

NEW YORK STATE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

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In the Matter of Applications for Permits pursuant to Articles 17, 24 and 27 of the Environmental Conservation Law (ECL); Parts 373 (Hazardous Waste Management Facilities), 663 (Freshwater Wetlands Permit Requirements), 750 (State Pollutant Discharge Elimination System [SPDES] Permits) of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR); Section 401 of the Federal Clean Water Act (CWA); and 6 NYCRR 608.9 (Water Quality Certifications),

by

CWM Chemical Services, L.L.C.

Applicant (RE: Residuals Management Unit-Two [RMU-2])

DEC Permit Application Nos.: 9-2934-00022/00225
9-2934-00022/00231
9-2934-00022/00232
9-2934-00022/00249

NEW YORK STATE FACILITY SITING BOARD

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In the Matter of an Application for a Certificate of Environmental Safety and Public Necessity pursuant to 6 NYCRR Part 361 (Siting of Industrial Hazardous Waste Facilities)

by

CWM Chemical Services, L.L.C.

Applicant (RE: Residuals Management Unit - Two [RMU-2])

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1 Proceedings held before DANIEL P. O'CONNELL,
2 Administrative Law Judge, at the Lewiston-Porter
3 High School Auditorium, 4061 Creek Road, Youngstown,
4 New York, taken on Wednesday, July 16, 2014,
5 commencing at 1:00 p.m.

1 APPEARANCES :

2 COHEN & GRIGSBY
3 BY: DANIEL M. DARRAGH, ESQ.
4 625 Liberty Avenue, 5th Floor
5 Pittsburgh, Pennsylvania 15222
6 Appearing for the Siting Board.

7 FACILITY SITING BOARD

8 In the Matter of the Application of CWM Chemical
9 Services, L.L.C. for a Certificate of Environmental
10 Safety and Public Necessity, Residuals Management
11 Unit-Two

12 PAUL D'AMATO, Chair-Designee for
13 NYS Department of Environmental
14 Conservation

15 LYNN MARINELLI, Designee for
16 NYS Department of Economic
17 Development

18 MATTHEW FORCUCCI, Designee for
19 NYS Department of Health

20 DIERDRE K. SCOZZAFAVA, Designee
21 for New York State Department of
22 State

23 DARRELL KAMINSKI, P.E., Designee
24 for New York State Department of
25 Transportation

AD HOC MEMBERS

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Commissioner for Hearings and
Mediation Services

MICHAEL CARUSO
Facility Siting Board Counsel

* * * *

A F T E R N O O N S E S S I O N

JUDGE O'CONNELL: We'll go on the record now, please. Good afternoon, ladies and gentlemen. This is a Joint Administrative Hearing of the New York State Department of Environmental Conservation and the New York State Facility Siting Board. It's being held pursuant to Articles 27 and 70 of the Environmental Conservation Law of the State of New York and Parts 361 and 624 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York to consider applications filed by CWM Chemical Services, L.L.C. for the proposed Residual Management Unit Two (RMU-2) landfill and related units in Niagara County.

The proposed RMU-2 landfill and related units would be constructed on property currently owned by CWM Chemical Services, L.L.C., located at 1550 Balmer Road, Model City (Niagara County), New York.

My name is Daniel O'Connell from the Department of Environmental Conservation Office of Hearings and Mediation Services. I'm the Administrative Law Judge assigned to conduct this joint public comment hearing. The Office of Hearings and Mediation Services is a distinct unit in the Department of Environmental

1 Conservation. It is separate from Counsel's Office,
2 the various Program Units and the Regional Offices.
3 The sole purpose of the Office of Hearings and
4 Mediation Services is to conduct public hearings such
5 as this one.

6 Consistent with the requirements outlined in
7 Environmental Conservation Law 27-1105, Governor Cuomo
8 constituted a Facility Siting Board to review and
9 decide CWM's application for a Certificate of
10 Environmental Safety and Public Necessity. Members of
11 the Siting Board are attending the public comment
12 hearing.

13 They are Paul D'Amato, on behalf of the
14 Department of Environmental Conservation. Matthew
15 Forcucci, on behalf of the Department of Health.
16 Darrell Kaminski, on behalf of the Department of
17 Transportation and three ad hoc members are here.

18 John Benoit, Lee Simonson and Scott Weber. Mr.
19 D'Amato is DEC Commissioner Martens' designee to the
20 Siting Board and is serving as Chair of the Board.

21 During today's public comment hearing sessions,
22 members of the public will have an opportunity to
23 comment about CWM's proposal, its application for a
24 Certificate of Environmental Safety and Public
25 Necessity and the applications pending before the

1 Department, as well as the draft Environmental Impact
2 Statement. Written comment may also be presented now
3 and will be weighed equally with oral statements made
4 during the legislative hearing sessions held today.

5 In addition, written comments may be filed until
6 September 5th, 2014 with my office; and I'll provide
7 the address during the break.

