

Village of Lansing

MINUTES of a meeting of the Board of Trustees of the Village of Lansing held on Monday, October 16, 2017, in the Village Office.

PRESENT: Mayor Donald Hartill; Trustees, Ronny Hardaway, John O'Neil, Patricia O'Rourke and Gerry Monaghan; Clerk/Treasurer Jodi Dake; Attorney David Dubow, Deborah Dawson, Planning Board member, 5 additional public were also in attendance at the meeting.

Mayor Hartill called the Board of Trustees meeting to order at 7:33pm and opened the public comment period. Hartill stated that we would take any comments not associated with the Article 78 discussion. There were no Comments.

Motion - To Close the Public Comment Period

Trustee Hardaway made a motion to close the public comment period. Trustee Monaghan seconded the motion. A vote was taken:

Mayor Donald Hartill-Aye	Trustee Ronny Hardaway- Aye
Trustee John O'Neill-Aye	Trustee Gerry Monaghan-Aye
Trustee Patricia O'Rourke-Aye	

Mayor Hartill stated that the next discussion is about an Article 78 against DEC permitting Cargill, Inc. to proceed with its Shaft 4 construction and expanding its mining operations farther north under Cayuga Lake without proper environmental review. The shaft is before the Town of Lansing Planning Board this evening also. The Mayor asked that the comments be limited to the facts and be sure we aren't going down a path we will regret. The Board has received many emails mostly in support of joining and a couple that are in contrary to that. The Mayor wants to have a reasonable civil discussion.

Hardaway requested that all emails for and against be part of public record and made available on the Village website.

Resolution #6432- All Emails For and Against the Article 78 Received by the Clerk/Treasurer Be Made Part of These Minutes and Available Online

Trustee Hardaway made a motion and Trustee Monaghan seconded the motion. A vote was taken:

Mayor Donald Hartill-Aye	Trustee Ronny Hardaway- Aye
Trustee John O'Neill-Opposed	Trustee Gerry Monaghan-Aye
Trustee Patricia O'Rourke-Aye	

Mayor Hartill stated that he voted yes to this resolution but only to be perfectly fair and perfectly equal.

Larry Cathles presented a copy of the following to the Board and read it publicly:

Comments to Lansing Village Board

Monday, October 16, 2017

Thank you for taking the question of suing the DEC seriously and providing an opportunity for public comment.

My name is Larry Cathles, I am a Cornell Professor in Geology with an interest in Mineral and Energy Resources, have taught hydrology for over 30 years, and am a resident of the Town of Lansing.

I have followed the CLEAN initiative closely, spoken extensively with CLEAN and Cargill, and have summarized my analysis in two letters to Governor Cuomo that are posted with additional comments on blogs.cornell.edu.cayugalakesaltmining.

- CLEAN suggests that the Cargill Mine risks salinifying Lake Cayuga because the mine could flood and squeeze salt-saturated water into the lake as it collapses, BUT salt mines collapse slowly and the lake is continually flushed with fresh water. When calculated, under the worst case scenario the chlorinity of the lake could increase by 12 ppm over its current level of 40 ppm.
- CLEAN suggests that the standing water level in the Shaft #4 test well, being 30 m below lake level, suggests a connection to the mine 4 miles distant, BUT the water in the well has a salinity of 130,000 ppm and thus a density 13% greater than fresh water. It's fresh-water-equivalent standing is at lake level, and suggests no connection to the mine.
- CLEAN suggests that the horizontal compressive stress in valleys makes mining under the lake riskier, BUT this stress closes vertical fractures and makes leakage into the mine less likely, the lower-than-rock-density of the deep lake reduces the vertical load on the mine making mining safer under the lake than under the adjacent land, and there are no human infrastructures under the lake that could be impacted if there were ever significant mine-related subsidence.
- CLEAN asserts that Cargill is operating without proper review because it has never prepared an Environmental Impact Statement, BUT an EIS review is normally prepared in advance of an activity to foresee potential impacts, and the mine has been operating for 95 years. We know its impacts. Cargill prepared the equivalent of an EIS when it successfully petitioned for mine expansion several years ago. That Expanded Environmental Assessment was superior to the normal EIS because it evaluated underground issues on the basis of decades of experience, rather than on inferences from other mines. The DEC receives a yearly mining reports from Cargill and has a licensed, legally responsible engineering firm review them. For an ongoing operation this is a better oversight procedure than the requirement of periodic EIS statements would be.

CLEAN is an activist organization, and the concerns it or others raise need to be evaluated and resolved following transparent and established procedures. Time-tested procedures are being followed. CLEAN's suite lacks scientific substance and is polarizing because it accuses multiple parties of incompetence, misfeasance, or worse. The Cargill mine will be best overseen if the various levels of government work together and community discussion is non-threatening, inclusive, fair, balanced, and respectful. No good can come from suing the NYSDEC.

Monaghan stated that the Trustees had a two-hour presentation on Thursday by Shawn Wilczynski and John Dennis. It seems that once Cargill submits information to DEC it isn't available to the public. Cargill relies on the security of trade secrets. He wonders how we best navigate through that channel so we know the interests of the public are being attended to. Cathles stated that it's hard to second guess. You would need to know as much about the mining situation as the people that are doing it every day. A licensed expert is the best procedure. The mine does a yearly report and an expert in mining oversees and looks at it to make sure proper questions are asked. The mining industry in general is moving very strongly towards more transparency. What tends to happen is people that are opposed will grab information and raise questions that need to be answered. On the other hand the confidence of the community depends on the willingness to exchange. He feels we should move away from confrontation and get to the point where Cargill and professors can interact and share information. The seismic survey can tell us a lot. We live in difficult times. This is a difficult issue and he doesn't know how to navigate it. Cathles stated that he is a Resource Geologist. The periodical table is in your cell phone and half of the items on that table are mined. We have the intellectual source to do it right.

Monaghan asked about the anomalies. Cathles explained that it is fairly flat but not total flat. They may have had intentions to mine but found that it wasn't worth it to go into certain areas. There are areas within the mine that are more attractive to mine than others. The fir tree anticline is not very attractive to mine right now. When you mine you learn as you go along. Cargill has done a very good job of figuring out how to support the roof. They monitor and have paid for seismic surveys.

Hartill asked Cathles for some explanation of echo and how seismic works. He explained how they get profiles. One complication is that a lake has steep sides and your reflections off that lake make it difficult to do. It is technologically challenging.

Hardaway asked if the velocity profiles are typically proprietary. Cathles stated that seismic studies in general are proprietary and very expensive. They are usually paid for by a consortium of companies. They usually then sell the information to other companies and are not likely to share with academics. Mineral Management has all of the Gulf of Mexico studies. There are trillions of dollars of data to study but you can't tell anyone about it. It's tricky to release the data. Data has scientific value. If a private individual asked for the information it would be very unlikely they would get it. DEC probably has it. That is a concern to Hardaway. He is pretty sure they have the information. It's not

trivial to interpret this data. Cornell University could help interpret and it would be a great thing for students. However, there is a fear that it would fall into hostile hands.

Cathles stated that it is not the seismic that is most important. The filling in of the mine is not going to be a big issue. Hardaway thinks the concern is that the DEC hasn't seen all the data and they have only cherry picked data that makes Cargill's mining operation look good. Cathles didn't agree with that. CLEAN is free to sue but the question is, is it productive. Others can differ.

Nick Vaczek stated that he feels the technicalities are a category that is different from a simple question which is, should the DEC do something? There are always more technical questions. The purpose of the Article 78 is DEC having more info.

Hartill explained that what would happen would be that the DEC would hire a consultant and that consultant will hold Public Comment periods. There will be technology on both sides of the issue. Then an interpretator will make a decision. This will be a lot of work and expense. The last big one the Village dealt with was for intermunicipal sewer and it cost \$400,000. Hardaway asked who would pay for a study. NYS tax payers would pay for the study.

Dennis is concerned that our fresh water will change to a salinized lake. We see as a salt mine is closing the brine is coming up. That's what we fear but we are not saying it will happen. He feels they are simply going through due diligence. He thinks because Hampton Corners is doing it, it is reasonable and it should be done at Cargill.

Dennis thinks that Cathles comes from the school that industry is good. Dennis raised concerns about Cathle's presentation by raising questions about his history of corporate employment. Dennis stated that it is not a high probability it will happen here but it can happen. Therefore, he wants us to do due diligence. In conclusion Dennis hopes the Board will do the right thing and ask for due process and require the DEC to do the first DEIS that has ever been done for this mine. We need a fresh start. Please vote to join this boring law suit.

Hartill asked who is paying for the CLEAN law suit. Sierra Club, Chris Dennis has allocated \$15,000 and \$6,000 from other individuals. The Village of Aurora has allotted \$200 because they get all their drinking water from the lake. Other municipalities that have endorsed the Article 78 are the Town of Ulysses, Danby and Carolina, Village of Trumansburg, and City of Ithaca.

Hartill stated that we have pure self-interest. The other is a head hunter legal firm. The Mayor does agree with the Article 78 process but doesn't feel it is a real path for informing the public. Dawson is not sure if our goal is to inform the public. It is to make the DEC do what they should do. She asked if he preferred to trust Cargill.

Mayor Hartill stated that he doesn't know the pedigree of CLEAN's geologist and he doesn't have the time to research that. Their geologist's thinks there is a significant risk. Hartill finds the disconcert between the two Johns disturbing. He clarified that the email exchange with John Dennis and John Thomas worries him. Hartill stated that he is a scientist and pays a lot of attention to science. Hartill doesn't agree with the cherry picking aspect of this. I can find a consultant that agrees with me. Dennis asked if the Mayor feels like they have cherry picked. Hartill feels that the consultants have looked at things and he isn't sure if it is a universal view.

Dennis stated that CLEAN chose their consultants because they were scientist that knew about the Retsof mine failure. Region 8 requires a DEIS. Syracuse DEC rely on experts. Dennis would like to know more about the tunnel. He feels Cargill is not doing a good job. CLEAN is asking for more transparency.

Monaghan asked Cathles about a statement by Dr. MacKenzie that "all salt mines fail it is just a question of when". Cathles stated that salt is plastic and they fail slowly. There is a mine in Poland that was started back in the 1300's that still exists. Due to the plastic nature of salt mining, it is the safest and easier to manage. Retsof mine is slowly closing. It is filling and is closing 8 times slowly because of the pressure of the water. When mining is done, the community will have to figure out what to do with it. It may be a tourist site like the one in Poland.

Mike Sigler stated that he is the County Legislator for the Town of Lansing. He stated that he has just arrived from the Town Planning Board meeting and there are about 100 people there talking about shaft #4 and how important it is for the miners. The shaft is mainly for ventilation. It will bring in new air and it is important for the miner's safety. Sigler has faith with the DEC Scientists. Sigler thanked the Board for reaching out to Cargill and for keeping an open min. He has never found it to be a closed door.

Monaghan stated that we are generalist. It has been an interesting process for us. After weighing all the information, he finds Mackenzie's letter very compelling. He is very supportive of the Cargill mission and he feels there needs to be more accountability. Barb Lifton would identify against Cargill in every way. The rights of people end at the water's edge. He understands how critical the shaft is. The area under water belongs to all of us. He feels there should be more transparency on the part of DEC.

O'Neill feels the shaft and the connection tunnel are good for the people. He is worried about the northward mining extension. He thinks that after this debate that CLEAN, Cargill, Cornell and DEC need to get together and communicate.

O'Rourke stated that she has learned a lot in the last couple of weeks. She feels there is some veering off the path. This is about the shaft not what is after the shaft. She doesn't understand why everyone is upset about what is going to happen down the road. We need the shaft. She agrees there should be transparency. She questioned why we need an

Article 78. Why can't you just talk to Cargill? An Article 78 is going to be expensive. You are adults and PHD's and should be able to set down and talk without an Article 78.

Dennis stated that Mike Koplinka Loehr, who is running for Tompkins County Legislature in District 6 against the current representative Mike Sigler, asked Shawn to have Cargill participate and his lawyers advised him against it. Dennis had a one on one communications with Shawn for about an hour. Lawyers don't want to talk to them. Dennis feels they have tried to reach out to Cargill but attorneys are telling them what to do. Dennis stated that they had two sessions at DEC but they have rules. They listen and take notes. He feels that is disappointing. He felt good about the meetings with DEC because they have been willing to listen. The reason the attorneys don't want them to talk could be because CLEAN is threatening a law suit.

Hardaway stated that he went to the salt forum in February. Since then he has been reading a lot of information. He has a lot of questions and to him it appears that the FOIL by CLEAN to the DEC doesn't have or account for with what they should be using for their negative declaration. He feels there is a potential rubber stamping of projects that have been going on for years. Geology changes as we go forward. He feels the DEC should ask for a Draft EIS for Cargill's mining operation. This allows for transparency into the scientific study. Many people of knowledge want to look at the data. He doesn't think this Article 78 will stop the shaft from being built. He is not for segmentation of a project. Hardaway wants to continue to protect our lake. He feels we need to ask DEC to do that for us.

Hartill finds this to be a very difficult position to be put in. As a scientist he is concerned but has no background. He feels CLEAN has an agenda. He questioned why shaft 4 is being used to open up a full investigation into the entire mining process. He wonders why you are doing an Article 78 on the entire mine. I will have a lot of trouble voting yes for this.

Dennis stated that Cargill's 5 year mining permit expires in November 2017 and CLEAN will be bringing another Article 78 for this. The concern is that if they do, the permit renewal and shaft together a judge may throw both out. CLEAN feels it is more strategic to bring each issue separately. The shaft is critical to mining northward.

Dawson asked if the Mayor would be supportive if it addressed the automatic renewal of permit. Hartill stated that it is not automatic they have to redo.

Sigler stated that he is surprised at how this is working. Hearing why Cargill is doing xyz... The issue is installing a shaft to get workers in and out. The boundaries are already set with the mine. They were set 15 years ago. As for now the DEC has said that the boundaries are here. Having to go that far underground the air is not great. It is about the safety of the miners. This is our local source of salt and we need to keep these 200 workers safe. It's about getting air to people.

Cathles questioned whether the Village should join in a suit against DEC. Is this a constructive thing to do? Is it the best thing to do? Will it increase the safety of the lake? We should not be attacking personalities and questioning the motives and competence. None of us are real experts on salt mining. No one knows better than the people doing the mining and DEC. He feels this is a hostile initiative with the objective to shut down the mine. If you delay and make it difficult to operate then any corporation would move elsewhere. That would be a shame. They have given us donations of Salt Point and Myers Park. Society in general needs mining. We have a choice to either do it here or insist on insurances that make it difficult and push it elsewhere. The Board should ask itself if things will be made better with this suit against the DEC.

O'Neill stated that he is against the current Article 78. In November when the permit is to be renewed he will be open to listen to that issue.

Hartill asked if the Board wanted to revisit the Article 78 Resolution.

Resolution #6433 -Objecting to the NYSDEC Permitting Cargill, Inc. to Proceed with its Shaft 4 Construction and Expand its Mining Operations Farther North under Cayuga Lake Without Proper Environmental Review (Resolution did not pass)

Trustee Hardaway made a motion to accept this resolution. Trustee Monaghan seconded the motion. A vote was taken:

Mayor Donald Hartill-Opposed

Trustee John O'Neill-Opposed

Trustee Patricia O'Rourke-Opposed

Trustee Ronny Hardaway- Aye

Trustee Gerry Monaghan-Aye

The next item on the agenda was to discuss the household definition. Mayor Hartill requested to revisit this at our next meeting.

Public Service Announcement (PSA) Yard Signs

Hardaway stated that he brought a PSA yard sign that he had mentioned at our Oct.2nd meeting. He and Deborah have purchased signs and placed about 10 signs in private yards (with permission of course.) He would like to discuss placing the signs on the Village's public properties to remind our residents that they are able to vote for Town of Lansing Board candidates on November 7th.

Dake stated that she has contacted the Board of Elections and they stated that it would definitely be electioneering if placed by the polling place. The signs that are close to the polling locations would need to be removed when the signs go up that say polling site. She also spoke with Adam Robbs, Code & Zoning Officer to confirm that it was ok with our sign law. Monaghan stated that he recognizes the issue of a village inside of a town. He applauds the people for respecting the need to be nonpolitical and would like to see this continue. Mike Sigler asked who paid for the signs. Hardaway stated that they were

paid for by the democratic community and others. They are directed at all voters. The Board agreed to allow these signs on Village property with the understanding that the ones close to the polling locations will be removed before elections.

Monaghan stated that he has received around 30 emails regarding the safety at the intersection of Beckett Way and Cayuga Heights Road. This information will be shared with the Board and discussed at the November 6th meeting. He would also like to talk about the flooding that incurred in that area.

Motion to Adjourn

Trustee O'Neill moved to adjourn. Trustee O'Rourke seconded the motion. A vote was taken:

Mayor Donald Hartill-Aye
Trustee Gerry Monaghan-Aye
Trustee Patricia O'Rourke-Aye

Trustee Ronny Hardaway-Aye
Trustee John O'Neill-Aye

The meeting was adjourned at 9:15 pm.

Jodi Dake
Clerk/Treasurer

*Attached are the 73 pages of email exchanges that are to be included as requested by Hardaway in Resolution #6432.

FW: CLEAN resolution for Lansing Village Board

Subject: FW: CLEAN resolution for Lansing Village Board
From: "Ronny Hardaway" <rjhardaway@yahoo.com>
Date: 10/3/2017 8:49 AM
To: "Jodi Dake" <clerk@vlansing.org>

Hi Jodi,

I am forwarding the electronic copy of the draft resolution provided by the CLEAN organization. As you can see by the date/timestamp on the email, below, I did not receive the draft for the Village until yesterday afternoon. It took me a little while to review it before forwarding it to the BOT. If I get such a document for future meetings, I will try to get it to you for inclusion in the agenda and distribution. For this meeting, I was not given the time to do so.

