

PUBLIC COMMENTS SUBMITTED

Comments of Wilma Frey, Senior Policy Manager,
New Jersey Conservation Foundation
Re: Roxbury Township Petition for Plan Conformance
Before the
NJ Highlands Water Protection and Planning Council
16 May 2013

Thank you for the opportunity to comment.

Although ordinarily New Jersey Conservation Foundation would give strong support to a municipal petition for plan conformance, in this case, we unfortunately cannot do so.

The Council's "Final Draft Consistency Review and Recommendations Report" for Roxbury Township proposes "significant waivers and modifications to the standard requirements" for Plan Conformance. These include a partial waiver of Module 5, the Highlands Element, and a *complete* waiver of Module 6, the Land Use Ordinance. The Land Use Ordinance is the core element of Plan Conformance, and is the mechanism by which conformance is implemented.

This petition does not meet the requirements for plan conformance approval. Its approval by the Council would significantly lower the bar for Plan Conformance and would set an extremely unfortunate precedent. It would begin to set a trajectory in which "Plan Conformance" approval becomes meaningless.

The Council Report bases its approval for these waivers on three previously approved Preservation Area only conformance petitions: Green Township, Denville Township, and Mt. Arlington. However, Roxbury Township's petition is orders of magnitude larger than the previous three.

Roxbury's Preservation Area is 4,303 acres in size, and comprises approximately 30% of the township. The waiver proposed for Roxbury would waive more than 4100 acres more than any of the previous waivers.

Denville Township's waived Preservation Area comprised less than 7 acres, entirely located within a Category One stream corridor that is stringently regulated by the NJDEP under the Highlands Act, the Freshwater Wetlands Act and the Flood Hazard Area Control Act.

Green Township's land in the Preservation Area totaled 281 acres, entirely located within preserved State lands, which cannot be regulated by a municipality.

Mt. Arlington Borough contained 132 acres in the Preservation area, 7% of the municipality. The area was virtually entirely developed with residential properties, a school, a landfill under Highlands Redevelopment Area study, or preserved open space, with only 12 acres of developable land divided among six parcels.

None of these three set a precedent for the enormous waiver that is proposed for Roxbury Township.

Given that municipalities are provided with funding to do the planning required for conformance, it is not an undue burden for a town to undertake. Further, it is highly questionable whether approval of this petition falls within the standards set by the Highlands Act in sections 14a, c, and d. +

We ask the Council to vote "NO" to Roxbury Township's Petition for Plan Conformance.

APRIL 7 2013

The Star-Ledger
PolitiFact New Jersey
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Claim about AshBritt's Katrina cleanup is a dirty lie

By Caryn Shinske
STAR-LEDGER STAFF

The company handling disposal of Hurricane Sandy debris here has a rather dirty history from the work it did along the Gulf Coast after Hurricane Katrina, according to the director of the Sierra Club New Jersey chapter.

The company, AshBritt, left new contaminated sites in its wake as it did cleanup along the Gulf Coast after the 2005 hurricane, Jeff Tittel said in a Feb. 22 opinion column he wrote for NJToday.net.



STATEMENT

Jeff Tittel says, "A report by the US General Accountability Office (GAO) in 2008 found that the disposal of Katrina wastes by AshBritt in the south resulted in the creation of contaminated sites along the Gulf Coast and two new Superfund sites in New Orleans."

Date: Feb. 22

Context: An opinion column on NJToday.net

RULING

Pants on Fire. The statement is not accurate and makes a ridiculous claim.

WHAT OTHER FALSEHOODS HAS TITTEL TOLD?
MAYBE SOME CONCERNING THE HIGHLANDS ACT?

clean up
Hank

to a breakfast session

PolitifACT

CONTINUED FROM PAGE 21

debris disposal.

Now let's get into Tittel's claim about that GAO report.

AshBritt general counsel Jared Moskowitz called Tittel's claim about the company's role in New Orleans and Louisiana "hocus-focus."

Moskowitz said AshBritt was only in Louisiana for a couple of weeks after Katrina before the Army Corps of Engineers moved them to do debris removal work in Mississippi.

"We weren't in New Orleans and Louisiana long enough to create a Superfund site," Moskowitz told us. "It is a lie."

The Army Corps of Engineers confirmed that AshBritt worked briefly in New Orleans before moving east to Mississippi.

We also checked with the GAO about AshBritt's alleged role, and the agency confirmed that neither AshBritt nor any other disposal company was

referenced in their report. The GAO is the investigative arm of Congress.

"We did not look at contractors at all, in fact," said Alfredo Gomez, a GAO spokesman. "We looked at federal agencies and Louisiana agencies. Contractors are outside the scope of our work."

The report notes disposal violations at several New Orleans-area landfills, but doesn't reference the "Gulf Coast," as Tittel does, and details how the state dealt with those violations.

Tittel said the purpose of his column was to point out debris disposal problems that occurred after Katrina and to ensure that New Jersey has strong oversight of Hurricane Sandy debris removal and the contractors doing the work.

"The lesson that we saw in the Gulf was when you privatize things and you don't have clear oversight and enforcement in place, you end up having a lot of mistakes," he said.

Finally, let's look at the rest of Tittel's claim.

We reviewed the U.S. Environmental Protection Agency's National Priorities List of Superfund sites in three Gulf Coast states hit hard by Katrina: Louisiana, Mississippi and Alabama. None of 31 sites listed referenced Katrina, including two in New Orleans: the Old Gentilly Landfill and the Agriculture Street Landfill.

The Agriculture Street site did not receive any debris from Katrina," said EPA Region 6 spokeswoman Jennah Durant. "No new National Priority List sites were created in New Orleans as a result of post-Katrina cleanup."

OUR RULING

Tittel said in an opinion column, "A report by the US General Accountability Office (GAO) in 2008 found that the disposal of Katrina wastes by AshBritt in the south resulted in the creation of contaminated

sites along the Gulf Coast and two new Superfund sites in New Orleans."

There are several major problems with Tittel's claim. First, neither AshBritt nor any other contractor is named in the report. Second, the GAO confirmed that contractors were not part of their study. Third, the Army Corps of Engineers confirmed that AshBritt was not the major contractor in New Orleans — the company was moved to Mississippi shortly after Katrina cleanup started. Fourth, the report's scope is limited to existing landfills in the New Orleans area — not new contamination sites or "the Gulf Coast." Fifth, the EPA has confirmed that post-Katrina debris did not cause new Superfund sites in New Orleans. At least five falsehoods in one claim? That's beyond ridiculous. Pants on Fire!

For a complete list of sources for this article, go to *PolitifACT-NJ.com*.

Let's first review some background about how Florida-based AshBritt came to New Jersey.

Hurricane Sandy slammed New Jersey on Oct. 29, 2012, causing widespread damage here, in New York and Connecticut. Hours after the storm, Gov. Chris Christie awarded AshBritt a no-bid contract that piggybacked off one the company had with Connecticut. The decision has drawn public scrutiny for a variety of reasons, such as higher-than-usual disposal costs to towns for which AshBritt has handled

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