8 A combined Notice of Joint Public Statement
9 Hearing and Notice of Extension of Public Comment
10 Period was published in the Department's Environmental
11 Notice Bulletin on June 11th, 2014 and in the
12 following newspapers; The Niagara Gazette and the
13 Buffalo News on June 11th, 2014, and the
14 Lewiston-Porter Sentinel on June 14th, 2014.

15 On June 11, 2014, radio announcements regarding
16 the hearing were also broadcast at the following radio
17 stations: WJJL, WLVL, WBEN and WGR.

18 Applicant has provided me with the Affidavits of
19 Publication of the combined Notice in the local
20 newspapers, Affidavits of broadcast of the radio
21 announcement, and Affidavits of mailing to the
22 landowners located within one-half mile of the
23 facility.

24 An additional legislative hearing session will
25 be held tonight and will begin at 6:30 p.m.

talking. Please extend the same courtesies and respect that you would want when you are speaking.

If you do not wish to make an oral Statement, you may submit a written Statement by mail or e-mail or if you have a written Statement, you may hand it to me this evening. The address for mailing comments is Office of Hearings and Mediation Services, New York State Department of Environmental Conservation, 625 Broadway, First Floor, Albany, New York 12233-1550. The E-mail address is CWMRMU2@gw.dec.state.ny.us.

Now, there's a -- contact information is available at the table in front of the -- in the hallway in front of the auditorium. I'll also provide that information again and during a break, I would be happy to provide that contact information.

The Department staff will first provide a brief presentation concerning a proposal, which will be followed by members of the public.

The Department Staff speaker is Dave Denk. I ask Mr. Denk to please come to the microphone and make his presentation.

MR. DENK: Good afternoon, Judge O'Connell,
ladies and gentlemen, Siting Board members, elected
officials and representatives, my name is David Denk

1 and I'm the Regional Permit Administrator for the New
2 York State Department of Environmental Conservation
3 Region 9. CWM has proposed to construct and operate a
4 new landfill or Residual Management Unit, RMU-2,
5 within its existing Model City facility for the
6 continued disposal of hazardous and industrial
7 nonhazardous waste.

8 The proposed landfill would occupy approximately
9 forty-three acres, have a design capacity of
10 approximately four million cubic yards and a design
11 life of ten to twenty years. The proposed RMU-2
12 landfill would be designed with a double composite
13 liner system with primary and secondary systems for
14 leachate collection. Upon reaching capacity, RMU-2
15 would be closed, utilizing the composite final cover
16 to be maintained by CWM during the landfill's
17 post-closure period.

18 CWM is proposing to construct and operate a
19 number of new and modified waste storage treatment
20 units. The new units would replace existing units,
21 which would close during the course of RMU-2
22 construction. Another existing unit would be modified
23 to manage leachate from RMU-2.

24 The DEC has tentatively determined that the part
25 373 Hazardous Waste Management Facility Permit

1 Modification Application is technically and
2 administratively complete and has made a tentative
3 determination to issue the Part 373 Permit
4 Modification for the proposed RMU-2 landfill project.

5 A draft Part 373 Permit Modification has been
6 prepared for public review. The DEC has also
7 tentatively determined that the Part 663 Freshwater
8 Wetlands Permit and Water Quality Certification
9 Applications are technically and administratively
10 complete and has made a tentative determination to
11 issue that approval for CWM for land adjacent to
12 freshwater wetlands of RV-8. A draft of that approval
13 has been prepared for public review.

14 The State Environmental Quality Review Act
15 requires the proposed project to undergo department
16 review in conjunction with the permit applications.
17 CWM has prepared a Draft Environmental Impact
18 Statement or DEIS for this project. The proposed
19 RMU-2 landfill project is required to undergo
20 regulatory and public involvement process to allow for
21 the evaluation of the applications of DEIS and draft
22 permits in relation to applicable New York State Laws
23 and Regulations.

24 Hard copies of the permit applications, draft
25 permits and DEIS are available for review at the

following locations: The Youngstown Free Library, 240 Lockport Street in Youngstown; Porter Town Hall, 3265 Creek Road, Town of Porter; DEC Region 9 Office, 270 Michigan Avenue in Buffalo; DEC Central Office at 625 Broadway in Albany. In addition, two new document repositories have been created to give the public greater access to these documents. The Ransomville Free Library at 3733 Ransomville Road in Ransomville and the Lewiston Free Library at 305 8th Street in Lewiston.

These documents will be placed at these two new locations tomorrow. Electronic copies of permit applications and DEIS are available through CWM's website. Electronic copies of the draft permits and CWM's compliance record is available through DEC's website.

The public comment period began May 7th, 2014. In response to request from the public, it's been extended to September 5th, 2014. All written comments must be submitted no later than September 5th, 2014. All written comments and those recorded at this hearing will be reviewed and considered prior to DEC's final decision on the matter.