Ronny

From: Cait Darfler [mailto:ckdarfler@gmail.com]
Sent: Monday, October 2, 2017 2:28 PM
To: Ronny Hardaway <rjhardaway@yahoo.com>
Subject: CLEAN resolution for Lansing Village Board

Ronny,
Please find the attached draft resolution for the Lansing Village Board.
Thank you for brining it forward.
~Cait Darfler

Attachments:

VoLCLEANResolution.docx

17.1 KB

Resolution# _____ - Objecting to the New York State Department of Environmental Conservation Permitting Cargill, Inc. to Proceed with its Shaft 4 Construction and Expand its Mining Operations Farther North under Cayuga Lake Without Proper Environmental Review

WHEREAS, the Village of Lansing recognizes the economic, social, recreational, and ecological importance of Cayuga Lake, its watershed, and adjacent aquifers to the communities that surround it, including the Village of Lansing; and

WHEREAS, Village of Lansing residents obtain their drinking water from Cayuga Lake via the Southern Cayuga Lake Intermunicipal Water Commission; and

WHEREAS, Cargill, Inc. (“Cargill”) intends to construct an access and ventilation shaft off of Ridge Road in the Town of Lansing (the “Shaft 4 Project”), to provide access to its salt mining operations under Cayuga Lake; and

WHEREAS, if the Shaft 4 Project is built, Cargill will be able to expand its salt mining operations much farther north under Cayuga Lake than it can if the Shaft 4 Project is not built; and

WHEREAS, construction of the Shaft 4 Project and northward expansion of Cargill’s salt mining operations under Cayuga Lake may have significant adverse environmental impacts on Cayuga Lake and adjacent aquifers, which have been documented by Cayuga Lake Environmental Action Now (“CLEAN”); and

WHEREAS, CLEAN’s documentation of these potential significant adverse environmental impacts may be viewed at <http://cleancayugalake.org/documents/>;

WHEREAS, New York State (“NYS”) has established the State Environmental Quality Review (“SEQR”) process to systematically, objectively, and transparently consider and evaluate potential adverse environmental impacts early in the planning stages of actions and projects that are directly undertaken, funded, or approved by local, regional, and State agencies; and

WHEREAS, early review under the SEQR process allows a project to be vetted, and modified as needed, to avoid potential significant adverse impacts on the environment; and

WHEREAS, the NYS Department of Environmental Conservation (“DEC”) is the lead agency that is responsible for applying the SEQR process to Cargill, Inc.’s proposed Shaft 4 project in the Town of Lansing; and

WHEREAS, the DEC issued a Notice of Determination of Non-Significance (the “Neg Dec”), which found that the Shaft 4 Project, considered in isolation, would have no potential for significant adverse impacts on Cayuga Lake and its environment; and

WHEREAS, the Neg Dec explicitly stated that “[t]his application review and significance determination is only for the current 12.3 acre Life of Mine area included in this application”; and

WHEREAS, on August 16, 2017, the DEC issued Cargill a permit for the Shaft 4 Project without requiring a full environmental review under the SEQR process; and

WHEREAS, Cargill’s Shaft 4 project, its mining of a one-mile tunnel connecting Shaft 4 to its existing salt mining operations under Cayuga Lake, and the northward expansion of those operations constitute a single mine expansion action or project that poses potential significant adverse environmental impacts, but they have not been properly reviewed as such under the SEQR process; and

WHEREAS, DEC has never required Cargill to provide even a Draft Environmental Impact Statement (“DEIS”) under the SEQR process, even though Cargill has filed several applications for mine permit expansions since 1975; and

WHEREAS, American Rock Salt’s Hampton Corners Mine in Mt. Morris, New York, has been operating only since 1998, and is already working on its second DEIS required by DEC; and

WHEREAS, the Village of Lansing relies on the DEC to apply the SEQR process fairly, equally, and rigorously, for the benefit and safety of all of its residents;

NOW, THEREFORE, BE IT RESOLVED, that the Village of Lansing joins with CLEAN, other Tompkins County municipalities, and various Cayuga Lake stakeholders in a soon-to-be-filed Article 78 proceeding to require the DEC follow the SEQR process and require a full environmental review of all of Cargill's Shaft 4 project, connecting tunnel, and northward mine expansion under Cayuga Lake; and be it further

RESOLVED, that a copy of this resolution be forwarded by the Village Clerk to: Governor Andrew Cuomo; NYSDEC Commissioner Basil Seggos; State Senator Pamela Helming; State Assemblywoman Barbara Lifton; Chair of the Assembly's Standing Committee on Environmental Conservation Steve Englebright; Tompkins County Legislature Chair Michael Lane; Tompkins County Environmental Management Council Chair Brian Eden; and Lansing Town Supervisor Edward LaVigne.

RE: Taking the next step -

-----Original Message-----

From: Gerry Monaghan [mailto:gmonaghan22@yahoo.com]

Sent: Wednesday, October 4, 2017 7:27 AM

To: rjhardaway@yahoo.com; Jody Dake <Clerk@Vlansing.org>; DLH13@Cornell.edu; patithaca@aol.com; johnoneil5@aol.com

Subject: Taking the next step -

Dear Colleagues - looking back on things, I am wishing I had been more insistent on tabling the discussion and putting this resolution on the agenda of the next meeting. I would like a chance to rectify this mistake. I am glad to say that as an amateur civil servant I must be willing to own up to my mistakes. Therefore I am wondering how we might proceed as David has suggested?

Sincerely,

Gerry Monaghan

RE: Taking the next step -

Subject: RE: Taking the next step -

From: "Ronny Hardaway" <rjhardaway@yahoo.com>

Date: 10/4/2017 9:41 AM

To: "'Gerry Monaghan'" <gmonaghan22@yahoo.com>, "'Jody Dake'" <Clerk@Vlansing.org>, <DLH13@Cornell.edu>, <patithaca@aol.com>, <johnoneil5@aol.com>

CC: "David Dubow" <ddubow@bgdtlaw.com>

Gerry,

As trustees, we have the right to change our minds. I am sorry for blind-siding anyone. This issue has been active and public for many months, and I believed that our trustees were more aware of the issue with the DEC's failure to perform its duties with respect to a non-Cargill-provided environment impact study.

My passion for Cayuga Lake and all of the residents living around the lake came into play with my introduction of, and push for, our signing onto CLEAN's Article 78. As Village trustees, we have experienced the other side of Article 78 suits, and we voluntarily "cross our 't's and dot our 'i's" to ensure that we follow our Village, County, and State procedures. The window for filing an Article 78 will be closing soon, which makes our signing onto it time sensitive.

It appears from CLEAN's investigations and research, that the DEC has never required Cargill to fully disclose all of their in-house information on environmental impact. I believe that an Article 78 is sadly required to force the DEC to do what we, as trustees, do every day. It will at least allow an independent judicial system to carefully evaluate and rule on whether the DEC performed its lawful responsibilities and followed its environmental regulatory policies.

I don't like bullies, and I particularly don't like bullies with deep pockets who use power and wealth to dissuade regulatory agencies (and Village trustees) from protecting average citizens and our environment. I am concerned that power and money will be brought to bear on our Village trustees and have seen signs of that already beginning. I have stood up to bullies since I was a child, and I never regretted those stands. I do, however, regret the times that I did not stand strong enough or long enough against them.

Since I have received no communication from David (I am assuming you mean David Dubow), I cannot speak to his suggestion.

Ronny

RE: Question

Subject: RE: Question
From: "Ronny Hardaway" <rjhardaway@yahoo.com>
Date: 10/4/2017 10:51 AM
To: "'Don Hartill'" <DLH13@Cornell.edu>, "'Gerry Monaghan'" <gmonaghan22@mac.com>, "'John O'Neill'" <johnoneil5@aol.com>, "'Pat O'Rourke'" <patithaca@aol.com>
CC: "Jodi Dake" <clerk@vlansing.org>

Thanks, Don.

My apologies for blind-siding you. My concern Monday night, and now, is that intimidation tactics will attempt to dissuade the Village from, what I feel, is the right thing to do regarding the DEC. External delay and stall tactics can be pernicious.

Should the BOT rescind their decision to join CLEAN's Article 78 lawsuit, I will respect that decision.

So as not to blind side anyone again, expect questions from me for attendees who speak in support of the delay position.

Ronny

From: Don Hartill [mailto:dlh13@cornell.edu]
Sent: Wednesday, October 4, 2017 11:06 AM
To: Ronny Hardaway <rjhardaway@yahoo.com>
Subject: Fwd: Question

Ronny
Here is the email. Don

Begin forwarded message:

From: David Dubow <ddubow@bqdtlaw.com>
Subject: RE: Question
Date: October 3, 2017 at 2:02:29 PM EDT
To: Don Hartill <dlh13@cornell.edu>
Cc: "codeofficer2@vlansing.org" <codeofficer2@vlansing.org>

Don,

I assume you can quickly call for a follow-up special meeting of the Board regarding the action taken last evening. Jodi will need to post a simple and short legal notice outside on the Office, and if at all possible, on any other customary locations. I also usually suggest that the notice indicate "any other matters that may come before the Board". Presumably, if there is a quorum at the special meeting, additional action can then be taken.

I hope this helps, and please feel free to contact me if you would like to discuss this further.

RE: Question

Best regards.

David

David A. Dubow, Esq.
Barney, Grossman, Dubow & Troy, LLP (NEW FIRM NAME)
120 East Buffalo Street (NEW ADDRESS)
Ithaca, New York 14850

Phone: 607-277-6611 (NEW OFFICE PHONE NUMBER)
Fax: 607-277-3330 (NEW FAX PHONE NUMBER) ddubow@bgdtlaw.com (NEW E-MAIL)

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-----Original Message-----

From: Don Hartill [<mailto:dlh13@cornell.edu>]
Sent: Tuesday, October 03, 2017 1:04 PM
To: David Dubow <ddubow@bgdmolaw.com>
Subject: Question

Hi David

Had a chat with Pat last night on the way home and she felt as I did that we were blind sided and I just got a note from Gerry feeling the same way. I should have insisted that such a resolution has to be on the agenda following our normal procedures. In speaking with Jodi this morning she feels the same way. Is there any legal way we can undo what happened last night? I have asked Jodi to delay sending out the resolution until I have heard from you. Thanks

Best regards Don

Fwd: Cargill and the NY DEC are putting us at risk

Subject: Fwd: Cargill and the NY DEC are putting us at risk

From: Deborah Dawson <ithacadeborah@yahoo.com>

Date: 10/4/2017 12:38 PM

To: Don Hartill <dlh13@cornell.edu>, Gerry Monaghan <gmonaghan22@mac.com>, "O." <johnoneil5@aol.com>, Patricia O'Rourke <patithaca@aol.com>, Ronny Hardaway <rjhardaway@yahoo.com>, David Dubow <ddubow@bgdtlaw.com>, Jodi Dake <clerk@vlansing.org>

FYI

----- Forwarded message -----

From: Robb Jetty <rjetty@gmail.com>

Date: Wed, Oct 4, 2017 at 12:15 PM

Subject: Cargill and the NY DEC are putting us at risk

To: council@cityofithaca.org

To whom it may concern,

I am a Lansing resident and tax payer and I get my water from a lake well on Cayuga Lake. I understand that you will be voting tonight on a resolution to support the effort to require the DEC to follow NY State law and require a full environmental review of Cargill's shaft 4 project. Please help in supporting this effort. Cargill should be able to continue its local mining operations but should have to follow the same laws that every other company does in our great state. Cayuga Lake is arguably the central pillar of our entire local community and it's identity. No one, public or private, should be allowed to take any action that potentially puts our great lake at risk, especially without following the proper laws intended to ensure that any of those actions are indeed safe. If it is ultimately determined that the project is safe, that will be acceptable, but it seems only logical and prudent to follow the detailed process for making such a determination. Our community has already done what is in Cargill's best interest, in the form of an enormous county tax abatement for this project, so let's make sure they are being good local citizens and are looking out for our community's best interest.

Yours,

Robb Jetty
315-283-0324

—

Robb Jetty
315-283-0324 (cell)

Subject: Plans for Resolution Joining CLEAN Article 78?

From: "Ronny Hardaway" <rjhardaway@yahoo.com>

Date: 10/5/2017 3:02 PM

To: "Don Hartill" <DLH13@Cornell.edu>

CC: "Gerry Monaghan" <gmonaghan22@mac.com>, "John O'Neill" <johnoneil5@aol.com>, "Pat O'Rourke" <patithaca@aol.com>, "Jodi Dake" <clerk@vlansing.org>

Don,

When the BOT's vote to join the CLEAN Article is rescinded, what will be the plans for public discussion of the resolution?

Will it be an agenda item for a future BOT meeting? Should we schedule a public hearing for that discussion?

Ronny

(http://www.lansingstar.com)



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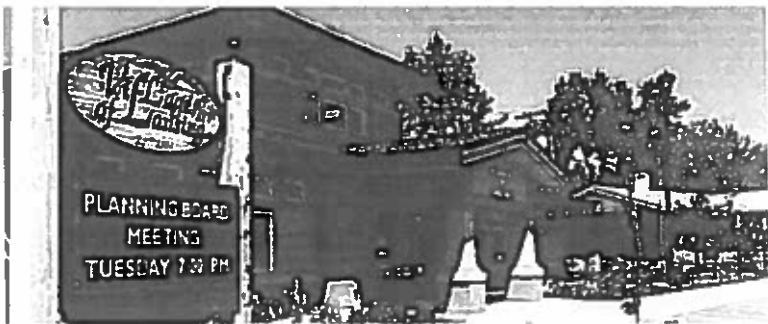
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☆ Village of Lansing Joins Mine Lawsuit (/news-page/14232-village-of-lansing-joins-mine-lawsuit)

News | Friday, October 06 2017 | By Dan Veaner (/news-page/14232-village-of-lansing-joins-mine-lawsuit?tmpl=component&print=1&layout=default)

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The Village of Lansing Board of trustees voted Monday to join an Article 78 proceeding to force the New York State Department of Environmental Conservation (DEC) to require a full environmental review of the Cayuga Salt Mine's Shaft #4 project, the tunnel connecting the shaft to the existing mine, and future mine expansion beneath Cayuga Lake. After a contentious discussion the Trustees voted 3-1 (with one abstention) to pass the resolution.

"I have a lot of concerns with the way DEC is treating our area," said Trustee Ronny Hardaway as he presented the resolution to the Board. "They have basically washed their hands of Gun Hill and said that there's lead all over it, but everything's OK. Right now we have a major construction that is going to be built above the salt mine, that will allow the salt mine to extend itself northward. Cargill has split their request to DEC into pieces. Therefore each piece is evaluated independently. The tunnel that will join the mine to the shaft was one, the shaft is another. A future request will be to extend the mine further north. To me that smacks of segmentation."

The Article 78 proceeding is to be filed by Cayuga Lake Environmental Action Now (CLEAN) a local group of activists who have presented evidence they say shows a chance of a mine collapse could cause a monumental lake disaster similar to a 1994 disaster in Restof, New York when a mine collapsed and filled with water, causing property damage, sink holes, and damage to local water wells. Cargill mine officials countered that independent scientists have certified the Cayuga mine is safe, and that annual reviews by independent geologists are part of the normal process of conducting mine business.

Article 78 proceedings take their name from Article 78 of the New York Civil Practice laws and Rules which allow challenges to decisions already made. The proceeding can only be brought in the County Supreme Court.

Mayor Donald Hartill said he had not reviewed the documents on the CLEAN Web site (http://cleancayugalake.org) and would want to study both sides before voting on whether to support the lawsuit.

"I have a real problem with that. The problem is the science behind this," he said. "I have a colleague in the Engineering Department who is one of the consultants for the DEC, a highly respected individual. I would be very reluctant to doing this without further careful study."

"Wouldn't a careful further study also include an environmental impact study?" Hardaway countered. "There's never been an environmental impact study on anything related to Cargill. They have skated around the regulations."

Deborah Dawson, who is running unopposed for Tompkins County Legislature (representing the

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Villages of Lansing and Cayuga heights), said the difference of opinion by respected scientists is a good reason for the DEC to conduct a review that could confirm that more under-lake mining is safe.

"I have nothing against Cargill," Dawson said. "I know that in many ways they are a very good corporate citizen. But their job is to mine salt as profitably as possible. It is not to objectively and transparently evaluate the environmental risks to their activities. That's the DEC's job."

In July Assemblywoman Barbara Lifton joined with Assemblyman Steve Englebright to urge DEC Commissioner Basil Seggos to enact a moratorium on permits and avoid approving activities that would lead to expanded salt mining under Cayuga Lake. But in August the DEC issued a permit to Cargill to build the shaft. The surface portion of the project is currently under review by the Town of Lansing Planning Board which has no jurisdiction over environmental review on this particular project because that is under the jurisdiction of the state DEC.

After Lifton held a press conference to announce her call to stop under-lake mining, Cargill Mine Manager Shawn Wilczynski noted that Cargill representatives had not been consulted before she took action. Wilczynski says he has reached out to government officials and is available for any officials who have questions about the shaft project or the mine in general. Just last month Sigler, Lansing Town Board members Katrina Binkewicz and Robert Cree, Planning Board members Lin Davidson, Larry Sharpsteen, Dean Shea, and Deb Trumbull; Lansing Planner Michael Long, Town attorney Guy Krogh, and NYS Senator Pamela Helming toured the mine.

"Cargill has demonstrated a willingness to meet with any elected official and in every case those officials have left assured of Cargill's ability to safely and sustainably mine under Cayuga Lake," said Wilczynski Tuesday. "Cargill was not asked to be involved or informed this topic would be on last night's agenda. I am disappointed that the elected officials of the Village of Lansing would choose to vote on a matter this important without involving Cargill in their process."

The Village of Lansing is not alone in joining the CLEAN initiative. Hardaway noted that the Villages of Aurora, Danby, and Caroline had already joined the lawsuit, and said that Trumansburg and the City of Ithaca Common Council was considering joining. He said the Village would be lending its name to the proceeding, but there would be no monetary cost to doing so.

"I think if we were going to have something like this build in our village we would request an environmental impact study," he said. "I think it behooves the DEC to also request that on our behalf. It's the job of the state government to protect our environment. They're not looking at the whole picture. They're putting blinders on and looking at a very small piece and saying 'it looks good to me'."

Trustee Gerry Monaghan said there was a motion on the table, but could it be tabled to give board members a little more time to do more research. Trustee John O'Neill said he would like to table the motion until the next meeting. Hardaway said adding the Village to the lawsuit once it is filed could cause problems in terms of time and money and 'muddying the legal waters'. He asked whether further reflection would change anyone's vote, pushing hard to vote immediately.

Hardaway and Trustees Gerry Monaghan and Patricia O'Rourke voted in favor of the resolution, with O'Neill voting no and Hartill abstaining.

"I feel uncomfortable about being blindsided by this," Hartill said.

Supporters of the mine were quick to react.

"It's pretty rare to see the abandonment of transparency that was displayed at the Village of Lansing Board this October 2nd when they voted to object to the New York Department of Environmental Conservation permit for Cargill to build its new mine shaft," said County Legislator Mike Sigler (representing most of the Town of Lansing outside of the Village) in a Facebook post. He concluded, "Again, this is a stall tactic and voters know it. I find it unconscionable that these three Village board members would vote for this, risking the jobs of 200 people as they look down from their comfortable lives not considering the damage they are doing to these workers, to their taxpayers, and to the community, which benefits from the century old mine. They've decided to believe the charlatans, and not the NYS scientists. It's appalling."

Sigler argued that the DEC followed its own rules, and made the decision to issue the permit based on solid science. His post set off a spate of comments by Village officials and others posting in favor of and against the mine.

"I support Cargill. I support the economic impact and the good jobs they do, and I also support the DEC and their findings," said Lansing Town Supervisor Ed LaVigne, who attended the Village trustees meeting. "I have worked with them on other projects and I respect their opinions. I would have hoped this would have been on the agenda so people would have had time for public comment. I thought it was out of the ordinary to do something like this, but that's something for the Trustees to decide, not me."

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Subject: RE: Article 78 Discussion

From: "Ronny Hardaway" <rjhardaway@yahoo.com>

Date: 10/6/2017 1:35 PM

To: "'Don Hartill'" <dlh13@cornell.edu>, "'Gerry Monaghan'" <gmonaghan22@mac.com>, "'John O'Neill'" <johnoneil5@aol.com>, "'Pat O'Rourke'" <patithaca@aol.com>

CC: "'Jodi Dake'" <clerk@vlansing.org>, "'David Dubow'" <ddubow@bgdtlaw.com>

To all,

I am happy to see the board consider this Cargill-project issue further. I have followed it since a community meeting held in the Lansing Library months ago. For further research, the CLEAN website has more documents available on this topic so please try to read them before our Oct. 16th meeting: <http://cleancayugalake.org/documents/>

There are many aspects to this issue that raise questions and uncertainties about Cargill's Shaft 4 project and NYS DEC's diligence in evaluating the project's environmental impact.

