studying it. The Baseline Aggregate Environmental Loading Study, went to New York City’s Hunter College Geography Department, in addition to the Geographic Information System project funding. Further, the Watchperson Project contract went to the Center for Biology for Natural Systems in Queens, New York. All of these governmental agencies soaked up the money to produce the work products. As a result, we had a variety of concerns about the work products that were ultimately developed.

We arranged a health study, which found that the Greenpoint-Williamsburg community ranked first among thirty community districts in the occurrence of stomach cancer. Thirteen census tracts
in the community recorded statistically elevated types of cancer. Unfortunately, the health study never examined the relationship between environmental exposure and the presence of disease in the community. The community expressly wanted this information. Again, the DOH looked at itself and said, “Well gee, you know, we haven’t been preventing disease.” Recognizing the negative impact, they simply never looked at the possible correlation. The DOH concluded that the stomach cancer was probably the result of people eating smoked meats in our community. The Baseline Aggregate Environmental Loading Study, which we received a draft of, was eighteen months late, and the DEP, a contract monitor, has withheld some of the monies. We have yet to receive the final Baseline Aggregate Environmental Loading Study.

The GIS, which is housed in the Watchperson Office, has thirty sets of data on our community, software, hardware, and a plotter. We are the only community-based organization in the City of New York to have that level of data on our community. Anyone can walk into the Watchperson Office and ask for a map that shows the relationship between bridge sandblasting activities and children’s elevated blood lead levels. This is really a good thing. However, the Hunter College Geography Department was not as adept at GIS analysis as they represented. We brought in consultants to fix some of the problems in our GIS. As stated previously, the Watchperson Project contract went to the Center for Biology for Natural Systems. The Center’s contract required that it obtain 501(c)(3) federal tax-exempt status, making it an independent, non-profit organization. Otherwise, it would not be able to stand alone as the government money ran out. The Center never came through; it hired my predecessor and spent the money. The Center spent $200,000, never raised a dime, and never received 501(c)(3) status.

Greenpoint-Williamsburg is the first community in New York City proposed as a model mixed-use residential industrial community. The model has failed. It is a community that has a disproportional minority population. The community is roughly 56% Latin. There is also a diverse Polish component, a Hasidic component, and a smaller African American component. There are 156,000 people in total. The
The Newtown Creek sewage treatment plant not only handles local waste, but handles waste from Manhattan as well. When a toilet is flushed in Manhattan, the sewage is pumped under the East River to Greenpoint. As a result of the discharge of seventeen million gallons of petroleum, there is an underground oil spill bigger than the Exxon Valdez spill beneath the Greenpoint-Williamsburg community. The petroleum is literally floating on the water table under the homes of residents. So, the odors of benzene are coming directly into Greenpoint-Williamsburg houses. Additionally, the community is dissected by highways and impacted by sandblasting on the Williamsburg Bridge. The bridge is a traffic hot spot; it is one of three bridges that leads to Manhattan. The community has been inundated by pollution from all of these sources. Residents believe that community-wide health problems are related to the pollution.

A success of the environmental benefits fund is that we know we can convince the government to make a fine into an environmental benefits package. Communities can get in the mindset that if government is asking you to except the environmental burden, you can come back and say, "We want a balancing environmental benefit, give us an environmental benefits package." As a result of that precedent, the Newtown Creek sewage treatment plant was upgraded. The community asked for a benefits package to go to the upgrade and that benefits package went to hire not one, but two consultants to watch the DEP and make sure that the upgrade was properly carried out, to advise the community and to assist the community in the participation. So that is a good thing.

Of course the lessons to learn are: we can’t have government carrying out the function of watching government. And so I guess if I had it to do over again, I would probably be arguing that government should not be monitoring itself nor should governmental agencies be getting a contract to carry out environmental benefits for the community. Folks who are independent should do it. Amidst all of this clamor, Greenpoint-Williamsburg was slowly but surely developing a garbage problem. And I guess the focus of my talk is about
garbage today because Greenpoint-Williamsburg; primarily Williamsburg, but Greenpoint also, started to get more and more waste transfer stations. Now the backdrop of this is that there were industrial wastes. And obviously this plays a part in where waste transfer stations would want to go. In addition, as a result of political promises made by those people in DEC and elected officials, there was a determination to close the Staten Island Landfill, which is the only landfill left in the City of New York. So they promised, made a political promise, to close the landfill without any alternate plans. Closing of the landfill means that New York City trash has to go somewhere and the stopping-over points were the waste transfer stations. It would go to a waste transfer station and then be shipped out.