There's copies of the fact sheet available here today. The fact sheet explains the project in greater

1 detail; explains where you can find paper and
2 electronic versions of documents and how to submit
3 written comments. There's another handout available
4 with the list of document repositories and a list of
5 the websites.

6 Thank you to the Lewiston-Porter school
7 officials for the use of this facility and thank you
8 for your attention.

9 JUDGE O'CONNELL: Member of New York State
0 Assembly, John Ceretto, followed by William Ross,
1 Chairman of Niagara County legislature.

2 MR. CERETTO: Good afternoon, everyone. I'm
3 John Ceretto. I'm the assemblyman for the New York
4 State District 145th. I just have a short comment I'd
5 like to read; a Statement, which I've already handed
6 in.

7 JUDGE O'CONNELL: Thank you.

8 MR. CERETTO: As both a resident of Niagara
9 County and as an elected official, I have opposed this
10 expansion of CWM. Our first and primary concern must
11 always be that of the health and safety of our
12 residents.

3 For too long, Niagara County has been a dumping
4 grounds of toxic waste and believe me, I'm a child of
5 Love Canal. I understand the problems of toxic waste.

1 Our County has done more than its share and it's no
2 longer appropriate to send this waste here.

3 As the assembly ranking member of Tourism
4 Committee I know that toxic waste landfills are not a
5 good fit for our area. If you don't mind, I'd like to
6 just say some personal things that have happened to me
7 and most recently in the Spring.

8 With these chemical waste management trucks that
9 are moving up and down the thruway. In the Spring, I
10 was behind one when a wheel shaft came off and knocked
11 off my front and back tires. Not only did it scare
12 the bajeezers out of me, but it also took out three
13 cars behind me and my life was in danger because of
14 this.

15 I'm lucky to be here, I feel, to tell this
16 story. It was very scary that day and for those
17 reasons, I do want to say that it's just -- it's just
18 when you're transporting this toxic waste around the
19 State on the thruways, everybody's health and safety
20 is truly in jeopardy. For those reasons, we should
21 not be moving toxic waste around this State for the
22 public concerns.

23 Also, I'd like to share another story. This
24 happened about four or five years ago when I was a
25 County Legislator. I actually came from a family that

1 a friend of mine that grew up where I grew up in
2 Niagara Falls, I went to LaSalle Senior High School,
3 he lived behind me and he calls me up late and night
4 and says that he has a concern.

5 His concern was one of these toxic waste trucks
6 going to CWM, the diaper was flapping and he and his
7 children were hit by a moisture. He said he didn't
8 know what to do, if it was a problem or not, so he
9 gave me a call.

10 Of course I notified, at that time, the County
11 Health Department, which got in touch with him and
12 they said, take these clothes and put them in a
13 dumpster can, put it out of the house and they'll come
14 and inspect it.

15 They were fortunate enough there wasn't any
16 danger to them, but I do want to say this; the people
17 here in this area, they're residents, they want a
18 quality of life. They do not want to have to worry
19 about their children or themselves if they're riding
20 their bikes in the neighborhood. That's not why we
21 chose to live in this community.

22 We chose to live in this community because we
23 care about our children and we want to raise our
24 family here. Believe me, I've been fortunate. I have
25 four children of my own that have went to this school

1 ago or six years ago, I can go back twenty-one years
2 myself and I remember some of the points that we made.

3 Some of the resolutions we put forth myself,
4 both as a sponsor and a supporter, some of the doubt
5 in the early days with tonnage blocking out school
6 hours, number of trucks and as we move down through
7 the calendar years, it became a little different when
8 we got into the 2000s and we're looking at further
9 expansion, the Niagara County certainly took a
10 different stance and we were looking to stop this
11 expansion.

12 And finally we had to get to the point where it
13 was just beyond our Niagara County legislature but we
14 thought the best way to fight the problem was to get
15 the best environmental/legal expert that we could
16 procure and I believe we did this in Mr. Abraham and
17 we did that back in 2003, 2004 and we stayed with it
18 because it was a collaborative. It was a cooperative
19 and it was a continuous effort between the Niagara
20 County Legislature and of course the Town of Lewiston
21 because we believe so strongly in non-expansion of
22 hazardous landfill.

23 So as I wrap it up, and I do have my department
24 head coming up for health and the president of our
25 Board of Health coming up and I will submit a very

1 in-depth, written comment before the September 5th
2 deadline, but I think what our Board has to remember,
3 sagging Board has to remember, what the priority is,
4 doing the right thing and finally providing
5 environmental justice for the Lewiston-Porter people
6 and all of the residents of Niagara County.

7 JUDGE O'CONNELL: Our next set of speakers will
8 be AJ Wright, Daniel Stapleton, Robert Bauer and James
9 Hufnagel.

10 MR. WRIGHT: Good afternoon. Thank you for the
11 opportunity to speak before you today and add dialogue
12 to this important topic. My name is A.J. Wright and
13 I'm the Senior Director of Government Relations at the
14 Buffalo Niagara Partnership.