Best regards,
Ronny

-----Original Message-----

From: Don Hartill [mailto:dlh13@cornell.edu]

Sent: Friday, October 6, 2017 12:06 PM

To: Ronny Hardaway <rjhardaway@yahoo.com>; Gerry Monaghan <gmonaghan22@mac.com>; John O'Neill <johnoneil5@aol.com>; Pat O'Rourke <patithaca@aol.com>

Cc: Jodi Dake <clerk@vlansing.org>; David Dubow <ddubow@bgdtlaw.com>

Subject: Article 78 Discussion

Dear Colleagues

I have asked Jodi to publish an agenda for our Thursday noon meeting that will have as its first item a proposal to rescind the vote on joining the Article 78 against DEC being pushed by CLEAN. I will also have Jodi include revisiting the resolution that was voted on Monday so that there can be a balanced discussion about the merits of the Article 78 initiative by CLEAN as an agenda item at our meeting on October 18. We would then be in a position to have an informed vote on the resolution. I hope this is satisfactory with you. To avoid any further blind-siding I am attaching two open letters from my colleague Prof. Larry Cathles to Governor Cuomo and the NYSDEC along with a recent email to me.

Best regards Don

Subject: Article 78 Resolution

From: Deborah Dawson <ithacadeborah@yahoo.com>

Date: 10/9/2017 5:00 PM

To: Don Hartill <dlh13@cornell.edu>, Ronny Hardaway <rjhardaway@yahoo.com>, Gerry Monaghan <gmonaghan22@mac.com>, Patricia O'Rourke <patithaca@aol.com>, "O." <johnoneil5@aol.com>

CC: Jodi Dake <clerk@vlansing.org>, David Dubow <ddubow@bgdtlaw.com>

Dear Trustees:

It appears that you will be rescinding last week's vote on the Article 78 resolution, and putting it up for another vote on October 16. As you weigh your votes yet again on this resolution, I respectfully request that you inform your consideration by reading the scientific materials that are posted on CLEAN's website at <http://cleancayugalake.org/documents/> - particularly the reports by Andrew Ferguson and John Warren, and the comments by Raymond Vaughan, Richard Young, and Andrew Michalski. John Warren, PhD in Geology, and Angus Ferguson, M.Sc. in Geology), both teach in the Petroleum Geoscience program at Chulalongkorn University in Bangkok, Thailand. Raymond Vaughan, PhD in Physical Geology, is a consulting geologist working out of Buffalo. Richard Young, PhD in Geology, teaches at SUNY Geneseo. Andrew Michalski, PhD in Geological Engineering, MS in Hydrology and Engineering Geology, is a New Jersey-based consultant specializing in hydrogeological and environmental remediation. Their documented concerns about the potential environmental risks of Cargill's northward mining expansion surely should have precluded the issuance of a Neg Dec by the DEC.

I understood from Mayor Hartill's comments at last week's meetings that he had been persuaded by his colleague, Lawrence Cathles, PhD, whose written opinions on Cargill's mining operations the Mayor has already shared with you, that the Shaft 4 project poses no significant potential environmental risks. At best, Dr. Cathles' letters establish a difference of scientific opinion with Drs. Warren, Vaughan, Young, and Michalski, and Mr. Ferguson. They by no means establish that there is no risk.

It concerns me that Professor Cathles is listed as a signatory of the Global Warming Petition that can be found at <http://www.petitionproject.org/> - a petition that states that "[t]here is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing, or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate." The petition project website states that the signatories of the petition are "convinced that the human-caused global warming hypothesis is without scientific validity and that government action on the basis of this hypothesis would unnecessarily and counterproductively damage both human prosperity and the natural environment of the Earth." Professor Cathles' participation in this project suggests that he may be inclined to minimize the significance of environmental risks posed by profitable industrial activities like salt mining.

Finally, I ask you to consider the factual basis for the Article 78 proceeding, which has less to do with science than with the DEC's failure to obey and enforce the SEQRA. The improper

segmentation of Cargill's permit applications enabled the DEC to evaluate the Shaft 4 project as if it would have nothing to do with Cargill's mining operations under Cayuga Lake.

Cargill's expansion into what it calls its "northern reserves" was permitted years ago, pursuant to the 2000 Stipulation between Cargill and the DEC which I have attached hereto. Please read the highlighted paragraph on page 3, in which **Cargill's position, that the DEC has no jurisdiction or regulatory authority over its mining operations**, is clearly stated. (I worked in Federal law enforcement and regulatory agencies for 30 years, and I never saw anything like this.) For whatever reason, the DEC agreed to cobble together a unique procedure that allows Cargill to appear to be cooperating with DEC, and DEC to appear to be doing its job, while both parties avoid following the SEQRA.

In 2012, Cargill purchased the property on Ridge Road that will be the site of its proposed Shaft 4. Late in 2012 and early in 2013, Cargill discussed the Shaft 4 project with Lansing residents and the Town Planning Board. In 2014,, Cargill filed a mine permit amendment application with DEC to dig the tunnel that would connect the mine with the Shaft 4 site. DEC sent Cargill a Notice of Incomplete Application, asking the company to explain why the Shaft 4 project should not be evaluated with the tunnel project. In January 2015, Cargill responded with a ten-page "rationale" for its segmentation of the tunnel permit and the Shaft 4 permit, but admitted that the tunnel and the expected Shaft 4 shared a common purpose. (In an Environmental Notice Bulletin issued on April 8, 2015, the DEC stated that "there will be no additional surface development associated with this [tunnel] proposal" - clearly with knowledge that this statement was false.) Nonetheless, DEC issued a Neg Dec and a permit amendment for the tunnel project.

In October 2015, only four months after DEC issued the mine permit amendment for the tunnel, Cargill filed a mine permit amendment application to construct Shaft 4. In June 2016, DEC issued a Neg Dec with respect to the Shaft 4 proposal, which stated that its "review and significance determination is only for the current 12.3 acre Life of Mine area included in this application." And here we all are.

Bear in mind that Cargill admitted in its TCIDA/TCAD application for tax abatements that Shaft 4 was "required to safely and productively mine the northern reserves." This is because the current access shafts are too far away from northward expansion to allow mine evacuation within the time limits required by the Federal Mine Safety and Health Administration. Shaft 4 is NOT an isolated above-ground project that will have no impact on Cargill's operations under Cayuga Lake: it, and the tunnel, are part and parcel of the Company's plan to expand salt mining operations into its northern reserves. It should have been evaluated as such. That's why CLEAN, the Sierra Club, the Towns of Danby, Caroline, and Ulysses, the Villages of Aurora and Trumansburg, and 15 individual petitioners are filing an Article 78 proceeding. That's why our Village should join them.

Given our Village's recent experience with the Bonniwell/Jonson/IJ construction folks, I know that you are all painfully familiar with issues like segmentation under the SEQRA. If you were the lead agency with respect to Cargill's mining operations, would you have proceeded under SEQRA as the DEC has? I'm sure the answer is NO.

Thank you for your attention and consideration.
Deborah Dawson

— Attachments:

CargillStip2000.pdf

6.0 MB

**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**

**IN THE MATTER OF THE APPLICATION OF
CARGILL, INC. FOR A PERMIT PURSUANT TO
ARTICLE 23, TITLE 27 OF THE
ENVIRONMENTAL CONSERVATION LAW**

STIPULATION

MLR File No. 709-3-29-0052

WHEREAS, the New York State Department of Environmental Conservation ("Department" or "DEC") is the State agency with jurisdiction to regulate mined land reclamation pursuant to Environmental Conservation Law ("ECL") Article 23, Title 27, and 6 NYCRR Part 420 et seq.;

WHEREAS, Cargill, Inc. ("Applicant" or "Cargill") is required to renew its mining permit from DEC to continue its mining operations pursuant to the provisions of the Mined Land Reclamation Law ("MLRL");

WHEREAS, the Applicant's mining operations which are the subject of this Stipulation are located near the Town of Lansing, Tompkins County, New York, and are known as the "Cayuga Mine;"

WHEREAS, the Department received an application by the Applicant for renewal of its Mined Land Reclamation Permit for MLR File No. 709-3-29-0052 on September 17, 1997, which application proposed to include an additional 5,056 underground acres within the Cayuga

Mine ("the Application");

WHEREAS, by letter dated April 23, 1998, Michael Barylski, Deputy Regional Permit Administrator for Region 7 of the Department, informed the Applicant, *inter alia*, that the Application for renewal was timely and sufficient for purposes of the State Administrative Procedure Act §401(2); that the renewal application required correction and clarification; that the proposed inclusion of an additional 5,056 underground acres requires a modification of the existing permit; and that additional information would be required in connection with the Application;

WHEREAS, by letter agreements between the Applicant and the Department, the time for the Applicant to respond to the April 23, 1998 letter was extended pending the Applicant's requests for review of Department records and associated appeals pursuant to the Freedom of Information Law (Public Officer's Law, Article 6) until October 15, 1998, and was further extended until 10 business days after the conclusion of discussions between the Applicant and representatives of the Department;

WHEREAS, on October 29, 1998 representatives of the Applicant and the Department met to discuss the issues raised by the Application and the April 23, 1998 letter and further discussions are anticipated;

WHEREAS, the Applicant contends, *inter alia*, that the Application does not involve a modification of its MLRL permit; that the Department lacks statutory or regulatory authority to regulate the Applicant's underground mining operations and to require the submission of the information requested by the April 23, 1998 letter; that the Application is a Type II action, not subject to review under the State Environmental Quality Review Act ("SEQRA"); and that the Application is and has been complete pursuant to ECL Article 70 since at least October 2, 1997, and the Applicant is entitled to approval of the Application without further submissions or Departmental review;

WHEREAS, the Department disputes the aforementioned contentions and contends, *inter alia*, that the Application does involve a modification of the MLRL permit; that the Department has statutory and regulatory authority to regulate the Applicant's underground mining operations and to require the submission of the information requested by the April 23, 1998 letter pursuant to the provisions under SEQRA and the MLRL; and that the Applicant is not entitled to approval of the Application without further submissions and Department review;

WHEREAS, the Department reserves all legal, administrative or equitable rights which the Department could otherwise maintain with respect to areas or resources affected or to be affected as a result of the operation of the Cayuga Mine and specifically reserves its rights to continue to contest and oppose the Applicant's aforementioned contentions;

WHEREAS, the Applicant has agreed to submit additional information in an effort to cooperate with the Department, without waiving or prejudicing any of the Applicant's rights;

WHEREAS, Cargill and the Department recognize that the specialized expertise of underground mine experts ("Consultant Services") will be necessary in order for the Department to thoroughly and adequately review certain aspects of the Application, i.e., mine design, stability, and related rock mechanics and mining engineering issues;

WHEREAS, the Applicant and the Department agree that, notwithstanding any other provision of this Stipulation;

(a) this Stipulation does not and shall not be interpreted to provide the Applicant with any claim or right to mine within the additional 5,056 underground acres without first obtaining from the Department a Mined Land Reclamation permit pursuant to ECL Article 23, Title 27, for such activity, or a Departmental or judicial determination that no such permit is required; and

(b) this Stipulation does not and shall not be interpreted to preclude the Applicant from seeking relief in the future with respect to the Applicant's aforementioned contentions nor shall it be interpreted in any way to limit or restrict the Department's right to oppose or contest the relief sought by the Applicant; and

WHEREAS, the Department and the Applicant are entering into this Stipulation in order to pursue good faith efforts to reach agreement, without costly and protracted litigation, and to cooperate to further the processing of the Application without waiving or prejudicing their respective rights;

NOW, therefore, it is hereby STIPULATED and AGREED:

1. Representatives of the Department and the Applicant will meet within 30 days following the execution of this Stipulation and from time to time thereafter as necessary to review the requests made in the April 23, 1998 letter and the information previously submitted to the Department by the Applicant and to determine the scope, content and form of further submissions to be made by Applicant;

2. Within 120 days following the execution of this Stipulation, the Applicant will submit to the Department such further information as the Applicant and the Department shall agree upon, in an effort to comply with the requests contained in the Department's April 23, 1998 letter. This 120 day time period may be adjusted upon and in accordance with approval by the Department;

3. The Department will review the Application, together with the additional submissions in accordance with the mandates of ECL Articles 8, 23, and 70 and the regulations thereunder. The Department reserves the right to request, in writing, any additional information which it

deems necessary in its sole discretion to make any findings or determinations required by law.

4. The parties acknowledge that the acreage described in the Application as “not previously approved” (Box 15, Item f) is owned by the State of New York and is the subject of a request by the Applicant for authority from the Office of General Services (OGS) to include an additional 5,056 underground acres of State owned lands. The Applicant has no current plans to seek authority from OGS to include additional acreage not identified in the Application. If, after the date of this Stipulation, and prior to the approval of the Application and issuance of a permit thereunder, OGS offers to authorize the Applicant to include additional acreage not identified in the Application and the Applicant desires to do so, the Applicant will notify the Department, and the parties will modify this Stipulation to incorporate Departmental review of such additional acreage, including an increase in the amount of Consultant Services fees to be paid by the Applicant pursuant to Paragraph 5 hereof if necessary for review of the additional acreage,

5. A. Cargill shall pay the costs of Consultant Services, up to a maximum of \$50,000, for qualified mining engineering consulting services as may be required by the Department to assist it in the review of the proposed underground mine design for potential impacts on the public health and safety, natural resources and the environment. The choice of the consulting firm shall rest in the sole discretion of the Department. The Department reserves the right to change its choice of consulting firm at any time upon written notice to Cargill specifying the new consultant and effective date of the new consultant’s services. Activities of the consultant of any nature whatsoever related to review of the mining permit application submittals shall be directed

by the Department in its sole discretion.

B. Cargill shall promptly process and pay invoices submitted by the Department's designated consultant. The Department shall cause the consultant to submit its invoices in a format and with such detail as Cargill may require of its own consultants.

C. All reports, information, opinions, or other work product of the consultant shall be provided directly to the Department, to be shared with Cargill to the extent determined by the Department. The Department agrees to share with Cargill any report or data prepared by the consultant which forms the basis of any permit application decision made by the Department.

D. The consultant shall have all rights to access the mine or mine related technical information which would otherwise accrue to employees or agents of the Department. The Department shall ensure that all information provided to or obtained by the consultant shall be treated by the consultant as confidential and shall not be disclosed by the consultant other than to the Department and Cargill. The Department shall maintain the confidentiality of such information to the fullest extent permitted by law.

E. Subject to the maximum costs set forth in paragraph 5A, Cargill's commitment to fund the Consultant Services shall remain in effect until a decision is made by the Department regarding issuance of a permit or a decision is made by the Department to relieve Cargill of this obligation.

6. Neither the Applicant's submission of further information, the execution of this Stipulation nor any actions taken pursuant to this Stipulation shall be considered a waiver of the Applicant's rights or an admission, concession, or acknowledgment of the Department's authority to require such submission or action, to regulate the Applicant's underground mining operations, or to subject the application to review under SEQRA;

7. The Applicant reserves all rights it may have to request an administrative hearing or appeal or to commence a judicial proceeding to review any and all determinations and actions heretofore or hereafter made by the Department in connection with the Application, to enforce the Applicant's rights under ECL Article 70 and to challenge the Department's authority to either regulate the Applicant's underground mining operations or to subject the application to review under SEQRA. All limitations periods governing the time for the Applicant to request an administrative hearing or appeal or to commence a judicial proceeding are tolled effective April 23, 1998 and continuing until the earliest of: (1) the Department's issuance of a decision approving the Application, denying the Application, or approving the Application with modifications or conditions; (2) the Applicant's service upon the Department of a demand for a decision pursuant to ECL Article 70; (3) the Applicant's service upon the Department of a request for an administrative hearing or appeal; or (4) the Applicant's commencement of a judicial action or special proceeding against the Department concerning the Application.

8. The Department reserves all of its rights under applicable law, including but not limited to, the MLRL, SEQRA, and the UPA, and common law, against the Applicant.

9. This Stipulation shall not be construed to impair or prejudice: (a) any rights DEC may have to require the Applicant to perform additional measures to preserve or protect the environment or the public health, safety or welfare; (b) any other rights, claims or causes of action not mentioned in this Stipulation; or (c) the Commissioner's authority to exercise summary abatement powers, either in common law or as granted pursuant to statute or regulation;

10. Nothing stated or implied in this Stipulation relieves the Applicant of the responsibility of complying with all applicable federal, state or local laws, rules, regulations, permits or orders.

11. A. All reports and submissions to be submitted to the Department as required herein shall be sent to Joseph S. Moskiewicz, Mined Land Reclamation Specialist, Region 7, New York State Department of Environmental Conservation, 615 Erie Boulevard West, Syracuse, New York 13204-7400.

B. All communications with the Applicant shall be sent to: Robert J. Supko, Mine Manager, Cargill, Inc., 191 Portland Point Road, P.O. Box B, Lansing, New York 14882-1520, with a copy to William J. Gilberti, Jr., Esq., Devorsetz, Stinziano, Gilberti, Heintz & Smith, P.C.,

555 East Genesee Street, Syracuse, New York 13202.

12. The Applicant specifically acknowledges and hereby agrees to allow the agents, employees and representatives of DEC to enter upon any and all facility lands as described herein and to have access to mine records relative to surface and subsurface mining and subsequent reclamation pursuant to 6 NYCRR §424.2.

13. This Stipulation shall not create any presumption of law or finding of fact.

14. This Stipulation does not constitute an admission or acknowledgment on the part of any of the signing Parties that any statute of limitation is applicable to any cause of action asserted by DEC with respect to the Cayuga Mine pursuant to any provision of the MLRL, SEQRA, or the UPA.

15. This Stipulation and the documents and papers recited herein constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof between Applicant and the Department and may only be modified in writing on consent of all parties.


16. This Stipulation shall apply to, and be binding upon, the Applicant and its subsidiaries, successors and assigns.

17. The undersigned are authorized representatives of the Applicant and the Department respectively and have authority to execute this Stipulation and bind the respective parties hereto.

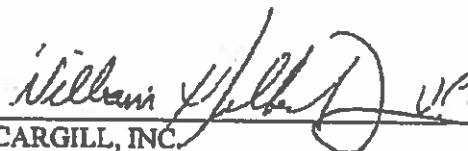
18. The effective date of this Stipulation shall be the date it is signed by the Department.

DATED: Albany, New York
January 14, 2000

John P. Cahill
Commissioner
New York State Department of
Environmental Conservation

By: 
PETER DUNCAN
Deputy Commissioner for
Natural Resources

DATED: January 14, 2000


CARGILL, INC.

By: Devorsetz Stinziano Gilberti
Heintz & Smith, P.C.
William J. Gilberti, Jr., Esq., of counsel
Attorneys for Cargill, Inc.
555 East Genesee Street
Syracuse, NY 13202

Subject: letter to Trustees
From: Lynn Leopold <lynnbird58@gmail.com>
Date: 10/12/2017 10:36 AM
To: Jodi Dake <clerk@vlansing.org>

Jodi,
Could you share this with the trustees, please?
thanks,
Lynn

Dear Mayor and Trustees,

I am unable to attend the noon meeting today, but saw with some alarm that you are voting to rescind your previous, but unsigned resolution to join with sister municipalities on the Article 78 action to require the DEC to do a proper environmental review of the proposed Cargill shaft project.

As I understand this, the Article 78 will go forward whether or not the Village of Lansing signs on, but it would be great disappointment were the Village to decline to join. I would have voted for this resolution were I still on the board. It shows political will and committment to what is right to do so. The DEC review process has been cursory at best and almost non-existent at worst. Our village boards are held to their standards of environmental review on all projects to be sure they are properly considered before any project can go forward. In most cases, we have found little or no environmental impact of projects in the village. Conversely, the potential impact of this new shaft, were it to go forward, could be enormous. We cannot let anyone, be it a corporation, a municipality, or a government agency to play fast and loose with what is an irreplaceable and critical resource to the entire watershed. To allow the project to go forward without the proper vetting by state environmental review standards would be a travesty.