New York City has a recycling law. However, New York City was repeatedly sued to follow its own recycling law and it is still not following its own recycling law. The recycling contracts have gone to the major players. We all know Waste Management and BFI. While we are required to recycle our white paper, our newspaper, our plastic, our glass and we’ll get fined if we don’t put it out properly, these recyclable materials are then picked up by the sanitation trucks and taken to Waste Management or BFI facilities in Greenpoint-Williamsburg where they are resorted and sold. We are paying these companies a $100 million a year, to take and re-sort the recyclables, then they are selling two-thirds of them. Our recyclables are incredibly valuable and so is our sewage.

We also pay the New York organic fertilizer company to take our sewage sludge after it has been de-watered by the City of New York in its de-watering plants and make it into fertilizer pellets. We are paying these companies $100 million a year to take our sewage and make it into fertilizer pellets which we then sell to Colorado and other places who think that New York City sewage is fertilizer. We have waste transfer stations and more waste transfer stations that were not required to prepare environmental impact statements. In many instances they were operating without permits. They would open up, get a consent order and continue operating. Our community sued.

The lawsuit was settled with a stipulation that the Department of Sanitation and the Department of Environmental Conversation
would require environmental impact statements. The Department of Sanitation did not require environmental impact statements and the Department of Environmental Conversation did not enforce the stipulation of settlement. So we looked at our situation. We had about twenty-nine waste transfer stations. One-third of the waste transfer stations in the City of New York, half the capacity for waste transfer stations of the City of New York in one community district, one out of sixty. We said, “The problem is that we don’t have a local law requiring siting rules.” We advocated for and got a local law requiring siting rules, local law 40. New York City did not issue any siting laws. We brought another lawsuit, sued them to force them to follow their own law to create siting regulations and siting standards. We won at the Supreme Court level, they appealed, and we won at the Appellate Division level. After the appeal victory, they finally settled and agreed to issue siting regulations standards.

In the interim, we had yet another corporation decide to site a waste transfer station in our community. The waste transfer station was USA Waste and they wanted to locate on the waterfront, on the Williamsburg waterfront. That is a poor use of the waterfront with, you can imagine, a 5,000 ton-a-day capacity facility. They completed an environmental assessment statement that did not indicate all of the adverse impacts that were anticipated. We submitted reams of comments on the environmental assessment statement. Ultimately, they withdrew that environmental assessment statement and their application and although we were not notified by DEC, submitted a new, revised application, which DEC conditionally denied.

In the interim, the Watchperson Office and started advocating for an alternative use for the USA Waste site. This action came from our history around advocacy struggles. We are always opposed to something that everybody else says is going to say “brings jobs to us.” So we are opposed to jobs, we are opposed to new industry, we never have any alternatives so we came forward and said “Here is an alternative: we want open space.” Greenpoint-Williamsburg has less than a half-acre of open space per 1,000 residents and New York City Planning Department standards stipulate 2.5 acres of open space per 1000 residents. The New York City Planning Department has the
lowest standards for open space of any city in the nation. Greenpoint-Williamsburg has less than 3% canopy cover, it’s not green. The average canopy cover in New York City is 16%.