15 The Buffalo Niagara Partnership is the region's
16 private sector economic development organization and
17 regional chamber of commerce. We represent nearly two
18 thousand members and a quarter of million employees
19 across the Buffalo Niagara region. Our work has three
20 main focuses; advocacy, business development and
21 convening. By mobilizing members and strategic
22 partners around common goals, we grow private
23 investment and jobs in Buffalo Niagara.

24 On behalf of the members of the Partnership, I
25 stand in strong support of the New York State

only a conscientious commitment to the safe disposal of hazardous and industrial non-hazardous waste but a willingness to work closely and collaboratively with the NYS DEC through a partnership that includes the hosting on-site agency monitors that track and confirm CWM's compliance with numerous stringent regulations.

As the only hazardous waste facility in the State, CWM accepts waste from sites that are transitioning from blighted Brownfields to remediated, tax-generating properties, thereby offering operational, economical and environmental efficiencies for the NYS BCP and other remediation initiatives in the State.

Beyond this vital role, CWM is also a multi-million dollar contributor to the Niagara County tax base while providing stable, competitive employment for more than sixty local residents. The RMU-2 project will lead to over fifty-five million in construction jobs, with a majority of that being spent on local contractors.

Furthermore, while this application is for a new landfill, it truly is a continuation of CWM's existing operations. There would be no change to truck traffic, nor any change to the footprint of the facility or its visibility of the landfill from its

1 perimeter.

2 I've had the pleasure of touring CWM's facility
3 at Model City and came away impressed with the
4 professionalism demonstrated by all employees, the
5 state-of-the-art, cutting edge technology used in the
6 handling and storage of materials, and the overall
7 process CWM emphasizes in its efforts to maintain its
8 facility. CWM has demonstrated its belief in being a
9 community partner and its employees are proud of the
10 work they do, especially on their facility's impact on
11 turning around so many former industrial sites
12 otherwise unusable for revitalizing our region.

13 In conclusion, the Partnership strongly supports
14 CWM's proposal to build and operate a new forty-four
15 acre landfill and urges the New York State Department
16 of Environmental Conservation to immediately finalize
17 this site's Hazardous Waste Permit and Siting
18 Certificate. We have had the opportunity to witness
19 firsthand the positive economic impact that the Model
20 City facility has not only here in Buffalo Niagara,
21 but across New York State. We encourage New York
22 State to allow CWM to continue its track record of
23 success and safety. Thank you.

24 MR. DESTINO: Mr. O'Connell, my name is Johnny
25 Destino. I believe I was supposed to be number three.

1 JUDGE O'CONNELL: Destino?

2 MR. DESTINO: Yes.

3 JUDGE O'CONNELL: Thank you.

4 MR. DESTINO: My name is John Destino. I'm an
5 attorney in Niagara Falls. I'm also a Niagara Falls
6 School Board member and Orleans, Niagara BOCES Board
7 member. As an elected official charged with the
8 wellness and education of our children, I stand before
9 you today in opposition of this expansion.

10 In my opinion, increasing the capacity for
11 additional hazardous waste, when all the evidence
12 shows that our national capacity exceeds current
13 demand, it's unacceptable. We've been working so hard
14 to keep Western New York's image as a chemical waste
15 dumping ground with the Inspector of Love Canal
16 forever looming over us and the City of Niagara Falls,
17 it's time to put an end to further expansion.

18 I strongly urge the Governor for revitalizing
19 the Niagara region as a top priority, the State, DEC
20 and this Siting Board to deny CWM's permit application
21 for expansion. It's time for the Government to listen
22 to the people who've opposed this for so long. The
23 health and wellness of our region, both personal and
24 economical, depends on you making the right decision.
25 Thank you.

1 need for mega landfills for hazardous waste disposal
2 is not the same as it was thirty, twenty or even ten
3 years ago.

4 The Plan concludes that New York does not need
5 to provide additional landfill capacity as current
6 capacity is adequate. Niagara County does not need to
7 provide additional landfill capacity on behalf of the
8 North East United States at CWM.

9 But even if you dismiss the Siting Plan's
10 conclusions and forge ahead with another unnecessary
11 hazardous waste landfill in Niagara County, can it be
12 done safely? Based on the submitted application, the
13 answer seems to be no.

14 There are historic radiologic challenges at the
15 CWM site that must be fully acknowledged, researched
16 and documented. There is a need for a soil management
17 plan that includes radiological screening before and
18 during any significant movement of soil. Based on the
19 submitted application, CWM would not screen or
20 investigate subsurface soils before excavation.