We have always tried our best to follow process and it seems clear that the DEC has segmented this Cargill process so that environmental review is sorely lacking or incomplete. The few times the Village has had to deal with the issue of segmentation we have been very clear that it is not following the proper environmental review system.

I urge you to support the resolution, which, presently worded is pretty offensive. I don't know where the "pushed" came from, but if you approved it at a prior meeting, it doesn't sound like you were pushed then to consider joining the Article 78 action.

Transparency in all aspects of government is critical.

Respectfully,
Lynn Leopold

Subject: Fwd: Cargill Mine shaft #4 proposal
From: Patricia O'Rourke <patithaca@aol.com>
Date: 10/12/2017 11:13 AM
To: Jodi Dake <clerk@vlansing.org>

Sent from my iPhone

Begin forwarded message:

From: Rob Mackenzie <rmackenzie@zoom-dsl.com>
Date: October 11, 2017 at 4:25:57 PM EDT
To: Don Hartill <dlh13@cornell.edu>
Cc: Ronny Hardaway <rjhardaway@yahoo.com>, Gerry Monaghan <gmonaghan22@mac.com>, John O'Neil <johnoneil5@aol.com>, Patricia O'Rourke <patithaca@aol.com>
Subject: Cargill Mine shaft #4 proposal

Dear Dr. Hartill:

Thank you for the care and attention you and your board are giving to Cargill's Mine Shaft #4 plans. Since my retirement as CMC CEO in 2013, I've studied safety issues related to the Finger Lakes salt layers from a public health perspective. I believe I understand the inclination to trust the reputable scientists advising Cargill and DEC, but would offer a different perspective.

The problem, as I see it, is that neither industry nor regulators have been able to anticipate or prevent recurring salt-layer disasters in upstate New York (nor in the other states where bedded-plane salt is mined) every 10 to 20 years:

- In 1964, neither International Salt nor DEC's predecessor anticipated or prevented the sudden salinization of Seneca Lake to levels risky to health when gas was first stored in the salt caverns nearby.
- In 1975, neither Morton Salt nor DEC anticipated or prevented serious roof instability and large flows of brine into Seneca Lake from the Himrod mine (just 15 miles west of Cargill), that caused additional Seneca Lake pollution and were the main factors forcing that mine to close.
- In 1994 neither Akzo-Nobel nor DEC anticipated or prevented the mine-roof collapse at the 100 year-old Retsof salt mine in Livingston County that resulted in flooding and ground subsidence, destroyed roads, bridges, homes, wells, farmland, and industry,

and salinized a local aquifer. (Fortunately, that mine wasn't under a lake.)

In each case things went just fine--sometimes for decades--before disaster struck. Now it's another 22 years later.... And as FOILED documents appear to show, one of the scientists both Cargill and DEC have been relying on for technical advice on safe mining practice is the same one whose advice the Retsof mine was following when it collapsed.

What have we learned?

- First, we've learned that with treacherous bedded-plane salt geology unforeseen disasters happen, over and over, and sometimes after many decades.
- Second, we've learned that environmental assessments behind closed doors are not the same as the public environmental impact process that SEQRA mandates for proposals that may carry large risks.
- Third, we've learned that companies push the envelope, and DEC often doesn't push back. In this case, Cargill has pushed the envelope so far that for more than 40 years it has never agreed to a public DEIS with hearings, never publicly released critical scientific data that would help show whether future mining is safe or not, and never even agreed that DEC has jurisdiction over its underground operations. (Probably for that reason Cargill's financial assurance has been limited--as I read the documents--to its surface operations.)
- Finally, we've learned that entrusting these kinds of decisions solely to industry and regulators is Einstein's definition of insanity: doing the same thing over and over, and expecting different results.

Independent geologists have outlined the similarities between the other disaster sites and this mine. They've requested the scientific data and suggested ways to reduce the risk. DEC says they've considered those concerns, but neither DEC nor Cargill will release the data. In essence, they and the company are saying, "just trust us."

The resolution your board recently passed says, "trust but verify." As I see it, the only job it might kill is an unsafe job. It asks DEC to carefully, openly, publicly consider the environmental and safety impacts of the project, to significantly reduce the risk that the mine and our lake will be another International Salt, Himrod, or Retsof. Please don't rescind it.

Thank you very much,

Rob Mackenzie

Rob Mackenzie, MD
Mackenzie Consulting LLC
6252 Bower Road
Trumansburg, NY 14886
(607) 592-2508

Fwd: Cargill Mine shaft #4 proposal

rmackenzie@zoom-dsl.com

Fwd: Follow up to Meeting on October 12th

Subject: Fwd: Follow up to Meeting on October 12th
From: o <johnoneil5@aol.com>
Date: 10/13/2017 11:11 AM
To: clerk@vlansing.org

FYI: John O

-----Original Message-----

From: Shawn Wilczynski <Shawn_Wilczynski@cargill.com>
To: DLH13 <DLH13@Cornell.edu>; rjhardaway <rjhardaway@yahoo.com>; Gerald Monaghan <gmonaghan22@mac.com>; johnoneil5 <johnoneil5@aol.com>; Patricia O'Rourke <patithaca@aol.com>
Cc: Mike <mike.sigler@parkoutdoor.com>; Lawrence M. Cathles <lmc19@cornell.edu>; Shawn Wilczynski <Shawn_Wilczynski@cargill.com>
Sent: Fri, Oct 13, 2017 11:35 am
Subject: Follow up to Meeting on October 12th

Dear Village of Lansing Elected Officials,

I wanted to thank you again for your willingness to take 2 hours out of your busy schedules to seek information that had not been previously considered. You are the only municipality to demonstrate an informed and responsible approach to decision making.

I hope I was able to effectively demonstrate the commitment, rigor, and strong body of work that Cargill and their 3rd party mining experts have been doing for decades. The expanded environmental assessment completed in conjunction with the 2002 permit modification approval served as a foundation to build from. Cargill has continued to build on that foundation over the past 15 years by the utilization of world class experts, improved technology, information, and knowledge. That process has been able to validate that Cargill continues to operate with a conservative approach and an abundance of caution.

I felt it was important to inform or remind you the DEC, as lead agency for environmental oversight, has been involved with the process the entire time. The DEC mining permit requires Cargill to submit an annual report on mining conditions, plans, and stability. Mine stability data is sent to JT Boyd for their independent geotechnical review by Dr. Vincent Scovazzo. I am not aware of other industries that are subject to annual/continuous DEC oversight.

Having been involved with this process for 13 of the past 15 years I can attest that this process facilitates ongoing dialog and continuous improvement. Therefore the strong foundation established by the advance environmental assessment has significantly evolved in the past 15 years. I am not a spokesperson for the DEC but I believe that the DEC has been diligently meeting or exceeding the environmental oversight in accordance with SEQRA related processes. In my opinion their actions strongly support the DEC mission and goal of:

"To conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being. DEC's goal is to achieve this mission through the simultaneous pursuit of environmental quality, public health, economic prosperity and social well-being, including environmental justice and the empowerment of individuals to participate in environmental decisions that affect their lives".

Most recently, Cargill followed the DEC review and approval process (Environmental Assessment Form) for a new

shaft and surface facilities proposed to be located at 1001 Ridge Road in the Town of Lansing. As I mentioned yesterday the need of the shaft is for the safety and health of our employees and does not include the addition of any mining rights. Cargill has been transparent about this process for 5 years and is doing everything possible to ensure the 12.3 acres and surface infrastructure do not have a significant impact on potential neighbors or the environment (including Cayuga Lake).

Although permit review is typically limited to a 30 day public comment period, the DEC accepted and considered question and concerns for almost 1 year. After a lengthy and thorough review the DEC responded to the comments (see attachment: DEC Response to #4 Shaft Permit Comments) including CLEAN's request to rescind the negative declaration and require a Draft Environmental Impact Statement.

DEC Response: A decision to rescind the State Environmental Quality Review Act (SEQR) determination of significance for this action would be made based on the criteria found in the applicable regulation, 6 NYCRR 617.7(f), which requires that a lead agency rescind a negative declaration when substantive new information is discovered or changes in circumstances related to the project arise that were not previously considered and the lead agency determines that a significant adverse environmental impact may result. DEC provided a Negative Declaration with the first Notice of Complete Application that lists in detail the reasons why the impacts are not considered significantly adverse. The issues raised during the public comment periods have not identified any new information or changes in circumstance which could reasonably be expected to cause significant adverse impacts; therefore, the negative declaration shall not be rescinded.

Another accusation by CLEAN is that Cargill has attempted to segment projects to avoid environmental review. Cargill provided justification to the DEC as part of their review process between August of 2015 and notice of complete application determination in August of 2016 (1 year of DEC review before acceptance of the application).

DEC Response: SEQR has been done on the previously approved mine and the 2015 expansion of 150 acres. The current SEQR review for this action covers the Shaft #4 project only, which includes a single additional access shaft and associated surface infrastructure. SEQR does not get re-applied to previously approved actions. The previous expansion found no significant adverse impacts so a negative declaration was issued and is attached to this response. SEQR applied to the current Shaft #4 action does not identify significant adverse impacts either, so a negative declaration was issued. The two actions combined would not have resulted in a positive declaration and the two actions are treated separately as phases, which is acceptable under SEQR. To address the possible issue of segmentation, Cargill was required to supply a detailed response outlining reasons why segmentation is not triggered.

I believe the DEC as lead agency has fulfilled their important obligation for environmental review and hope that Cargill can soon move forward with a project that is critical to the safety and health of their employees.

Thank you again for your willingness to learn more about the body of work done by Cargill and reviewed by the DEC. I hope that you found yesterday's meeting to be of value and that you are better equipped to make an informed decision.

Please feel free to contact me if you have any questions.

Kindest Regards,

Shawn Wilczynski
Mine Manager – Deicing Technology, Lansing NY
Cargill
Helping the world thrive
direct: 607-533-3700 | mobile: 337-321-1049
shawn_wilczynski@cargill.com

Fwd: Follow up to Meeting on October 12th

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Attachments: _____

DEC Response to #4 shaft permit Comments Final.pdf

163 KB

NYSDEC Response to Comments
Cayuga Salt Mine, DEC #0-9999-00075
Cargill Inc., Shaft #4 Project

Cargill, Inc. ("Cargill") proposes to expand the surface operation by adding 12.3 acres to the Life-of-Mine area, including a new mine shaft ("Shaft 4") and infrastructure to be constructed in support of the new shaft, on land owned by Cargill located north of the existing Portland Point facility. The mining permit modification application involves the construction of a surface access and ventilation shaft required for safety precautions and Mine Safety and Health Administration (MSHA) regulations due to the increasing distance from the current underground operations to Cargill's main access and ventilation shaft at Portland Point as mining progresses to the north and west. The proposed final reclamation plan states that Shaft 4 will be decommissioned, which involves removal of any piping or operating systems from the shaft, injecting cementitious low-permeability flow-able fill that will permanently seal the shaft and filling the uppermost eight to ten feet of the shaft with a high-strength concrete plug. The surface facilities will remain to provide office and/or commercial facilities for future use. The facility is located at 1001 Ridge Road (NYS RTE 34B), Town of Lansing, Tompkins County.

In accordance with NY State's Uniform Procedures Act and regulations 6NYCRR Part 621 this application was deemed Complete on August 29, 2016 and given a 30 day public comment period. Due to several requests to extend the comment period the application was re-noticed on November 3, 2016 and given an additional 30 day public comment period. A list of all commenters and a summary of the comments are listed below including NYSDEC Region 7's response to these comments.

Comments-

- 1. Extend the public comment period and make the application documents available to the public.** Response: Due to the overwhelming request to extend the public comment period, DEC issued a second Notice of Complete Application on November 3, 2016 allowing for an additional 30-day public comment period until December 9, 2016. Cargill had the 2nd Notice published in *The Lansing Star*. Further, DEC provided a second set of documents, this set in e-format, to the Town of Lansing Supervisor as well as a full electronic set to Mr. John Dennis, Chair of the Tompkins County Environmental Review Committee.
- 2. Rescind the negative declaration and require a Draft Environmental Impact Statement.** Response: A decision to rescind the State Environmental Quality Review Act (SEQR) determination of significance for this action would be made based on the criteria found in the applicable regulation, 6 NYCRR 617.7(f), which requires that a lead agency rescind a negative declaration when substantive new information is discovered or changes in

circumstances related to the project arise that were not previously considered and the lead agency determines that a significant adverse environmental impact may result. DEC provided a Negative Declaration with the first Notice of Complete Application that lists in detail the reasons why the impacts are not considered significantly adverse. The issues raised during the public comment periods have not identified any new information or changes in circumstance which could reasonably be expected to cause significant adverse impacts; therefore, the negative declaration shall not be rescinded.

- 3. The proposed mine access shaft allows Cargill to mine further northward.** Response: This action, to install a new Shaft #4 and appurtenances, is necessary to allow air ventilation and safe access to the existing underground mine which has already been permitted. This action does not include expansion of the underground mine into new unpermitted areas. Mining north of the currently permitted boundary will not be authorized without a further permit modification.
- 4. Water storage in the mine and increased humidity will result in mine instability.** Response: The water collected during the shaft construction will be saturated with salt fines prior to being placed for storage in the mined-out production areas. This will prevent the stored water from dissolving additional salt or undercutting the salt pillars. Water storage within the mine will increase humidity levels to a degree; however, such increase in humidity will cause only a slight increase in closure rates and will not result in global instability. Increased humidity levels are routinely experienced throughout the mine due to seasonal fluctuations. Cargill, Inc. has studied the effects of these increased humidity levels within the mine and has 40 years of data and observations involving various conditions which show that humidity effects, while detectable, do not affect mine stability. [Relevant sources: responses to incomplete notices, prepared by Spectra Environmental Group, Inc., dated January 26, 2016, and April 13, 2016.]
- 5. Drilling through the aquifer will cause leakage into the mine and flood the mine.** Response: Site-specific empirical data has been collected from corehole #18 which accurately characterizes the geology where the shaft will be constructed, as well as defines the water-bearing zones encountered and their characteristics. Fluid entry rates obtained from the pump test and data from the geophysical well logs, specifically the base density porosity, the neutron porosity, and the photoelectric absorption, all indicate that the Oriskany formation is homogeneous in this location. The inflow rates have been accurately determined, and the shaft construction plans are designed to handle almost double the anticipated inflow. There is no coring evidence that would suggest fractured conditions capable of producing high flow rates that could potentially become uncontrollable. Even though not plausible or probable, if unforeseen conditions were encountered at the shaft location, they would be discovered during the drilling of the pilot hole prior to accessing the mine and reaming the shaft and would be properly addressed. [Relevant sources: "Figures" section of Mined Land Use Plan; response to incomplete notice, prepared by Spectra Environmental Group, Inc., dated February 3, 2016.]
- 6. Uncontrolled methane gas emissions from drilling do not meet CP-42 requirements.** Response: The drilling of the pilot hole for #4 shaft will be done wet, and methane will be contained by the head of the water in the hole. Once the hole connects with the mine, the ventilation system will create a negative pressure in the shaft bottom. The ventilation

system will dilute the gas to a concentration of 0.06%, well below any levels of concern, before it is released to the atmosphere. If deemed appropriate, a gas bleeder system will be installed similar to the existing system in the #3 intake shaft. [Relevant sources: response to incomplete notice, prepared by Spectra Environmental Group, Inc., dated January 26, 2016.]

7. **Salt mining increases the salinization of Cayuga Lake.** Response: Inter-bedded shale and limestone layers shield the salt layers from the bottom of the lake. [Relevant sources: Mined Land Use Plan, Plates 3A, 3B, and 3C.]
8. **Shaft tower visual impacts.** Response: The mining application includes a detailed visual impact analysis prepared by the professional consulting firm of Environmental Design & Research, PC. The analysis shows existing and proposed conditions of the project site with emphasis on the 93-foot tower and its impacts from view sheds on the west shore of Cayuga Lake. The photo simulations include view points from Route 34B near the project site and from the Taughannock Falls State Park and Frontenac Point areas on the west shore of Cayuga Lake. Results show that while the tower will be visible, it will be barely discernable and therefore will not have a significant adverse impact on visual resources. The plans call for the hoist equipment to be housed within an unobtrusive structure which will be designed to blend with adjacent land-use features. [Relevant sources: Mined Land Use Plan, section 2.4.3: "Potential Visual Impacts" and Viewpoint Maps (Appendix C).]
9. **Industrial impacts.** Response: The status of the Department as Lead Agency pursuant to the State Environmental Quality Review Act (SEQR) does not change the jurisdiction of respective agencies, nor the jurisdiction between or among state and local agencies (SEQR 6NYCRR Part 617.3 (b)). The Town continues to retain those approvals that Town Law incorporates. The Town is not preempted from addressing potential impacts within their respective jurisdictions. The Town retains jurisdiction over the routing of transport vehicles on roads it controls and continues to maintain its jurisdictions under its special use permit or zoning authority. The Town's site plan review process identifies that process as key to implementing the recommendations of the Town's comprehensive plan and furthermore is intended to determine compliance with the land use regulations. The Town of Lansing land use regulations allow mining as an acceptable use within an Agricultural/Residential district in accordance with the issuance of a Special Use Permit by the Town Planning Board. The DEC will not intrude into matters of local jurisdiction.
10. **Bedrock mine depth insufficient for stability.** Response: The bedrock thickness above the previously reviewed and approved mineable reserves is not relevant to this Shaft #4 modification application. However, a thorough evaluation of the geology above the mine, coupled with geo-mechanical evaluation of mine design and practices, has been previously evaluated as part of the 2000 Expanded Environmental Assessment. Further, special conditions were added to the mining permit in 2003 requiring the submission of additional investigations of a disturbed salt zone and thin rock overburden before the Department authorizes mining to proceed into these areas.
11. **Light pollution at night adversely impacting astronomy viewing, beacons required.** Response: Review of FAA advisory documents identify that new structures less than 100 feet in height would seldom require safety beacons. Since the project site is located 7.5 miles to the north east of the northern end of the Ithaca Airport runway and the tower height is at an elevation that is relatively even with or lower than typical tree tops, it is not

expected that the tower will require night time lighting and therefore will not adversely impact astronomy viewing. The facility lighting plan will be reviewed by the Town of Lansing Planning Board and excessive lighting will be identified and curtailed through local site plan review.