We also looked at the 1996 Environmental Quality Bond Act. The League of Conservation Voters analyzed all of the prior bond acts and determined that only 16% of the money went to urban areas. We looked at all of the money that was spent on the new “open space bond act.” It was to provide money for acquisition, especially access to water, and we said, “This is great, let’s ask for open space money.” At that time we were contacted by the Sierra Club who said, “We want to help urban communities spread some of this bond act money.” The open space money for 1996 had been divvied up by the government. New York City did not get a dime. New York City, Erie County and the counties surrounding New York City are the most deserving of open space. In every case, if you look at the state’s own open space plan, these are the areas that need the most open space. So we asked the Sierra Club to advocate for the USA Waste site for open space. Since the legislature was not happy with the process in which the 1996 open space money had been distributed, there was an memorandum of understanding (MOU) for the 1997-1998 open space money between the legislature and the government. They had to agree how this pot of money was going to be divided. Sierra Club’s advocacy with the help of Shelly Silver ensured that the eastern district terminal site was added to the MOU for open space acquisition. The DEC regional director said at our open space breakfast, “Wonderful, look what the governor has done for you, we have this open space, your site got on the list, this is what you wanted.” And we said, “Didn’t you just issue a conditioned negative declaration for the same site for a waste transfer station?” She replied, “Is that the same site?” It was the exact same site they had issued a conditioned negative declaration on. So we started organizing in the community.

We went to the New York Times and the other newspapers. We told the newspapers that this site was on the open space acquisition list and in the open space MOU. We coordinated the community to come out 1,200 strong to the public hearing on the
conditioned negative declaration. We had twenty interveners in the administrative hearing on the conditioned negative declaration. Six lawyers were involved in opposing the conditioned negative declaration. Then, our elected officials jumped on the bandwagon. They introduced a law onto the floor of the legislature that said that USA Waste project could not go forward without an environmental impact statement. Strangely enough, this was one of the only laws that was voted for by both Democrats and Republicans. It was a law that, as I understand the scuttlebutt, the commissioner himself, was lobbying the Republican Senators to vote against.

But why would the DEC commissioner be opposed to it? We came to learn that USA Waste was merging with Waste Management; Waste Management is one of the top ten contributors to the governor. Now, we have a law passed by both houses sitting on the governor’s desk. Is he going to sign the bill against his supporters or is he going to veto the bill? Either option would make him look bad in an election year, so they came up with another plan to take the initiative away from the community. He got the mayor. The governor and the mayor issued an executive order requiring an environmental impact statement for USA Waste site. We had written the governor about the DEC position on the Title VI guidance that came from EPA. If people are not aware, DEC general counsel came forward and issued a letter to the EPA, Office of Civil Rights opposing the Title VI guidance and saying it ought to be withdrawn. We wrote a strong letter saying, “You know this is a disproportionately minority community and by the way, look at what you are doing at the USA Waste site.” We received a letter back from the commissioner not too long ago saying, “By the way, you should know that there are not going to be any permits issued at this site until an environmental impact statement is issued.” Well, that did not make us feel really good because it seemed that the environmental impact statement was pro forma. Right after the election they were going to issue the permit to USA Waste.

So where are we going to go from here? Transfer stations propose a big problem because they are not adequately regulated. Transfer stations are not required to have air permits even though they have a tremendous air impact. The “C” and “D” transfer stations have
fugitive emissions and there are the mobile source emissions from bringing the garbage back and forth. There is no consideration of the global source’s impact. Some of the advocates in New York suggested that we have a transfer station sub-committee study the impacts of transfer stations. The EPA committed to this idea, and I am now sitting on the sub-committee. We now have a sub-committee that will study the impacts of transfer stations and will make recommendations to EPA.

We also found that the Commissioner of the Department of Sanitation, who was eagerly awarding these solid waste management contracts to ship New York’s waste, since we are closing the landfills down south and other places, just left the Sanitation Department and went to Waste Management. We are on the phone every day burning up the Department of Justice lines complaining about the conflict of interest because they are now analyzing the merger between USA Waste and Waste Management. We are registering strong complaint. There is no doubt that there is going to be another lawsuit where we oppose the siting regulations. Most likely, we will oppose the Waste Management contract.

Our community is pretty dead set against the regulatory uses proposed for our community and we have a long-term strategy to bring lawsuits and never giving up. Although some people have become disheartened, there are people who have been in it twenty years and thirty years and just won’t go away.

As I mentioned earlier, we are the Watchperson Project. When they brought me on line, I was able to save the organization. I raised $150,000 for the Watchperson Project. We have a new GIS, new hardware and new software. By working with community organizations, I have raised over $250,000 this year to get the resources to do the kinds of things that government should and won’t do. Thank you.