21 Existing groundwater contamination compromises
22 the applicant's ability to monitor a new landfill's
23 leak detection system. The groundwater beneath the
24 site is already contaminated by CWM and others' past
25 operations. The application does not propose to fully

identify the contamination plumes west of the landfill, nor fully identify the site hydrology affecting the migration of this contamination.

Niagara County is home to so many industrial disposal disasters that have directly and negatively impacted hundreds, if not thousands, of our residents. We have learned the lessons of safety and caution. This hearing process will shine a light on our concerns. The hearing process must adequately address each of them before granting any approvals to the applicant.

Allow me to emphasize two significant concerns. Excavations of small projects for repair and replacement of ancillary facilities provide a window into the risks major excavation poses. Since 2006, CWM has been under an obligation imposed by the Department of Health and the Department of Environmental Conservation to scan every excavation in six-inch layers for radioactivity.

This protocol applies to small excavations such as remediation of a surface spill, repair of a tank or pipeline or other small project. No major excavation has been allowed at CWM based upon the Department of Health's findings that there is no assurance that such an action would be safe.

1 aquifer models depicting flow direction may be wrong
2 across portions of the CWM site and in fact, a more
3 complex glacial history formed our region resulting in
4 underground valleys and erosion channels that have
5 since been filled with a variety of deposits.

6 Hydrogeological data from soil borings and
7 monitoring wells provided by CWM and the Army Corps of
8 Engineers show that a sand and gravel aquifer is
9 aligned in an east-west pattern, flowing to the west.
10 This now covered underground valley underlies the
11 central area of the CWM site where RMU-2 is proposed.

12 This is troubling news as CWM has installed
13 monitoring wells into the aquifer on the north, east
14 and south sides of the proposed hazardous waste
15 landfill expansion, but none on the west side which is
16 down gradient and the direction a contaminant would go
17 should the proposed landfill leak.

18 It's also very concerning that PCB contamination
19 of groundwater to the west has reached thirty-five
20 thousand parts per billion, a significantly high
21 level, but no remediation or characterization of this
22 contamination has been required. It's noted that CWM
23 operates a PCB landfill under the Toxic Substance
24 Control Act and these concentrations seem far higher
25 than could be accounted for by Legacy Waste; meaning

1 waste from the past.

2 Not only should the regulatory agencies consider
3 a possible source, such an existing leaking landfill,
4 we must consider how one could effectively monitor for
5 a PCB leak from a new landfill when the baseline
6 contamination is already extraordinarily high. Proper
7 identification, area and depth as well as source
8 determination of the contamination plume is inherently
9 a logical step prior to allowing any additional
10 landfill construction.

11 In closing, this Department trusts that the New
12 York State Hazardous Waste Facility Siting Plan will
13 be carefully reviewed and you will determine, as we
14 have, and as I have, that continued operation of the
15 CWM facility at this site is not necessary or in the
16 public interest.

17 If it is determined more landfill capacity is
18 necessary contrary to the conclusion of the New York
19 State Hazardous Waste Facility Siting Plan, my
20 department's expectation is that construction occurs
21 in a manner that includes appropriate radiological
22 screening that is at least as protective as what is
23 required now under the small excavations protocol.

24 Prior to approving any construction, the
25 monitoring strategy for the proposed landfill must be

1 landfill facilities at CWM or in Niagara County will
2 have a negative impact on the health and welfare of
3 our community.

4 We have concerns based upon the unaddressed
5 issues that exist, which will be detailed by our
6 Public Health Director in future correspondence. As
7 an example, there are radiological health concerns
8 relating to large scale excavations when the property
9 does not have a detailed, full scale, completed site
10 radiological history characterization.

11 As the Niagara County Board of Health, we point
12 to the Hazardous Waste Facility Siting Plan which was
13 adopted in October 2010. The Plan's intent was to
14 assess the State's capacity for managing hazardous
15 waste in accordance with State and Federal Law and to
16 secure adequate availability of industrial hazardous
17 waste treatment, storage and disposal facilities into
18 the future. The final adoption of the Siting Plan is
19 a prerequisite for the siting or significant expansion
20 of certain new hazardous waste facilities in New York
21 State.

22 The principal finding of the Hazardous Waste
23 Facility Siting Plan is that, based upon present
24 national capacity, there's no need for additional
25 hazardous waste facilities or expanded hazardous waste

1 management facility in New York State. The plan finds
2 sufficient capacity within and beyond New York's
3 borders for the management of the hazardous waste
4 presently generated within the state.

5 As a result of good environment and business
6 practices, pollution prevention and hazardous waste
7 reduction efforts and economics, it's anticipated that
8 the private sector will continue to develop and
9 implement reuse, reduction and recycling options
10 beyond existing practices.

11 Based upon the Siting Plan and supporting data,
12 the Niagara County Board of Health would like to go on
13 record as opposing the expansions of hazardous waste
14 landfill capacity, specifically RMU-2, at Chemical
15 Waste Management in Niagara County.