- 12. Noise impacts.** Response: The mining application prepared by Spectra Environmental Group, PC includes a noise impact analysis and while it demonstrates a temporary adverse impact during construction, the analysis includes rationale demonstrating that the impact is not significantly adverse. Section 2.4.4 of the application and Appendix E examine potential noise impacts associated with the project and conclude that an increase in ambient sound levels is not significant. The noise projection study predicts an increase above ambient of 2.0 dB at receptor 1 and 0 dB increase above ambient at receptors 2 through 8. According to the NYSDEC noise policy, increases ranging from 0-3 dB should have no appreciable effect on receptors. In addition, noise reduction techniques to be utilized will include: 1) All equipment will be muffled to meet NYSDOT standards; 2) All equipment will be properly operated and maintained; 3) Engines of equipment will not be raced unnecessarily; 4) Any operating irregularities in equipment that may increase the level of noise generated by that equipment will be reported; 5) Vehicle speeds will be controlled to reduce engine noise during ingress and egress; 6) Broad-band back up alarms will be used where practical. [Relevant sources: Mined Land Use Plan, section 2.4.4: "Potential Noise Impacts."]
- 13. Stream impacts unaddressed.** Response: DEC resource maps show that no protected streams are to be impacted by this proposed action. An unprotected watercourse, identified as Tributary 53 to Cayuga Lake, is located to the south of the project area and it shall not be directly impacted by any re-grading or other physical disturbance. The entire project site will be developed in accordance with a Stormwater Pollution Prevention Plan prepared by Spectra Environmental Group, Inc. which provides for control of stormwater runoff by acceptable means of turbidity- and sediment-control measures and three detention basins on the downhill slope of the project site. In addition, before construction begins, Cargill will be required to file a Notice of Intent to obtain coverage under the DEC's SPDES General Permit for Construction Activities and then follow the requirements of the General Permit to prevent erosion and sedimentation during construction.
- 14. Uncontrolled stormwater.** Response: Disturbance to the project site is subject to the DEC's State Pollutant Discharge Elimination System Multi-Sector General Permit GP-0-12-001. This permit and its requirements control stormwater runoff quantity and quality. Turbidity- and sediment-control measures will be implemented, per the permit, to maintain water quality downslope of the project area. Stormwater detention basins will be constructed to contain stormwater runoff on-site and prevent an increase in runoff from pre-development rates. The extensive SPDES MSGP application has been included with the mining permit application and shows compliance with the SPDES permit program. NYSDEC SPDES permits require facilities to develop a Stormwater Pollution Prevention Plan (SWPPP) that describes measures and controls to be implemented at the facility to reduce the pollutants in stormwater discharges associated with industrial activities. Cargill's SWPPP provides for all stormwater to be directed to the settling ponds. Cargill shall complete monthly, quarterly, and annual evaluation and inspection reports required by the SPDES permit.

- 15. SEQR segmentation.** Response: SEQR has been done on the previously approved mine and the 2015 expansion of 150 acres. The current SEQR review for this action covers the Shaft #4 project only, which includes a single additional access shaft and associated surface infrastructure. SEQR does not get re-applied to previously approved actions. The previous expansion found no significant adverse impacts so a negative declaration was issued and is attached to this response. SEQR applied to the current Shaft #4 action does not identify significant adverse impacts either, so a negative declaration was issued. The two actions combined would not have resulted in a positive declaration and the two actions are treated separately as phases, which is acceptable under SEQR. To address the possible issue of segmentation, Cargill was required to supply a detailed response outlining reasons why segmentation is not triggered, a copy of which is attached to this response.
- 16. Truck traffic.** Response: Truck traffic generated by the Shaft 4 project will not have a significant impact on local roads. The increase in truck traffic will be the result of truck deliveries of mining equipment and supplies and periodic traffic due to personnel shift changes. Deliveries typically occur approximately three to five times daily during operating hours between 7:00 am and 4:00 pm. Shift changes occur three times daily at approximately 6:00 am, 2:00 pm and 10:00 pm. They involve approximately 20-40 vehicles entering and leaving the site for each shift change (40 vehicles for day shift and 20 for afternoon and night shifts). The study concludes that traffic traveling past the project's existing driveway on Ridge Road (New York State Route 348) will increase from approximately 320 vehicles to 340-360 vehicles during morning peak hours (7:00 AM – 9:00 AM). [Relevant sources: Mined Land Use Plan, section 2.4.7: "Potential Traffic Impacts."]
- 17. Archeological impacts, Stage 1 Survey required.** Response: The project is not located within an area shown on the Statewide Archeological Inventory Map as having the potential for significant cultural or archaeological resources. There will be no impacts to cultural or archaeological resources from the development of this mine shaft. No further review in accordance with SHPA is required. Breaking from accepted protocol between DEC and OPRHP sets unnecessary precedent when requiring a Stage I Survey.
- 18. Mine closure impacts not addressed.** Response: A reclamation plan has been submitted, reviewed, and approved by DEC for both the previously permitted mine and the current Shaft #4 project. The proposed subsurface final reclamation plan states that Shaft #4 will be decommissioned, which involves removal of any piping or operating systems from the shaft, injecting cementitious low-permeability flow-able fill that will permanently seal the shaft, and filling the uppermost eight to ten feet of the shaft with a high-strength concrete plug. Bulkheads will be constructed to prevent the migration of the flow-able fill and will prevent or significantly reduce water from entering the shaft. The approved surface reclamation plan allows various surface facilities to remain for future office and/or commercial use while any facilities not suited for future use will be removed from the site. The areas to be reclaimed will be covered with at least six inches of topsoil, seeded, and revegetated.
- 19. New 0.60 acres added underground for access tunnel.** Response: The previously approved 150-acre mine expansion included the access tunnel to Shaft #4 and the review included a mine design and rock mechanics review of the shaft bottom area.

20. Additional comments unrelated to the Shaft No. 4 modification. The permitting action under review by the Department concerns the construction of Shaft No. 4 and the associated surface facilities. The current review is not for the existing, permitted mining operation. However, DEC has received comments expressing concern over the stability and safety of the existing, permitted mine operating under Cayuga Lake. The information presented by the comments is not new, but has been extensively considered by the Department over the last 20 years. Specifically, the commenters allege that plate tectonics is a new factor not considered in the mine design previously. Concerns were raised that past geologic events caused by plate tectonics generated compressive forces seen today as horizontal stress in the bedrock. The commenters stated that these forces have never been considered in the mine's design and therefore constitute new information.

Plate tectonics theory is decades old and is not a new design factor in underground mining operations. Mining and geotechnical engineering are advanced disciplines that take into account the numerous contributing factors to horizontal and vertical stresses and the resultant response of the rock when designing a mine. Mine designers have been aware of significant horizontal stresses in underground mines long before the origin of plate tectonics theory and have performed mine design accordingly. Since the advent of the understanding of plate tectonics, residual horizontal stresses resulting therefrom have been accounted for in mine design modelling. Only with a full understanding of the regional geology, the vertical and horizontal stresses, and geomechanical properties of the overlying rock, can a meaningful and proper mine design be implemented.

Following implementation of a mine design that incorporates horizontal and vertical stresses, ongoing monitoring can be used to verify that the mine is reacting as predicted. At the Cargill facility, an extensive system of in-situ rock measurement instruments monitors the mine performance and allows for model calibration as mining continues. In fact, over 300 closure stations and extensometers are used by Cargill. They also employ a microseismic monitoring network and conduct regular subsidence monitoring at the mine. Mine design also benefits from a century of mining experience at the Lansing facility. Annual reports required by the Department evaluate the results of on-going monitoring conducted by Cargill.

As part of the 2000 Expanded Environmental Assessment, DEC investigated the geology above the mine, along with a geo-mechanical evaluation of mine design and practices. DEC performed an extensive, multi-year review for the 2003 permit modification. Special conditions were added to the mining permit requiring additional investigations of disturbed areas and areas of thinning rock overburden before the Department will authorize mining to proceed into those specifically identified areas. By permit condition Cargill is not allowed to mine in these areas until such time as further geophysical and other studies are undertaken and the Department is satisfied that mining may be safely accomplished or mining must be avoided in these areas.

Commenters assert that unloading and horizontal stresses result in north-south thrust faults along the bottom of Cayuga Lake without providing any proof or analogous structures to support these claims. Commenters have stated that such a fault occurs in the Tully Valley, another predominantly north-south trending valley. Their finding in regard to valley stress thrust faulting was drawn from a report prepared by another party who reviewed and interpreted geophysical logs and drilling records for nearby wells. Because no new data or analyses were used to reinterpret north-south valley stress faulting, this evidence of valley

stress faulting and its potential impacts on the mine was not considered credible by DEC upon review.

List of Commenters and contact information for Cargill Shaft #4 Project, DEC #0-9999-00075

Listed in relative order by receipt of comment letter or email

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Subject: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

From: John Dennis <johnvdennis@gmail.com>

Date: 10/15/2017 9:55 PM

To: Don Hartill <dlh13@cornell.edu>, Adam Robbs <codeofficer2@vlansing.org>, "David A. Dubow" <ddubow@bgdtlaw.com>, Gerald Monaghan <gmonaghan22@mac.com>, Jodi Dake <clerk@vlansing.org>, "John O'Neill" <johnoneil5@aol.com>, "Patricia O'Rourke" <patithaca@aol.com>, Ronny Hardaway <rjhardaway@yahoo.com>

CC: "Brian B. Eden" <bbe2@cornell.edu>, Cait Darfler <ckdarfler@gmail.com>, Carrie Koplinka-Loehr <cck3@cornell.edu>, Deborah Dawson <ithacadeborah@yahoo.com>, "George D. Patte, Jr." <gdpatte@georgepatte.com>, Hilary Lambert <hilary_lambert@yahoo.com>, Louise Buck <leb3@cornell.edu>, Robb Jetty <rjetty@gmail.com>, "Robb Jetty Sr." <robbjetty@gmail.com>, John Mason <johnmasonscience@gmail.com>, John Thompson <jft66@cornell.edu>, "D. Rob MacKenzie" <rmackenzie@zoom-dsl.com>

Dear Don, Adam, David, Gerry, Jodi, John, Pat, and Ronny,

I want to thank all of you for listening patiently and asking good questions on Thursday while Shawn Wilczynski and I presented our somewhat differing views on the Cayuga Salt Mine and how best to protect Cayuga Lake, Cargill's miners, and vital parts of our local economy.

I hope I made it clear during my presentation that CLEAN's technical team has concluded from analysis of seismic data in the public domain that a glacially-downcut zone in a middle portion of Cayuga Lake north of Taughannock Park should not be mined at all, contrary to Cargill's assertion that use of a different pillar system would enable them to mine under both geological anomalies and associated setback zones requested by DEC.

We wonder if Cargill's \$44 million Shaft 4 project would remain economic if Cargill were to concur with our findings or even if they simply followed DEC's setback requirements around five different anomalies?

A DEIS of the mine is an excellent means to resolve these differing approaches and I would urge the Village of Lansing to join with six other municipalities and with CLEAN in an Article 78 that seeks to require just such a study.

While listening to Mr. Wilczynski's presentation, I was heartened to hear that Cornell's Professor John Thompson has talked to Cargill about creating a "social license" to mine. You can read more about this concept here:

<http://www.miningfacts.org/communities/what-is-the-social-licence-to-operate/>

I like Professor Thompson, and I could imagine him giving the following advice to Cargill:

Yes, I agree it's odd that it's taken almost a hundred years for the Ithaca-near-Cayuga-Lake community to express strong concerns about the mining methods used at Cayuga Salt Mine, but now that they have you have little choice but to become more open and more transparent. We have a lot of PhDs in the community and even our share of Nobel laureates. Broad-brush assurances aren't going to cut the mustard. To sing the praises of a Year 2000 Expanded Environmental Assessment and then keep more than a third of the study entirely redacted is not getting off on the right foot.

My advice at this juncture would be to simply go ahead and do the DEIS on the mine and on the Shaft 4 project and to release both the Year 2000 Mined Land Use Plan and the Expanded Environmental Assessment in full, release the May 2016 Seismic Study by Bay Geophysical in full, and release your annual production and royalty payment data. That's the beginning of a strong social license to mine.

I mentioned my appreciation for Cargill ending the dumping of fines in the lake after purchasing the mine in 1970. I'd also like to mention that there are today two companies mining salt using solution mining at Seneca Lake and I believe Cargill to be the far more professional of the two. In 1997, Cargill purchased the International Salt operations at the southwest corner of Seneca Lake. I think it unfortunate that the Federal Government stepped in and on anti-trust grounds required Cargill to divest from that acquisition. Cargill has continued to run their original solution mining operation south end of the lake. I believe that if Cargill had been allowed to retain the former International Salt operation, Seneca Lake would be less saline today than it is.

I am attaching several documents that may be of interest:

- 1) A 15 October 2017 e-mail from evaporite geologist John K. Warren and geophysicist Angus Ferguson in which they make several points about Cargill's plan to mine in the glacially-downcut middle of the lake Northern Reserves using Large Pillar Technology.

- 2) A transcription of Shawn Wilczynski's presentation to the Board on the Thursday (Please note that I have not error-checked this transcription.)

- 3) A map image showing the location of glacial downcutting into the Onondaga Limestone formation in blue.

In the Warren-Ferguson e-mail, they essentially make that point that Cargill's identification of five distinct geological anomalies in their northern reserves is in essence a refusal to recognize a single geological feature, a glacially-downcut carbonate beam that should not be mined *under any circumstances*. You can see the location of this downcut area shown within the blue dashed line in the attached map image.

CLEAN's position is that no mining whatsoever should be allowed in this thinned carbonate beam area and we would note that Cargill has already abandoned their attempts to push mining panel U74 through this area. On the other hand, Gary Petersen, the bachelor-degree-only mining engineer whose experimental mining panels failed at Retsof in 1994, has informed Cargill that it would more "prudent" to mine under geological anomalies in the Northern Reserves using large pillar technology rather than small yielding pillar technology. CLEAN's geological team has concluded that mining within the thinned carbonate beam area will pose more risk than existed at those failed panels at Retsof.

The right to regulate

Regarding Mr. Wilczynski's assertion (bolded paragraph on p. 11 of the transcript) that the State of New York has no legal basis to regulate underground mining, CLEAN's legal advisers respectfully disagree. George Patte, a retired attorney and member of CLEAN's Steering Committee writes that: "DEC has jurisdiction over the extractive mining industry, as set forth in Environmental Conservation Law, ECL 23-2703 and following provisions in Article 23."

Mr. Patte writes: The Court of Appeals (our highest court) commented on this authority in *Gernatt Asphalt v. Town of Sardinia*, 87 NY2d 668 (1996) and upheld DEC's right to administer and enforce all aspects of mining (leaving to local towns the ability to control traffic and a few aspects of concern to localities through zoning). The court noted:

"The Mined Land Reclamation Law (ECL 23-2701 et seq. [the MLRL]) is a comprehensive legislative scheme

which broadly empowers the Department of Environmental Conservation to regulate the mining industry in this State. The policies underlying the statute are to foster and encourage an economically sound and stable mining and minerals industry, to manage well depletable mineral resources, and to provide for the reclamation of mined land (see, ECL § 23-2703[1] [as originally enacted, L.1974, c. 1043 (McKinney's Cons. Laws of NY, Book 17«, at 443-444), and as amended, L 1991, c. 166 (Book 17«, 1996 Pocket Part, at 145- 146)]). The Legislature sought to achieve those purposes by replacing the existing patchwork of local regulatory ordinances with "standard and uniform restrictions and regulations" and by addressing the environmental issues related to reclamation of abandoned mining sites (*Matter of Frew Run Gravel Prods. Inc. v Town of Carroll*, 71 NY2d 126, 131-133). As originally enacted, the provisions of the statute expressly superseded "all other state and local laws relating to the extractive mining industry ... [except] local zoning ordinances or other local laws which impose stricter mined land reclamation standards or requirements than those found herein" (former ECL 23-2703[2])."

In an October 13, 2017, e-mail, Mr. Patte also wrote:

"The Mine Safety and Health Act (MSHA), 30 USC Sec 955 does not appear to have a full preemption clause and seems to allow state law, such as SEQR and related provisions, to be given their full legal effect. It reads:

30 U.S. Code § 955 - State laws

· [US Code](#)

· [Notes](#)

(a)

No State law in effect on December 30, 1969 or which may become effective thereafter shall be superseded by any provision of this chapter or order issued or any mandatory health or safety standard, except insofar as such State law is in conflict with this chapter or with any order issued or any mandatory health or safety standard.

(b)

The provisions of any State law or regulation in effect upon the operative date of this chapter, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal or other mines than do the provisions of this chapter or any order issued or any mandatory health or safety standard shall not thereby be construed or held to be in conflict with this chapter. The provisions of any State law or regulation in effect December 30, 1969, or which may become effective thereafter, which provide for health and safety standards applicable to coal or other mines for which no provision is contained in this chapter or in any order issued or any mandatory health or safety standard, shall not be held to be in conflict with this chapter.

(Pub. L. 91-173, title V, § 506, Dec. 30, 1969, 83 Stat. 803; Pub. L. 95-164, title III, § 303(e), Nov. 9, 1977, 91 Stat. 1321.)

Extraction rates.

On page six of the attached transcription of Mr. Wilczynski's presentation, I have bolded some of the second paragraph including the statement, **"The Retsof had a 70% extraction ratio. Ours is less than 50%. Okay, so, we've always operated with an abundance of caution and very conservative."**

One of our five geologists, Dr. John Mason, has calculated that the extraction ratio for the panel dimensions shown in the Year 2000 Expanded Environmental Assessment is about 53%. Cargill may have dropped that rate as they have moved further north. However, I would note that Dr. Mason calculates an extraction ratio of 86% for the one-mile tunnel to Shaft 4 that Cargill refers to as U63 East. Cargill insisted that the extraction ratio data be redacted from RESPEC's subsidence document about the tunnel, but Dr. Mason was able to calculate the ratio from the tunnel dimensions provided. I would note parenthetically that one reason Cargill may have wanted to segment the Shaft 4 project into separate tunnel and shaft components could be that it might have seemed awkward to ask the Empire State Development Corporation for an \$8 million grant for a project whose tunnel portion was earning Cargill an above-average rate of return.

Who is in charge?

As Dr. Rob MacKenzie has aptly pointed out, the treacherous bedded salt geology of central New York frustrated the combination of industry and DEC working together at Retsof in 1994. So, in view of more recent funding and staff cutbacks at DEC, in our view, there's really no infallible combination of Cargill, DEC, and their consultants effectively protecting both Cayuga Lake and Cargill's miners at Cayuga Salt Mine. The current "cooperation" between Cargill and DEC is not one of equals, let alone the regulatory agency being in charge. Cargill essentially ignores DEC directives at will and without pushback from DEC. In 2011, the DEC consultant recommended that large pillar mining design incorporate the use of abutment pillars, but Cargill's large pillar mining plans of 2016-17 show no incorporation of such pillars. In Louisiana, Cargill reportedly ignored a regulatory warning in 1967 about an unsafe situation at their Belle Isle Salt Mine and, in March 1968, 21 Cargill miners died when the single shaft leading to that mine caught fire.

CLEAN wants to prevent another Retsof, another Himrod, another Lake Peigneur, another Belle Isle and another Tully Valley at Cayuga Lake. As Dr. MacKenzie notes, doing the same thing over and over again and expecting different results is Einstein's definition of insanity. Six other municipalities representing about 44,826 persons have already joined the Shaft 4 Article 78. We urge the trustees of the Village of Lansing to implement the precautionary principle and join both a Shaft 4 Article 78 and a mine permit renewal Article 78.

Cargill Deicing Technology has the opportunity to begin to create a social mining license conducting a DEIS on the Shaft project and the mine and to engage in Best Practice by releasing for public review their 2016 seismic study of Cayuga Lake and the Shaft 4 area including the latest version of their seismic velocity model. The safety of miners at the Hampton Corners salt mine might be enhanced if Cargill launched its "social license" by sharing data that can make all the salt miners of central New York safer.

Instead Cargill has moved in the other direction when it stripped the velocity files from its 2013 Corehole 18 study, reduced the resolution of its Corehole 18 salt core photos to make them unreadable by outside geologists, and refused to release its 2016 seismic study. The DEC reports they have no copy of the 2016 seismic study, so we ask whether Cargill showed it to DEC for a few hours and then took it back or has DEC Region 7 never seen the study?

DEC's consultant Dr. Vincent Scovazzo predicted in 2002 that Cargill's Year 2000 2-volume study could be relied upon for up to "5-10 years." That could be interpreted as meaning for as little as until 2005 or for as long as 2012. We know that this mine planning document failed to prevent Cargill from predicting in its 2004-2005 Mining Plan that Cargill would mine panels in its southern reserves consisting of U2, U6, U100 and U101 as well as the east ends of U102 and U103 during the planned 2005-2007 period. However, Cargill maps no longer show any of these panels, which suggests to us that not a single one of these panels was ever mined for reasons that Cargill seems reluctant to document.

So, how can this Year 2000 two-volume study be carried in front of the Village of Lansing trustees and be proclaimed to be the virtual equivalent of a DEIS carried out in 2017? The Year 2000 report failed to accurately predict mining outcomes within five years of it being released and within at little as half a mile from Cargill's Portland Point shafts. With this egregious failure in mind, how can Cargill possibly try to convince the Village Trustees that the same study can now serve as a stand-in for a real DEIS for an active mining zone eight miles further north and *17 years* after the document was completed?

If the mine manager is truly worried about the risks of his mining crews traveling 7-11 miles to the northern mining faces, why doesn't he pivot the present mining operation to the minable middle reserves which are less than two miles from Cargill's existing shafts? He replied that it would be "too complicated" to mine at both the middle reserves and at the northern reserves at the same time. First, this reply overlooks the fact that as Cargill finishes mining U63 East, the Shaft 4 tunnel, that crew will be operating about three miles southeast of the northern mine face along tunnel NW3. Second, his reply simply deflected what was being proposed to him: to mine *only* at the readily accessible middle reserves until such time that better egress and ventilation exist for the northern reserves, not to mention until such time as there is a better understanding as to whether or not Cargill needs to stay out of the glacially-downcut carbonate beam areas or at least to respect the setbacks requested by DEC and in at least one instance recommended by Cargill's own consultant, RESPEC.

Here are two further concerns that I will share:

1) Why should the tonnage of rock salt produced each year and royalties paid to NYS twice yearly be deemed to be trade secrets? This salt is a publicly-owned resource. At about \$65/ton FOB, two million tons of rock salt annual production would sell for \$130 million at Cargill's Lansing gate. If Cargill's annual salaries in Lansing are \$1M per year and if Cargill's net Lansing revenue is half their gross revenue, then the 2% of net paid as royalties to NYS would be about \$1.3M, leaving almost \$128 million to cover other expenses and profits. I understood Mr. Wilczynski to explain that Cargill profits are limited to \$2-\$3/ton, which in a 2M ton sales year would amount to \$4M-\$6M leaving roughly \$122M-\$124M/annually for "other expenses" like property taxes, corporate taxes, utilities, equipment, and any pension fund. For its large 105-acre parcel, Cargill pays property tax on less than \$12M of assessed value, a strikingly low valuation considering the number of large buildings, conveyors, and hoist structures on the parcel. Shaft 4 is reportedly a \$44M undertaking for which Cargill asked the Empire State Development Corporation for an \$8M subsidy, implying that Cargill could not afford to build the shaft without NYS assistance. The public deserves to know whether the "2% of net revenue" is a fair royalty rate to be sending to Albany. Why put a lake that may be worth \$10 billion at risk when the Empire State Development Corporation now plans to pay back to Cargill \$2 million, which could very roughly be about what Cargill employees and NYS earn in a given year from Cayuga Salt Mine?

2) During the Town of Lansing Planning Board hearing on September 11, 2017, PB members on two occasions asked the Cargill team whether Cargill might apply to upgrade Shaft 4 to salt export at a later date? I understood Cargill Senior Project Manager Bill Gracon to state that Shaft 4 would be too small to be used for salt export. I believe he stated that salt export would require a 25'-diameter shaft. And yet I believe that Cargill presently hoists its salt up a shaft that has a

diameter no bigger than the 14' inside diameter that is planned for Shaft 4. When the question was asked again perhaps half an hour later, I recall Mr. Wilczynski indicating that Cargill might apply to upgrade the shaft to salt export "fifty years from now." So, was Mr. Gracon in error when he told the PB that the shaft would be too small to hoist salt? Could 50 years become 5 years if horizontal stresses were discovered to be compromising the functionality of Cargill's existing shafts at Portland Point?

CLEAN may not be able to "win" any technical argument with Cargill as long as the DEC allows Cargill to selectively withhold critical technical data. Nonetheless, CLEAN and its copetitioners expect to win two Article 78s. The first seeks to require the DEC to follow SEQRA and require a DEIS for the Shaft 4 project. The second challenges the automatic renewal of Cargill's five-year mining permit that expires on November 1, 2017. The rationale for requiring a DEIS prior to renewing this permit is that Cargill's current mine plans indicate plans to use a mix of large pillar and small yielding pillar technologies in the northern reserves without respecting designated setback zones.

This is a clear departure from the sole reliance on small yielding pillar technology under the lake from 1984 until 2016 and from the idea that DEC has the right to regulate underground mining. We know that both DEC's consultant, Vincent Scovazzo, and Cargill's consultant, RESPEC, have warned that setback zones around at least some of the five or so anomalies within the northern reserves need to be established and observed. We have seen no evidence that either RESPEC or Scovazzo limited these setbacks to be applied only to the use of small yielding pillar technology as suggested by Mr. Wilczynski on 12 October. *We would encourage Cargill to share any memoranda that document this alleged limitation on required setback use.*

The choice before the Village of Lansing is one regarding due process rather than about complicated technical issues:

Should the DEC require or not require Cargill to follow SEQRA in view of troubling new information about the geology and appropriate mining methods in Cargill's northern reserves and within the 150-acres tunnel zone that was added to the "Life of Mine" in 2015 without any DEIS despite indications that not enough is known about fractures and faults within this new zone?

As Dr. Rob MacKenzie points out, a DEIS is required even if the probability of catastrophic mine failure is itself very low.

Please consider approving the Village's participation in both Article 78s. The one challenging the

automatic renewal of Cargill's mining license will be sent to you tomorrow.

Best regards,

John

John V Dennis, PhD
Member, Steering committee
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— Attachments: —

Warren-Ferguson e-mail of 15 October 2017.docx	90.9 KB
2017 10 12 Partial Transcription of Village of Lansing Meeting.docx	193 KB
carbonate_beam_thickness1.pdf	1.1 MB

John Warren

1:10 PM (4 hours ago)
[15 October 2017]

to me, Angus

Hi John,

I have discussed with Angus if we need to modify figure 1 in our brief, or add additional text debating pillar spacing. We both agree pillar spacing is a "look over there" distraction. The point of all the work we have done is that we have defined a glacially-eroded channel, which down cuts and thins the roof beam in the area within the blue line in figure 1.

The point of our mapping this channel is that this downcut region is a continuous zone that underlies the lake along its axis and its effects are not addressed by 1000 ft diameter "safety or exclusion zones." Their mapping of separate exclusion zones (FPA, A, B, C, D) means they can mine a much higher proportion of the salt under the lake than if they accept the geological reality that their various anomalies are in fact a single geological feature.

The channel is now filled with Pleistocene aquifer sediment and is tied to a zone of increased dissolution, potential roof fracture, and mine back instability. That is, the area within the blue line defines an unstable and dangerous subsurface situation that should not be ignored. Cargill in all its comments chooses not to address this geological reality. They talk about the anomalies as separate regions without ever mentioning the single geological cause, that is why or what the anomalies are. If they did, then they would have to address the underlying cause and so be forced to exclude much larger potential ore regions in their future mine projections.

Arguments about pillar spacing are not addressing this fundamental geological problem and in our opinion are a distraction. They have the appropriate technical expertise to give them the upper hand whenever debating with your committee members, as we can see in the transcript you sent in the last email. Accordingly, they will not be forced by the legal system to make relevant "in confidence" seismic information or core information available for public assessment. In our opinion, their strategy is working.

Regards,

John and Angus

SaltWork Consultants Pte Ltd (ABN 068 889 127) | John Warren | Chief Technical Officer | Mobile: +668 94981512 |
Website www.saltworkconsultants.com

Fwd: transcription

Subject: Fwd: transcription
From: John Dennis <johnvdennis@gmail.com>
Date: 10/17/2017 7:03 PM
To: Jodi Dake <clerk@vlansing.org>
CC: Genny Shipley <gennyshipley@gmail.com>

Hi Jodi,

Genny Shipley did the transcription and below she describes her method. Hope this is useful-:)

John

----- Forwarded message -----

From: Genny Shipley <gennyshipley@gmail.com>
Date: Tue, Oct 17, 2017 at 4:19 PM
Subject: Re: transcription
To: John Dennis <johnvdennis@gmail.com>

Hi John,

More or less manually. I used the voice-to-text function in Google Docs for a lot of it - so I was listening with headphones and dictating it aloud to my computer. The resulting text still requires a lot of editing.

Playing an audio recording directly to your voice-to-text program doesn't really work well, and I doubt that recording a whole meeting using a voice-to-text program would work very well either. The statistic I've read is that voice-to-text software currently has 80% accuracy at best, so it would still need to be edited by a human with an audio recording.

Genny

** Regarding next 12 pages.*

* Initial transcription done by John Dennis
of Oct 12, 2017 Board Meeting

Shawn Wilczynski: Um, you know, I think I'll go ahead and go first, just, that'll be, um, I think it'll be relatively simple. Again, I was kee-, preparing in the same anticipation that this would be a three minute limit like most other ones I've been to. So I apologize for that but I, that was my main thing, to give a brief presentation then be available for any questions. So, I'll try to be a little bit more, uh, I won't try to rush as quickly. Unlike John, I don't have a whole lot of fancy (*inaudible*) figures but, in words, the only thing that I did bring was a really, that I'd like to consider to be a simple map. And I didn't even have time to try and find a cardboard to stick it up.

Will that work?

Unidentified: Perfect.

John Dennis: I've got duct tape if you need it.

(laughter)

Shawn Wilczynski: I don't think I need it quite yet. So... What I'm presenting here is this. This is in plan view, 10,000-foot-in-the-sky view of the southern part of Cayuga Lake, right, and the light blue, the aqua part here, these were the permit approval rights that Cargill had, um, going all the way back to 1989. So that, that represents about 8500 acres. That was the stuff that was underneath of the land there, that was purchased and negotiated all the way back in the 1920's with the original landowners and since conveyed, and Cargill purchased the property up in about 1970. So all the way back to 1989 and that represents about 8500 acres. In 2002 is when the, uh, when the darker blue portions were added, and that constitutes about 5000 acres that was, uh, that was added to our Mined Land Reclamation Permit, that, that, that we have with the, with the state DEC.

So, um, so obviously we have a case, a very recent case, in the state of New York, that was an eye-opener for everybody otherwise known as the Retsof Mine, right? So as soon as that happened, Cargill in that thing, at that time decided, "Wow, what assurances do we have that something similar, another similar risk, does not exist," right? Especially given, the lake that all of us care about and depend on for water and, and everything else. So, at that time the work that Cargill had done was primarily internal, we had a geologist that's since been with us for 41 years. Um, I don't know if you've had the pleasure of meeting David Plumeau, but he's uh, he's, his, pretty much, his entire life has been spent here studying the geology of the, of the southern end of the lake, okay. We decided at that time, we don't, we didn't want to leave this to chance any more so we went out and tried to find what we felt was the foremost geological experts in the world, revolving around really what we refer to as soft rock mechanics, salt rock mechanics, trona, things like that. It is a different approach than it is from hard rock mechanics, like a gold mine or things, whatever, right.

So we decided that by far the people with the best reputation at that time was RESPEC, which is out of Rapid City, South Dakota, and they have an entire engineering firm, geologists, hydrologists, mine stability expert, geotechnical, so they, they have it all, right. Uh, we also decided to work with a geologist, a Ph.D. in silurian geology from New York State, Dr. Bill Goodman. So we hired him through RESPEC, and starting in 1994 through 2002, he embarked on what we consider to be the most comprehensive geological study of the, of the, this local regional geology than has ever been done. So he went back and he pulled in everything that had ever been

done, documented, by the New York State Geological Association, Syracuse, anything, all that was pulled in, 8 years worth of work, pulled into that.

Along with that, Cargill did two lake Seismic analyses, right, to try to understand, that had never been done except for by Syracuse, so Cargill, uh, paid for two lake seismic analyses to be done. Uh, the first one was focused primarily where we were mining, around the southern part of the lake, just to make sure there wasn't anything there and then the rest of it was done further up the lake all the way up to, to the uh, the power plant there, okay? So again, just trying to understand, here's a technology hadn't been utilized yet, could tell us something, you know. Unfortunately it's kind of a difficult situation to shoot, you know, sound lines or seismic lines in a, in a, in a lake valley, especially one that's 600 foot deep or so and half of it's mud. So it's, that's, it's, it has its challenges but that, but that technology has improved over time. Uh, it does provide some insight but not the granularity that we would like it to even to this day, okay.

So a lot of that work starting from the mid-nineties then, that's when Cargill started the process of trying to expand, that, the blue sections, towards, the south towards Ithaca and the north towards the power plant, and a lot of that work then, all of that work that Dr. Bill Goodman did was part of what they call an Expanded Environmental Assessment, and I've got the three volumes on the table, on the chair there, right there. So, I mean, I just want to clarify, some people claim there's never been an environmental assessment done on the mine. There has not been an EIS. You're not going to call it an EIS because an EIS would also incorporate a lot of the surface stuff. Since we were already an operating facility, that didn't make much—so we were kind of grandfathered in from the surface stuff, mainly because we were, again, we're, we were already operating, and this wasn't impacting anything under, on the surface anyway. So we chose to focus on that. So again, it's called an Expanded Environmental Assessment. It's been done, it's been shared, it's on file, with the DEC. I know that 'cause I know Mr. Dennis has used some of the, some of the work from that in some of his presentations. Correct?

John Dennis: Correct.

Shawn Wilczynski: So, all that's been available for public review and has been since that time. So after the seven or eight years worth of work, and this, now, we presented all this. After the Retsof incident, the DEC realized, they have geologists and hydrologists. They do not necessarily, though, have anyone in house who understands mining engineering or mine stability. So they did their own independent study and went out and they acquired the resources of J.T. Boyd, John T. Boyd, again, very much like RESPEC, a very large engineering firm with specialization in geotechnical and mining engineering stuff, and they chose him—Cargill pays for that, but they chose them—and we agreed to, allow oversight of the DEC and that all the information that we do every year will be funneled through Mr. Vince Scovazzo, as a, a Ph D. and geotechnical mining engineer, that all of our information is fed to him every year. That's been a process, he's been part of the process now for twenty consecutive years. Ok?

I've heard many times, I'd like to clarify: Cargill contests that DEC does not have the right to govern underground mining. By law, they do not. That did not prevent us however from doing the right thing, right? We signed the stipulation agreement with DEC. We didn't tie it up in the courts for years. We just said, you know what, it's the right thing to do, right. That's, that, twenty years ago, we need to be transparent about this. We want to provide this information to you so you can make an informed decision. No one wants another Retsof. So you've got a company that

decided it's the right thing to do, didn't have to go to court to prove we, to prove to do it, and chose to do that work with the DEC. Ok.

So, there was a public meeting held in July of 2002. Uh, again, again, now I had just gotten here, Engineering News Bulletin, how all of this stuff works, we held an open public comment meeting in the town of Lansing. Right? We went through all the processes, all the review processes, and in 2002 the DEC approved this expanded portion and added it to our Mined Land Reclamation Permit. So now it went from 8500 acres to 13,400 acres. That's all approved with the Expanded Environmental Assessment there, and there's a couple of stipulations that were written into that mining permit. Because of the work that Cargill had done before with the lake seismic, we identified a couple of areas, that, that required further geological evaluation, okay. Again, that was found and identified by the work that Cargill did, to get these, this Expanded Environmental Assessment, okay? So, we identified it, and there were certain areas that by the permit, we are not allowed to mine, until we further identify what those features are and what the risk is of mining around or under them. Okay?

So every year since 2002, we are required to give an annual report to the DEC, and all of our raw mine stability data is also fed to Vince Scavazzo at J.T. Boyd, and he does his own third-party independent review. Okay? So we have a geologist and two engineers, on top of five or six other engineers that are all concerned about the mine stability, in-house at Cargill. Then we decide, that we're not going to just rest on our own laurels, this is too important, so we go out and we have RESPEC, right? We, we've also added a number of other ge-, by conversation, working with the DEC, trying to work with others in the mining industry, what are some other things that can help us identify what's going on here. Ok? One of the people that we used, as, as an, as a consultant, his name is, uh, Gary Peterson, right. So Gary Peterson started out here, he was a mining engineer. Gary Peterson, unfortunately, has seen the mining technique that we, that we have been using, he has, he has seen that go wrong, obviously. It went wrong with Retsof, it's gone wrong in some other locations, right? So we, we don't utilize him to design the mine. But we do bring him, bring him to the mine twice a year to review all the data and look for a trend about something that we've missed. Ok?

So we are having our work double-, triple-checked by outside experts. Every year we do some type of 3D dimensional computer modeling. Or we're looking at micro-seismics. Or we're looking at lake seismic studies. Anything that has ever come to the forefront, of an available mining technology, we have applied, 'cause it's the right thing to do. With what's at risk, that's what Cargill does. Okay? So there's an abundance of work that's been going on. All of that information is fed through... so it's, it's done by us, if you don't trust us, we have consultants. Okay? Those consultants do that work. I can't think of anybody in the world that's a consultant that would want to have their name tied to a mine ca-, to a second mine catastrophe, so believe me, everything is done with an abundance of caution and, and very conservative. Okay?

Then, all that information is fed through a third-party person of the DEC's choosing—we didn't select him—for, for yet another independent review of that, and that's been going on for twenty years, with an annual review, an annual report to the DEC every year. The DEC's welcome, by the permit, they can, they can show up any day of the week at any time, right, but they generally show up one time a year, to go over what we presented to them in the report, and then to also go underground to maybe just see how the mine's doing and make sure they put their eyes on it. You know, they're doing their diligence, make sure we didn't just send them a report, so they want to go look at the mine, is allowed, which is fine. Alright.

So here's all that work that's been going on and has been part of this blue portion that's been approved since 2002. Okay? So that's kind of some background. Now, why we've been, now, here, recently, uh, starting about 5 years ago we realized the further that we get to the north here, unfortunately, through all the efforts that we've been doing, we're struggling to maintain the working conditions for our employees. Okay? So, it's almost eight miles, which I, I believe, uh, Don, you've been down, right? So you, you get on an elevator, 6 minutes down, takes you about 5 minutes to pre-op and safety-check your equipment. You drive all the way out to where we're currently mining and that takes about 50 minutes. Five zero. One way. We also bring in 300,000 cubic feet per minute of air into the mine, because we use explosives, we operate diesel equipment, so we want to maintain those air standards for people. Right? So, that, those air standards, then, that 300,000 cubic feet per minute has to go 8 miles out, sweep through where we're mining, and go eight miles back. Where our current location is. Alright? It, through everything we've done, every curtain, every seal, everything we've tried to seal up, the best we've been able to accomplish is only half of that air that's left that's out there. So it's, becomes increasingly difficult to maintain the air standards for our people. Also couple that with, imagine going to work and driving 50 minutes out and all of a sudden you have chest pain. What are you going to do? You know, driving 50, 50 minutes, one way? That's never sat well with me, just due to the size of the mine. Okay? So, in mining, we're always looking 25, 50 years out, right? Well, what if, when do we get to a point, when, when should we do this. We're really trying to do, to, to put this facility in well before it's actually needed, right?

So in the red here, is a hundred-and-fifty acres parcel that we worked through, we got the mineral rights, we went through a, again, and did a Environmental Assessment form, with the DEC, to add those 150 acres to the 13,400 acres that had already been previously approved, right? So that process was done I think and finished and approved in 2015. Right? We're, we're currently mining underneath of that land, right, we have the mineral rights, we have the approval. That's been done. This 150 acres, by the way, it's about a 1.1 change to the 13,400 that we already had. Okay.