16 JUDGE O'CONNELL: Mr. Hufnagel?

17 MR. HUFNAGEL: Good afternoon, Your Honor. My
18 name is James Hufnagel. The time has come for CWM to
19 put a stop to this toxic waste dump. This business
20 is -- this business is horribly incompatible with the
21 top two industries in Niagara County; agriculture &
22 tourism. The fact that this dump is here in Niagara
23 County at all is purely an accident of history and an
24 accident of geography.

25 The chemical industry has spawned its waste

1 dump, left Niagara County years ago, yet we are still
2 stuck with it. I've heard that one of the reasons it
3 remains here is that a clay layer exists below it. If
4 so, why does CWM have to rely on layers of impervious
5 plastic to keep it from migrating downward into the
6 water table?

7 Regardless, the problems have been with lateral
8 seepage into the river and elsewhere around the dump.
9 I have read in the newspapers the Point System is in
10 effect regarding whether the expansion will take place
11 or not. As if this panel will listen to us here today
12 and then vote so many points on the merits or demerits
13 of what you've heard.

14 No disrespect, but it seems to me like it's the
15 Olympics guiding our figure skating competition and at
16 the end you will all wave score cards above your head
17 as to whether our health and safety and the health and
18 safety of our children should be at risk for more
19 decades.

20 I don't think this approach is ideal. I think
21 it's a dodge by Governor Andrew Cuomo so he can avoid
22 making the decision himself. This is an act of
23 political cowardice on his part. He could shut this
24 thing down tomorrow if he wanted to, just like he
25 could band fracking tomorrow if he wanted to, but he's

1 taking the politically expedient cure and acting in
2 his own political self-interest, letting someone else
3 take responsibility over this decision as to whether
4 to close the facility or not.

5 I think it's very poor leadership by Governor
6 Cuomo. Thank you.

7 JUDGE O'CONNELL: Our next set of speakers are
8 Jim Bittner, Ronald Quiett, Isabel Beeher and Garold
9 Acker.

10 Is Mr. Bittner here?

11 MR. BITTNER: I think I'm the one on the list.
12 I'm Jim Bittner.

13 JUDGE O'CONNELL: Bittner, thank you.

14 MR. BITTNER: First of all, I would like to
15 thank the Department for allowing me to speak today on
16 the proposal of the expansion of the landfill.

17 I'm Jim Bittner. I'm a partner in Bittner-
18 Singer Orchards in Appleton where we grow cherries,
19 peaches and apples. We run a U-pick operation and
20 also sell fruit in the wholesale market. I'm also
21 here today to speak on behalf of the Niagara County
22 Farm Bureau and the New York Farm Bureau. We're the
23 largest general farm organization in New York with
24 twenty-five thousand members.

25 Today both organizations like to voice their

1 oppositions to the planned expansion of this facility.
2 Our Orchard has been a family operation since 1915.
3 We currently farm about four hundred and fifty acres
4 of fruit in Niagara County. We're here because
5 Niagara County has a unique climate and soils to allow
6 us to consistently grow a wide range of high quality
7 fruits.

8 Our farms are here because of the moderate
9 climate due to two natural boundaries; Lake Ontario
10 and the Niagara Escarpment. The lake moderates our
11 Winter and temperatures and the escarpment keeps
12 moderate temperatures during the Summers.

13 Our farms have rich, sandy loam soils which
14 helps our fruit crop thrive. We strive to maintain
15 quality land for future generations to feed hungry New
16 Yorkers. Agriculture is a vital part of the community
17 and roughly one-third of Niagara County is used to
18 support seven hundred and sixty farms.

19 Niagara County produces a wide range of
20 agricultural products; milk, beef, vegetable, fruit,
21 wine, grains and horticultural items. The market
22 value of these items is over a hundred and twenty-two
23 million dollars a year. It directly affects the local
24 economy. More importantly, farmers are stewards of
25 the land. We work hard to make sure that our land

that we farm today will stay to keep us healthy. The proposed landfill has the potential of negatively impacting the stewardship farms have instilled on our land.

Adding to the discharge of PCBs and volatile and semi-volatile chemicals from the CWM facility would pose a risk to area farms. Landfill related activities are inherently risky. There's a concern about the radiation issues at this site. By bringing more hazardous waste into the County the threatened contamination increases.

There is not just the risk of leakage and migration of contaminants from this site, but also continuing instances of threats of spills, leaks, accidents on roads surrounding highways from trucks traveling to and from this facility. A new hazardous waste landfill is a serious threat to our environment with lasting implications.

Adding this kind of pollution to our waterways and farmland would make them unusable in future years. Niagara County is home to a vast wealth of natural resources including Niagara River, Niagara Falls and is part of the Great Lakes water shed; the largest freshwater surface in the world.