Then we went through the process, well, you know what, okay, we finally have the access to it, from here. Now that we have the access to it, let's go prove that the location that we're at, will support the installation of a shaft. So we drove a core hole. That's the only definitive way to know. Right? We drove a core hole all the way down 2500 feet, right, so we knew exactly what we were dealing with in the regional geology. We didn't assume. Although we've studied this for 20 years, or longer, we didn't make any assumptions. The only way of, is to, is to be sure. So we drove a core hole. And, uh, the main things of that core hole was to identify, is there any uncontrollable sources of water or gas. Those are by, two, by far the most impactful things or dangerous things to any mine, inundation by water or gas. Okay? So that core hole was able to validate and prove that there's not an uncontrollable water source, and there's, right, it goes through the Marcellus shale, there's not any uncontrollable gas stuff, it dissipated very quickly, right. So basised that, and the diligence, and everything else that we went, okay, that was part of what we call the Environmental Assessment form.

So again I don't understand, but this is, this is what we were, this is what's submitted and required by the DEC, for any project that starts now. Everything starts with an Environmental Assessment form. They look at things, noise, light, traffic, dust, is there any, uh, kind of, sacred grounds, anything like that. Everything starts with this, and basised this type of form, they make

a determination of either positive potential impacts or negative potential impacts, of significance, right.

So this was all presented to the DEC in I believe October of 2015. They asked questions for over a year. So the DEC back and forth with Cargill for over a year. It wasn't until October of 2016 that we received what we call the notice of complete application. And that was, that's when we put it on the Environmental News Bulletin and posted in the papers, that this has now been, that here's the DEC recommendation of a negative declaration of environmental impact, of significant environmental impact. Not no environmental impact, right, of significant environmental impact. But it's open for public comment period. So, now comes a year later, where it was, really, it's required for 30 days. There was a paperwork issue with the DEC that really turned into 90 days, but to be quite honest with you that turned into almost a year. So the limit's 30, 30 days, but we let it go on a year. Cargill at, at any point could have said, there is a, uh, you know, a notice that you can give to them, you have 5 days to make your decision by law. We chose not to do that, right. Let's, that's like, okay. People hadn't come forward before, I'd never met John Dennis, I'd never met anybody else before. Through all this time that all this had been approved, no one had ever come and said, "I've got some concerns or questions, I want to understand this better." Okay. It came out in this process, right.

Unfortunately what it does is it takes away, I think, the true need of what we're talking about right now, and that's, currently, to put, to, we have a 50-acre parcel. We want to disrupt 12.3 acres of that to put in a few buildings and a shaft so we can get ventilation and our people in and out of the mine, much closer to where they're mining, okay. Cargill felt they were transparent. We started to meet with neighbors in 2012 after buying the property, correct? We weren't hiding this. We wanted to know what people's concerns, questions, that they understood why. Right, so, we were being transparent, right. So, um, you know, we felt we were doing all, all the right things. This isn't something that myself or others do on a very consistent basis, obviously. Alright. So, again, we filled out the environmental assessment form. We worked with others to, to go through and do all the traffic, noise, dust, any sacred grounds, things like that, all that was done. So that the DEC reviewed all the comments that were sent in over time. Okay. And after a year of review, they still felt that their negative declaration of, of significant environmental impact was still appropriate, okay, and they approved the permit modification. Right, so now the 12.3 acres, and the shaft, is now added to our Mined Land Reclamation Permit, right, and there's some, you know, some things that kind of go along with that, right. And now we're trying to work through the town, through the planning board approval and through um, just through, like, through that approval.

So then, believe me I understand, as you mentioned, we have 200 employees. I look out the window and they, every day they come to work, you know, it's a risk. Every single day. I've worked for three or four other mining companies who do not have the passion Cargill does about the environment. Cargill's not a mining company. They're a company that just happens to own three mines, right? They're 150,000 employees in 70 countries throughout the world. Twenty years ago, they were concerned about the environment, not two years ago when it became table stakes to have a, to have a business anymore. Right. So they've got this for a long time. As a matter of fact, when they bought this facility in 1970, the other, the other facility was dumping their waste salt right out into Cayuga Lake. The first thing Cargill did, was stop that action. Right? So if you're looking for proof or demonstration that we're people of our word, that's what we've done. Al-, also since I've been there, on the surface, we have storage pads. When it rains we have brine water runoff. We've put in a \$6,000,000 electro dialysis plant that has a \$750,000 a year

operating cost to treat that water, and all of our total outfall discharges run at a total of one-third of their total discharge capacities on average. Alright.

We understand, you must be a good neighbor in your community, and protecting your environment, and protecting the lake, is the first and foremost. Okay? So, I feel, hopefully, myself and others and Cargill are trying, obviously, like everybody else, they say it, they're trying to do the right thing. So are some of the other companies. The Retsof had a 70% extraction ratio. Ours is less than 50%. Okay. So, we've always operated with an abundance of caution and very conservative. Right? And now that all of this other information is out, and John has it, and maybe he'll talk to some of those, but when it's all said and done, there are areas of the mine that we will not mine under because we have not, even, even through approximately 200 miles of total lake seismic studies that we've done, the lake seismic analysis does not point out to the detail that we're comfortable with, as far as to continue to using this mining approach that we have, for all these years, we're not comfortable using that mining approach as we move forward north, especially underneath the lake, okay. Or primarily underneath of the lake. Alright? So most of this area, to the, down to the south, here, or, so... Sorry, John, can I borrow this for a second?

John Dennis: Yeah, sure.

Shawn Wilczynski: So, these areas right here, we did utilize what they call a yield pillar panel mining approach. Still has about a 50% stuff. But generally in that part of the lake, right, you have the, the lake, which is, let's just call it 700 feet deep. We're 2300 foot below. That leaves 1600 foot of rock. Right? About si-, about 600 of that is the Syracuse salt formation, of which we mine at the bottom of that 600 foot. So we have five layers of salt between us, and then all the bedrock that's above us, right? So this yield pillar mining approach works extremely well as long as you don't have a water source that's close above you as the Retsof mine did, right? So here we have 16-, 1700 feet. So, something else I want to try to, it's hard to put this in perspective, right, but let's just use simple numbers. One thousand feet of rock. We're mining 10 foot out of the 1000. What's that percentage? 1%. We're leaving half of that salt there for overall global stability. We're removing one-half of 1%, at the maximum, in this particular part of the mine. Okay?

As we go further north, as we've identified, we re-, we realized the salt, that salt seam dips as we go north and the deep, and the deep lake gouge has gotten there. We realized that, again, that if for whatever reasons, the wrong situations, the wrong circumstances, would be there, that this system that we were using before, could lead to a very similar thing like what Retsof is, did. So we've, we've chosen to not use that mining approach. We'll go to a different mining approach. However less efficient that it is, it's the right thing to do, and we'll utilize what we call a big pillar, a large pillar stuff. So if you want to imagine, here's, like, here's the difference. Say, these are those, those areas of salt that are not there. You have all this overlying strata that's there. It's like the floor joists in your house. If these were really far apart and you had stresses, what's going to happen here? It's going to bend and break, right? The closer these are together, the less it can bend, the less it can break, right? So we didn't try to be greedy. We figured a 50% extraction ratio is fine, we can be successful that way. But again, with what's at risk, let's not take the risk. Now we're going to go to bigger pillar stuff, these things are, are in excess of a hundred foot by a hundred foot, right. It's been demonstrated that that type of, that type of mining situation, the stresses do not impact any higher than about 150 to 200 foot into the roof. And we've got 600 foot of just the salts, okay? So, I feel that that's a demonstration of our diligence and our commitment to doing the right thing. We're not greedy, we're not sticking with that mining

technique. We're going to change to big pillars underneath the lake, because the risk is not worth it. Okay?

So I know we've all done this, um, here recently as well, I don't know if many people—I didn't know this gentleman myself, and that's unfortunate for me, I should have been doing more, um—Professor Larry Cathles from Cornell. Okay. Professor Cathles also attended the CLEAN meeting, as did I. You know the one thing I'll be, again, the experts, you know, Mr. John Warren, Mr. Richard Young, Greg Vaughan, the geologist. Again, I went to those meetings to try to say, "Was there something we missed?". And I left those meetings assured, 'cause I'm aware of all the work, and the amount of rigor and stuff that we've, we've been doing for 20 years, I left those meetings feeling just as confident, "Well, nothing new has come up from these situations." Okay, that, the same gentleman, then, Mr. Cathles, also attended the meeting, and he did a little bit of research and did that and, and, again, if you want Professor Larry Cathles, he has a blog. I believe he sent his information out too, to Patricia there. Um, so here's a third, here's a completely impartial, third-party person, who did his own kind of calculations and research and kind of came to the same conclusion that there's no reason whatsoever to argue with what, that there's a risk that's there. Okay?

Now even turning for the worst, if for whatever reasons, the worst case scenario happens and, and all of our great efforts, right, that there's that small, small chance that for whatever reason we would, we would flood the mine, right, that you have the the 600, you know the 300 foot of muds, the, all the water that's there, right, the lake impact would be, depending on what volumes you use, let's say 1 to 2 foot impact, which I believe the lake fluctuates by 1 to 3 feet every year anyway, right? So all that water goes in, and right now the current plan is to, is to let the mine slowly subside over time. Again, when you're looking at one-half of 1%, that's going to take hundreds if not thousands of years to happen even if it's dry. When you flood it, you actually add a fluid in there, so it's, there's going to be, it will, it will resist that even further, okay? Now, again, not my calculations, we've had, we've had our people run our calculations. Professor Cathles ran his calculations and his are even more, more of the worst-case scenario than ours, and even his calculations show that in the worst-case scenario, that the parts per million influence, I believe would go from 40 to 80, for chlorides in the lake, right? Now to some people, again, I don't know if that good, that's bad. The secondary drinking water, Clean Water Act standards for that is a rec-, it's recommended of 250. So if all of these efforts fail, and all the work that we've done and all of the work that the DEC does and, and everything happens, and the worst case scenario still happens, it still isn't going to have the impact that I think it, that people feel that it would, or that they're trying to pra-, portray. Now. So obviously we're going to prob-, I don't want to get into our experts versus your experts versus, that just, you know what, you know, we all have experts and they all have opinions, right. But we've had three or four people test that same thing, and they all come back with pretty much the exact same scenario. Okay?

So I guess to try to close it up real quick, you have a company that gets it, that are trying to be very responsible. That's the reason why I've stayed with Cargill, is because they're probably, it's because of their ethics and their principles, alright. Again I've worked for four other mining companies. This is rare. Alright. I love where I live. The 200 people that work there love where they live. We're passionate about what we do and how we do it. Okay. We take pride in the fact that our products serves millions of people in this state for their safety and livelihoods every winter, including the people in Tompkins County. Okay. So we take that responsibility very, very heavily, and we also take the responsibility of protecting it into perpetuity for, you know, very

heavily, and, you know, which is why we, again, we demonstrate an abundance of caution and a conservative approach to make sure that that doesn't happen. Okay?

Mayor Don Hartill: Any questions for Shawn?

Ronny Hardaway: I'll reserve questions for later after I hear John.

Shawn Wilczynski: Okay.

Mayor Don Hartill: Sure.

Shawn Wilczynski: Anything else? Yes.

John O'Neill: You're talking, that, it's only the, uh, salt number...

Unidentified: Six.

Shawn Wilczynski: Six. That's correct.

John O'Neill: And the north, that's going to be the same thing?

Shawn Wilczynski: Yes.

John O'Neill: You're sure?

Shawn Wilczynski: I'm sure. We, you know, so the, so part of the geological, something that was done, they took all the all the wells and core holes that had ever been done a New York, the geologist, Dr. Bill Goodwin, took all that in, to, and, and again, our core hole, that we just drilled, showed the same thing: we have 550 foot of the Syracuse salt sequence that's there, alright. If, and the core hole that we drilled up here. But again, we, he went in and got all the core hole data for every hole that had been done around the entire region. It's very homogeneous, or very consistent, right, so all that's proven to be true. And again, we're mining not at the top of salt, not the top of the Syracuse. We've got all those levels and, you know, call it 5- to 600 foot above us.

John O'Neill: Yeah. What about what about one hundred years from now, what the uh, Cargill, is thinking, maybe we get, uh, salt number 1, or uh, number 5?

Shawn Wilczynski: Will we?

John O'Neill: Yeah. Why not?

Shawn Wilczynski: Uh, I'm not, well because generally right now those, those, the quality of those salt seams isn't as high as the quality of the, of this, of the salt. So, the ASTM standards for, to meet the road salt that people use, 95½% pure sodium chloride. There is the possibility of us mining the five salt that, that can be cleaned up with mechanical means, the 4 salt. But the reason--back underneath the land, they used to mine the 4 salt but it's a very, um, you know, a very disruptive, hard-to-follow type of salt seam. Unfortunately it's very pure but it doesn't lend itself very well to a consistent mining process. So.

John O'Neill: Mhmm, mhmm.

Patricia O'Rourke: I have just a question. I'm just a little bit confused. It sounds like you've already been approved to do this by the town. Or am I..

Shawn Wilczynski: We have not, no.

Patricia O'Rourke: You haven't?

Shawn Wilczynski: So we have a meeting on Monday with the town planning board. Now again the majority of that though from their's, part, is that they uh, they're mainly concerned with the design of the surface and the surface impacts. In this particular case, again, you have the DEC as the lead agency, right. So, they took the lead agency part of the environmental review, so, so, and, um, the town of Lansing was fine w-, with that lead agency role that they did. And now that there is that, that environmental part, from the shaft and everything underneath of it, that's been considered, now what they have the kind of decision rights on is what the surface facility looks like, what type of impacts do they have. So again we reached out 5 years ago to the neighbors, trying to understand what their concerns are. We purchased a 58-acre parcel. We're going to disrupt about 12 acres of it. Alright. We bought a pur-, we bought it because it's not high density of, of uh, of residents kind of around that. There's a lot of trees. So visibility, traffic, water, all that was considered as part of that. We're trying to be the best neighbors that we possibly can, and all that was taken into consideration with the selection of that property to begin with.

Unidentified: That's on Ross Road?

Shawn Wilczynski: Yes, it is. It's 1001 Ross Road.

Unidentified: Is that where you're, you would primarily be going up and down Ross Road with your, with whatever vehicles?

Shawn Wilczynski: That, that's what the traffic studies were based upon, on that, there. So again of our 200 employees, not, only about 20 to 30 of them would actually be doing their shift changes on that, at that location. The other ones would continue to report to work at our...

Unidentified: And this is, so, primarily, would be for ventilation, bringing you electricity, and as a second point of egress in the event of an emergency.

Shawn Wilczynski: Yes. So this is, which I'm, I'm glad you brought that up 'cause, I'm sorry, I'm blond and Polish, I, I miss things sometimes.

{laughter}

Shawn Wilczynski: But, this is what we've been trying to say the entire time. Some, some folks are ref-, are referring to it as a mine expansion. Okay, there's no acreage--everything that we already have, is already permitted. Right? The red, the blues, it's already part of an approved Mined Land Reclamation Permit. All we're trying to do is connect a shaft and 12.3 acres to it so we can get people in and out of the mine, bring in ventilation, bring in electricity. Like, there's actually a, our electricity that we bring in and bring all the way out there, the resistance of that

over, over time is so bad that our power factor is about .6. We'll actually decrease our power, our total power consumption by dropping in a new line up there and kind of, kind of back-feeding, it'll be, it'll be that much more efficient. Right? But pri-, again this is not an expansion. This is tr-, there's no other acreage that is added here, by putting in a shaft. So that's, I, I guess, that's the part of me that's, that, you know, confusing, I, while people play it off to be an expansion, it's just tying in a shaft, and 12.3 acres, 4 buildings and a parking lot, so we can get our people in the mine safer, quicker, ventilation, power, all those other things. So.

John O'Neill: And the north, the uh, beam is probably going to be thin, because of the glacial...

Shawn Wilczynski: Uh, thin? Yes, yes.

John O'Neill: Yes. How about with the, uh, salt, so that the...?

Shawn Wilczynski: So, as you mentioned, there are some areas that, from the lake seismic work that was done, we've identified areas where the glacial gouge got deeper, right? So maybe it's somewhere, instead of that 1000 or 1500 foot we have there, it could be 800 foot, when we get up there, which is another reason again, not to stick with this other mining technique that we were utilizing before, to going to, and going to a big pillar mining technique that only impacts about 200 feet above where the mine horizon is, so even if it's thinner, right, even if it's thinner, we still think there's, there is more than plenty of that above-rock protection, for us to utilize that mining approach in that area, now. Now there is some point, though, as, again, as that, as the li-, as this salt dip dips up, and, so it, it gets closer and closer to the surface, there's some point further up in the north, where it's no longer going to be safe to mine. We don't know where that is yet. Okay. We haven't tried to determine where that is. Since we've approved, since this permit approval in 2002, 15 years later I can't count the millions that we've spent on just trying to make sure we thoroughly understand what we currently have permitted to mine. That's it. We haven't spent any money going outside of there yet. That would be part of an, of the of the next permit thing, if we wanted to go through this process again, go out and do our diligence, do more seismic, do whatever the case is, ask for more acreage, go through that process. My guess is, just like American Rock Salt, if we go through and ask for another 1700 acres, I'm sure a EIS will be required for that. Okay. It was not required for this, this is 150 acres, right? Five tunnels, 2500 feet deep, on 150 acres, is not going to be an impact. This was already approved since 2002, so it, but if we do need to, to do more permit stuff or to try to expand the mine for that, that'll be a part of that own, be part of that assessment, for that time. This number four shaft gives us no more permit rights, no more, no more (inaudible). Did I answer your question?

John O'Neill: Yeah.

Shawn Wilczynski: Sorry, but, so yeah, we don't know where that is yet, you know. I would say basis what we know right now, the further north you go, the, the actual lake is more u-shaped than it is v-shaped, but, we'll have to figure out what that means at some other time. We haven't gone there yet.

Mayor Don Hartill: Anything else?

Shawn Wilczynski: Yes?

Deborah Dawson: May I ask a question?

Shawn Wilczynski: Yes.

Deborah Dawson: You said earlier that DEC had no jurisdiction to require an EIS for your mine permits, because it was underground. But you just said that if you wanted to extend the mine further with a new permit, an EIS would be required. So, I'm a little confused: is it your position that they do have jurisdiction or not?

Shawn Wilczynski: We signed a stipulation agreement allowing them to do so.

Deborah Dawson: No, you didn't.

Shawn Wilczynski: Yes, we did.

Deborah Dawson: No, I read your stipulation. You signed a stipulation that allowed you to proceed under this process that you use with Mr. Scovazzo and John T. Boyd. You did not sign a stipulation agreeing to an EIS and in fact your stipulation says that you, that Cargill, not you, I'm sorry, you're just an employee, that Cargill doesn't recognize the DEC's jurisdiction or regulatory authority under your mining applications.

Shawn Wilczynski: Right. So again, I guess that's how you want to look at it, right?

Deborah Dawson: No, that's what it says.

Shawn Wilczynski: That's a, wh-, and that's why I brought it up to begin with. By law, there is no law in the state of New York that allows the DEC to regulate underground mining. That is the absolute truth. There is not a law. They have a, they have oversight over surface mining. There is not a law for underground mining. Okay? So, this is kind of how you want to twist it, to me, a little bit, right, was, in spite of, in spite of a lack of law, we chose to allow that versus tie it up in court because it's the right thing to do. Alright?

Deborah Dawson: Is there a law that says they don't get jurisdiction?

Shawn Wilczynski: What's that?

Deborah Dawson: Is there a law that says they don't get jurisdiction?

Shawn Wilczynski: Well, there's, there's not a current law that says they do.

Deborah Dawson: So, it's just, pretty much, you know, is this something that's going to have an environmental impact or not.

Shawn Wilczynski: And I'm not, I can't answer for, for that one, and, right. So, so, I just know that I've been part of that process since 2002 since I got here, that we are continuously every single year doing more rehashing, trying to understand more, as technology advances, let's take a look at this, let's do three-dimensional finite analysis, you know, computer modeling, now that, you know, now that you can run, an entire mine model takes two hours, used to take three months, right. Going back and rehashing this over and over and over again, everything points back to, our

mine design is even more conservative than we initially thought, right. That the worst case scenarios would still be more unlikely.

Mayor Hartill: With, with the large pillar, uh, approach, that's still about a 50%...

Shawn Wilczynski: It's actually about a 45, kind of give or take, right, depending on what pillar size are used. But, we're using, again, let's start with the abundance of caution and then, and then go from there, once we have more information, sure.

Mayor Hartill: 'Cause one of the comments I've heard is that, it's uh, an, an extraction rate that could be viewed as large or something like that.

Unidentified: What's that?

Shawn Wilczynski: That the extraction ratio could be viewed as large?

Mayor Hartill: Oh, sorry, I'll have to put on my (*inaudible*) voice. I've heard some comments that uh, the 45% extraction rate is, uh, more than safe, in some sense.

Shawn Wilczynski: I, in my experience in mining, which is only 23 years, generally most, uh, room-and-pillar mining extraction ratios are generally in the 50 to 70%, again depending upon the regional geology that you have, okay.

Mayor Hartill: Okay, just wanted to get that, clarified, because I've heard... I didn't know what the extraction rate actually was.

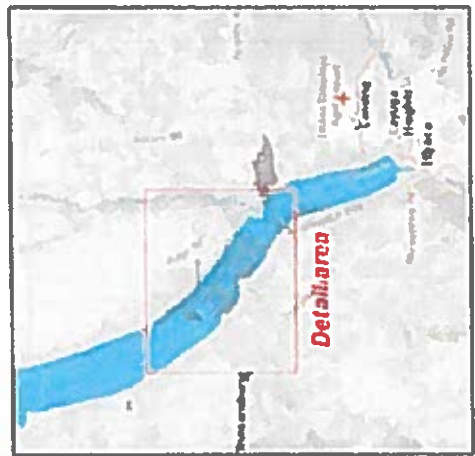
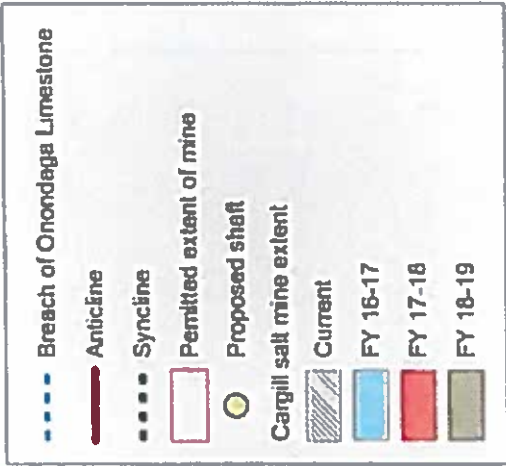
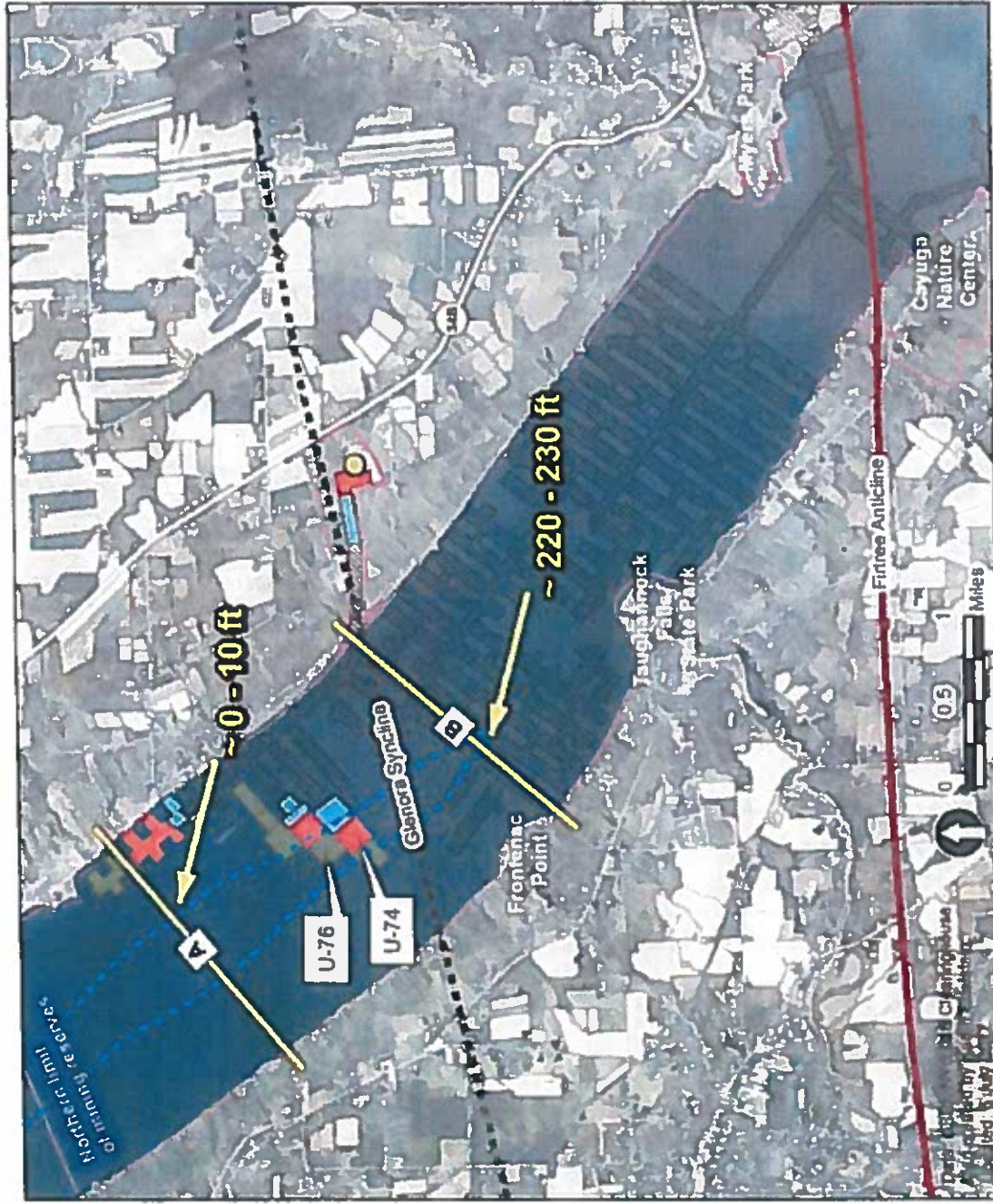
Shawn Wilczynski: Again, Retsof, at the time, was 70.

Mayor Hartill: Thank you.

SHawn Wilczynski: In hindsight, too much (*inaudible*).

Mayor Hartill: Any other questions? If not then, I would like to move on to the next.

Shawn Wilczynski: I'll be here in case something else pops up.



Carbonate Beam Thickness Over Cayuga Salt Mine

showing Profiles A, B, Glenora Syncline, and zone of glacial downcutting into Onondaga Limestone

RE: resolution to join an Article 78 requiring DEC to order Cargill t..

Subject: RE: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

From: John Francis Hugh Thompson <jft66@cornell.edu>

Date: 10/16/2017 11:43 AM

To: "johnvdennis@gmail.com" <johnvdennis@gmail.com>, Don Hartill <dlh13@cornell.edu>, Adam Robbs <codeofficer2@vlansing.org>, "David A. Dubow" <ddubow@bgdtlaw.com>, Gerald Monaghan <gmonaghan22@mac.com>, Jodi Dake <clerk@vlansing.org>, John O'Neill <johnoneil5@aol.com>, Patricia O'Rourke <patithaca@aol.com>, Ronny Hardaway <rjhardaway@yahoo.com>

CC: "Brian B. Eden" <bbe2@cornell.edu>, Cait Darfler <ckdarfler@gmail.com>, "Carrie A. Koplinka-Loehr" <cck3@cornell.edu>, Deborah Dawson <ithacadeborah@yahoo.com>, "George D. Patte, Jr." <gdpatte@georgepatte.com>, Hilary Lambert <hilary_lambert@yahoo.com>, "Louise E. Buck" <leb3@cornell.edu>, Robb Jetty <rjetty@gmail.com>, Robb Jetty Sr. <robbjetty@gmail.com>, John Mason <johnmasonscience@gmail.com>, "D. Rob MacKenzie" <rmackenzie@zoom-dsl.com>

John,

Just for the record, I do not appreciate anybody attempting to put words in my mouth, particularly when based on one meeting. My limited conversations on this topic have been based on my global knowledge of resources, the mining industry, and best practices and were not specific to salt mining below Cayuga Lake where I have only rudimentary knowledge.

Sincerely,

John Thompson

From: John Dennis [mailto:johnvdennis@gmail.com]

Sent: Sunday, October 15, 2017 10:56 PM

To: Don Hartill <dlh13@cornell.edu>; Adam Robbs <codeofficer2@vlansing.org>; David A. Dubow <ddubow@bgdtlaw.com>; Gerald Monaghan <gmonaghan22@mac.com>; Jodi Dake <clerk@vlansing.org>; John O'Neill <johnoneil5@aol.com>; Patricia O'Rourke <patithaca@aol.com>; Ronny Hardaway <rjhardaway@yahoo.com>

Cc: Brian B. Eden <bbe2@cornell.edu>; Cait Darfler <ckdarfler@gmail.com>; Carrie A. Koplinka-Loehr <cck3@cornell.edu>; Deborah Dawson <ithacadeborah@yahoo.com>; George D. Patte, Jr. <gdpatte@georgepatte.com>; Hilary Lambert <hilary_lambert@yahoo.com>; Louise E. Buck <leb3@cornell.edu>; Robb Jetty <rjetty@gmail.com>; Robb Jetty Sr. <robbjetty@gmail.com>; John Mason <johnmasonscience@gmail.com>; John Francis Hugh Thompson <jft66@cornell.edu>; D. Rob MacKenzie <rmackenzie@zoom-dsl.com>

Subject: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

Dear Don, Adam, David, Gerry, Jodi, John, Pat, and Ronny,

I want to thank all of you for listening patiently and asking good questions on Thursday while Shawn Wilczynski and I presented our somewhat differing views on the Cayuga Salt Mine and how best to

RE: resolution to join an Article 78 requiring DEC to order Cargill L.

Subject: RE: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

From: Shawn Wilczynski <Shawn_Wilczynski@cargill.com>

Date: 10/16/2017 10:00 AM

To: "clerk@vlansing.org" <clerk@vlansing.org>

Jodi,

Thanks for passing this along. Not sure how successful I was at following your advice and remaining calm/professional but I did the best I could. For over a year, John Dennis has repeatedly and falsely asserted that information has been purposefully and improperly withheld from public review. He continues to misconstrue the mine permit application materials, makes broad assumptions regarding procedure and methodology, inaccurately and inappropriately asserts improprieties and nefarious motives behind Cargill's efforts. He has even gone door to door in Lansing telling residents Cargill is currently robbing pillars and putting the lake at risk.

John Dennis and CLEAN are absolutely entitled to their beliefs and opinions. However, they are not entitled to their own standards and rules.

Thanks,
Shawn

From: Village of Lansing Clerk/Treasurer [mailto:clerk@vlansing.org]

Sent: Monday, October 16, 2017 11:03 AM

To: Shawn Wilczynski <Shawn_Wilczynski@cargill.com>

Subject: Fwd: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

Shawn,

Thank you so much for coming to our Thursday meeting. I'm forwarding you the email from John Dennis since it involves a partial transcription of the meeting done by him.

Jodi

----- Forwarded Message -----

Subject: resolution to join an Article 78 requiring DEC to order Cargill to carry out a DEIS on Shaft 4

Date: Sun, 15 Oct 2017 22:55:44 -0400

From: John Dennis <johnvdennis@gmail.com>

To: Don Hartill <dlh13@cornell.edu>, Adam Robbs <codeofficer2@vlansing.org>, David A. Dubow <ddubow@bgdtlaw.com>, Gerald Monaghan <gmonaghan22@mac.com>, Jodi Dake <clerk@vlansing.org>, John O'Neill <johnoneil5@aol.com>, Patricia O'Rourke <patithaca@aol.com>, Ronny Hardaway <rjhardaway@yahoo.com>

CC: Brian B. Eden <bbe2@cornell.edu>, Cait Darfler <ckdarfler@gmail.com>, Carrie Koplinka-Loehr <cck3@cornell.edu>, Deborah Dawson <ithacadeborah@yahoo.com>, George D. Patte, Jr. <gdpatte@georgepatte.com>, Hilary Lambert <hilary_lambert@yahoo.com>, Louise Buck <leb3@cornell.edu>, Robb Jetty <rjetty@gmail.com>, Robb Jetty Sr.

Subject: For your consideration with respect to the Article 78 resolution

From: Deborah Dawson <ithacadeborah@yahoo.com>

Date: 10/16/2017 11:59 AM

To: Don Hartill <dlh13@cornell.edu>, Ronny Hardaway <rjhardaway@yahoo.com>, Gerry Monaghan <gmonaghan22@mac.com>, "O." <johnoneil5@aol.com>, Patricia O'Rourke <patithaca@aol.com>

CC: David Dubow <ddubow@bgdtlaw.com>, Jodi Dake <clerk@vlansing.org>

Dear Mayor and Trustees:

Every day, the Cargill mine expands. As it moves farther north under Cayuga Lake, it encounters two problematic issues. The first one, the one that Mr. Wilczynski stressed in his presentation last Thursday, is that it takes longer and longer for miners (and fresh air) to travel between the existing shaft and the active mine area. Obviously, this is a safety problem. It's also an obstacle to the mine's future expansion, because Federal Mine Safety and Health Administration rules require that any mine be able to evacuate it's personnel within a certain time limit (I believe it's 50 minutes), and Cargill is bumping up against that limit with the current shaft location. The second issue, of course, is the thinning carbonate beam between the lake bottom and the salt layer, a problem which Cargill and Mr. Wilczynski refuse to acknowledge - and our DEC has not adequately addressed.

It is the second issue which makes the segmentation of Cargill's permit applications for its tunnel and Shaft 4 project so dangerous. The fact that the mined land area permitted back in 2002 included the current northward expansion of mining operations is irrelevant. (That mining permit will have to be renewed in November, btw.) That permit is 15 years old, and could not have considered the data generated by intervening geological and seismic studies of the area at the northern edge of the permitted area. Mr. Wilczynski's argument regarding segmentation appears to be that: (1) the mine is not expanding because it has not yet reached the limits of the mined land area permitted back in 2002; (2) the tunnel permit had no connection with or impact on mining under the lake, because it was mined between the lake and the Shaft 4 site; and (3) if it was permissible to consider the tunnel separately from the mine, then it should also be permissible to consider Shaft 4 separately. Given the fact that, **under MSHA regulations, the mine cannot expand northward without the construction of Shaft 4**, Mr. Wilczynski's argument cannot stand.

Another argument advanced by Mr. Wilczynski is of greater concern: more than once, he stated unequivocally that, "by law," the DEC has no right to regulate subsurface mining. In all fairness to Mr. Wilczynski, he is not a lawyer, and he is merely reiterating his employer's position, stated in the 2002 Stipulation that I have already shared with you, that the DEC "lacks statutory or regulatory authority to regulate . . . [its] underground mining operations and to require the submission of information . . ."

The New York State Court of Appeals would disagree, *Gematt Asphalt v Town of Sardinia*, 87 NY2d 668 (1996):

"The Mined Land Reclamation Law (ECL 23-2701 et seq. [the MLRL]) is a comprehensive legislative scheme which broadly empowers the Department of

Environmental Conservation to regulate the mining industry in this State. The policies underlying the statute are to foster and encourage an economically sound and stable mining and minerals industry, to manage well depletable mineral resources, and to provide for the reclamation of mined land (see, ECL § 23-2703[1] [as originally enacted, L. 1974, c. 1043 (McKinney's Cons. Laws of NY, Book 17«, at 443-444), and as amended, L. 1991, c. 166 (Book 17«, 1996 Pocket Part, at 145- 146)]). The Legislature sought to achieve those purposes by replacing the existing patchwork of local regulatory ordinances with "standard and uniform restrictions and regulations" and by addressing the environmental issues related to reclamation of abandoned mining sites (*Matter of Frew Run Gravel Prods. Inc. v Town of Carroll*, 71 NY2d 126, 131-133). As originally enacted, the provisions of the statute expressly superseded "all other state and local laws relating to the extractive mining industry ... [except] local zoning ordinances or other local laws which impose stricter mined land reclamation standards or requirements than those found herein" (former ECL 23-2703[2])."

It's worth noting that SEQRA was not passed until after the original MLRA was enacted in 1975. SEQRA's definition of the "actions" to which it applies includes "projects or activities involving the issuance to a person of a lease, permit, license, certificate or other entitlement for use or permission to act by one or more agencies" (NYS ECL. Sec.8-0105.4), a definition that is clearly broad enough to include mining operations permitted by the DEC under the MLRA, even if such operations are not explicitly mentioned in the statute. I have included herein a link to the text of a presentation made by Gregory Sovas, Director of DEC's Division of Mineral Resources, at an environmental law forum at Albany Law School in 1998, in which he discusses, *inter alia*, the interaction of the MLRA and SEQRA. http://www.dec.ny.gov/docs/materials_minerals_pdf/albanyla.pdf

I've quoted the relevant highlights of Mr. Sovas' presentation here, for those of you who don't have time to read 11 pages:

"The Mined Land Reclamation Law as amended gives the Department very extensive authority to mitigate environmental impacts and to impose permit conditions and to negotiate with applicants."

"The law allows the DEC to impose conditions on permits without relying on the authority of the SEQR for issues such as noise, dust control, blasting, hours of operation, erosion, sedimentation plans, berms, buffers and setbacks, and reclamation. These potential environmental impacts are identified in the MLRL . . ."

"An EIS is required when there is a potential for significant adverse environmental impacts."

"The State Environmental Quality Review Act must be read in conjunction with the MLRL, supplemental to the authority of the MLRL."

"The major role for SEQR in the review of mining applications is to incorporate the review of those offsite impacts that could result from a mining operation that were not specifically identified in the MLRL."

"In determining whether an environmental impact statement is required, the lead agency must decide whether an action may have a significant effect on the environment requiring the

For your consideration with respect to the Article 78 resolution

preparation of an EIS."

"The Mined Land Reclamation Law and the State Environmental Quality Review Act give DEC a powerful combination of authority and responsibility in the comprehensive review of mining applications."

It's clear that, in this particular case, the DEC has avoided exercising that powerful combination of authority and responsibility by allowing segmentation of Cargill's permit applications, ignoring the impact that the tunnel and the Shaft 4 permits will have on Cargill's ability to mine farther northward under Cayuga Lake, and limiting its consideration of the environmental impact of the Shaft 4 project to the acreage around and over the shaft itself, thereby ensuring that it could issue a Neg Dec and be done with this troublesome issue. Please, don't let this dereliction go unchallenged.

Thank you.

Deborah Dawson