The addition of another hazardous waste landfill

1 in the large associated lagoons of Niagara County
2 would add an unwise and unnecessary burden to our
3 waters. This has not only impacted Western New
4 Yorkers but millions of Americans/Canadians located
5 near these bodies of water.

6 Not only are these environmental concerns
7 associated with the new hazardous waste landfill, but
8 the significant economic costs to the community as
9 well. Reduction of property tax values, new housing
10 construction, attracting of new, clean sustainable
11 businesses, tourism and tax dollars are all a concern.

12 Recently Niagara County has experienced some
13 positive, economic developments; especially the area
14 tourism and New York State designated Niagara wine
15 trail that runs through the heart of Niagara County,
16 hosts thirteen wineries and rooms for community
17 events.

18 The trail's popularity has increased tourism and
19 tourism dollars. The trail supports not only
20 wineries, but vineyards and local farmers who market
21 their local goods. Why put all this in jeopardy and
22 restrain opportunity of future growth by importing
23 more hazardous waste into this County?

24 The proposed facility would have a detrimental
25 impact on farmers. Therefore, I respectfully request

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1 you can't stand it. It isn't as bad now as it used to
2 be, but still, a lot of nights I go outside I still
3 smell the stuff out there and I'm here because of it.

4 I had problems. I live next to the Six Mile
5 Creek. Different spots you can see where the stuff is
6 coming up because of the pressure and stuff that is
7 going into the water. I've had the DEC there three
8 different times to come and get samples of stuff
9 coming up.

0 All of a sudden, two days later they happen to
1 close it. This has happened over a couple of years.
2 I'm sorry, I don't trust the DEC because that's
3 their big revenue.

4 My son got some of the samples of stuff. He
5 lives out-of-state. He took it to some places
6 out-of-state to have the stuff tested. As soon as
7 they found out where it came from, they would not do
8 it because they didn't want to lose the business with
9 the outfits that are doing that stuff and that's the
0 problem you're running into.

1 I have trucks going by my house every day,
2 because when the school is open, they're not allowed
3 to go by the school buses and stuff like that. They
4 go down the road. It's very rare that I ever see one
5 of them that has a New York State license. They're

1 I'm sure in more detail by folks that come behind me.

2 My biggest fear is this; I know it's inevitable
3 that one of these days, I'm going to wake up and I'm
4 either going to turn on the TV or radio and I'm going
5 to hear about a major, major problem. We've been
6 lucky in that sense so far.

7 There's been close calls, there's been leaks and
8 so on and so forth that have been managed, covered up,
9 whatever you might say. It's only a matter of time
10 before something huge happens; whether a major truck
11 accident or whether it's a leak that they discover it
12 can't be controlled.

13 You can't tell me with the volume of stuff going
14 in and what's already there, that something's not
15 going to happen. I don't need to be real smart to
16 know it's only a matter of time before something
17 significant happens.

18 That's what scares me. It scares me for me, it
19 scares me for my children and my grandchildren that
20 all live in this area and it should scare everybody in
21 the room and it's something that I hope this Siting
22 Board is concerned about as well.

23 A little bit about CWM. I never worked for CWM.
24 I have a couple of acquaintances that do and I would
25 like to say that the way that they portray themselves

1 unacceptable, if we were talking about stuff coming
2 from New York State, you know, or Western New York.
3 We're talking about crap that is being dumped in our
4 laps from all over the world and that's just crazy.
5 Enough is enough.

6 Please, Siting Board, put your political
7 whatever aside and listen to us today. We don't want
8 this facility here anymore. That's pretty much it.

9 I support the previous person's Statement, we
10 need more time as a community to try to evaluate this
11 huge, voluminous application. It takes me a long time
12 to read it, let alone understand it. The time cutoff
13 you have of September is much too quickly.

14 I was recently told lately -- parts of this are
15 crazy. Is it true that you guys are considering a
16 traffic pattern study that was done in 1993? I'm not
17 expecting an answer, it's rhetorical. If that's true,
18 back up and check yourselves. What are you guys doing
19 evaluating a document of this scope and this
20 importance based on traffic studies that were done in
21 1993?

22 Thank you for your time. I appreciate it and
23 please keep us in mind.

24 JUDGE O'CONNELL: Paul McCollum, Kellen Murphy,
25 John Battaglia and has Vincent Agnello returned yet

1 and Audrey Agnello?

2 Our next speaker please, Mr. McCollum.

3 MR. MCCOLLUM: Good afternoon, everyone. Thanks
4 for taking the time to listen to us today. I'm here
5 to speak in favor of the new landfill, CWM.

6 JUDGE O'CONNELL: Please.

7 MR. MCCOLLUM: Full disclosure; I'm a life-long
8 resident of the Town of Cambria. My total working
9 career has been in Niagara County. I'm a
10 representative of the international Union of operating
11 engineers. I represent about three hundred active and
12 retired heavy equipment operators. We're the people
13 that you see out there that build and repair your
14 roads and bridges, such as the 190 project we have
15 going up there by the Power Authority.

16 We build new facilities. We're currently
17 building a new addition to the Factory Outlet Mall.
18 We're doing a lot of positive things for the future.
19 We also have to deal with our past and in the past, in
20 the construction and in the industry in Western New
21 York, there has been a lot of heavy industry in the
22 past and has created a considerable amount of
23 hazardous waste. We have to deal with that also.

24 Past technologies to deal with that waste
25 weren't very good. It consisted mostly of digging a

1 hole, dumping waste and burying it. It resulted in
2 facilities we have such as Love Canal. Obviously
3 that's not a very good situation for us, but we've
4 learned from those.

5 There's been a lot of new laws and lots of new
6 technologies that have been developed from past
7 industries' practices such as those. We've learned
8 how to deal with those types of waste. We spent a lot
9 of time, in the past thirty some years, cleaning up
0 those wastes.

1 We learned from our past mistakes. Going
2 forward, what do we do with the waste? The waste
3 doesn't go away, it has to go somewhere. That is what
4 CWM is. That's where the waste is going. We've
5 learned how to do it, the industry has learned how to
6 do it.

7 Instead of digging a hole and dumping it in, we
8 built the secure landfills with liner systems,
9 leachate collection systems that collect all of it.
0 Anything that leaks out, potentially, is workers.

1 I've been an OSHA Outreach Safety Health
2 Instructor for twenty-five years. We teach each of
3 our members how to deal -- how to work with hazardous
4 waste tactfully. There's been a lot of scare tactics
5 and stuff like that has been said here today.

1 landfill is going to go is directly right in the
2 center of CWM's property. It's not expanding the
3 footprint of their property into any other towns or
4 communities. It's going right smack in the middle of
5 the property they already have that is surrounded by
6 other landfills and other CWM processes.

7 It's making use of a fifty acre parcel of
8 property that will never be used for anything else.
9 Not that anybody wants to hear that, but you're never
10 going to put -- any other kind of civic organization
11 is not going to go in there. It's never going to be a
12 playground or park or golf course or anything else.
13 Never. Big word, never. If we can make the economic
14 use of the property that is there, what else are we
15 going to do?

16 To summarize a bit for the Siting Board, the
17 economic benefits for the community are extensive.
18 Good jobs for -- construction jobs and the jobs of the
19 people that work at CWM. Many thousands of hours that
20 our members and other members of the construction
21 building trades in Niagara County that live and work
22 here, have put in thousands and thousands of hours
23 over the years working there and they will in the new
24 landfill. I emphasize we can do this work and do it
25 safely. We're very well-trained workers and we can do

1 it safely.

2 Again, the new landfill will be right in the
3 center of CWM's property. Their property will never
4 be used for anything else. Based on these issues, I
5 would ask that the Siting Board please approve the new
6 landfill for CWM. Thank you for your time.

7 JUDGE O'CONNELL: Mr. Murphy?

8 MR. MURPHY: Hello. My name is Kellen Murphy.
9 I live on Pletcher Road. I appreciate this
10 opportunity to submit comments to the New York State
11 DEC, members of the Siting Board, my friends and
12 neighbors and my community. I feel any comments,
13 opinions surrounding this proposed landfill expansion
14 of CWM off of Baumer Road must take into account the
15 historic uses of this property; most importantly its
16 incorporation to Lake Ontario Water Works in 1943.

17 During the operation the Lake Ontario Water
18 Works and later on the Niagara Falls Storage site,
19 this property was used for storage of highly
20 radioactive isotopes including radium 238, radium 235,
21 radium 226, radon 222 and potassium 65 which was used
22 in processing radioactive uranium ore.

23 In my opinion, the Federal Government chose this
24 site to accomplish its production and storage in some
25 of the years most toxic and destructive substances for

1 several reasons. Its proximity to an abundant source
2 of energy and hydroelectric generations that were then
3 in the City of Niagara Falls. It's sparsely populated
4 area in 1942. To gain seventy-five hundred acres in
5 eminent domain they only had to remove a handful of
6 farmers.

7 And thirdly, the soil consists mostly of silt
8 and clay loams, which are custom deposits. They tend
9 to hold water. This third reason, the clay soil,
10 allows for easy creation of almost impermeable
11 containment structures and clay paths to help keep
12 contaminants on-site better than any other naturally
13 occurring soils. It's not perfect, but it's a lot
14 better than sand and gravel and it's all underneath us
15 right here.

16 I don't live in the Village of Lewiston,
17 Youngstown or Ransomville. I don't live on top of the
18 Niagara Escarpment. I live less than a mile from this
19 place. My backyard is this school. You can walk
20 through the woods right here. I hear them play
21 football every Friday and I'm entirely in favor of
22 expanding this landfill one hundred percent.

23 It's the only appropriate use of this property
24 in the future. It has all the natural characteristics
25 of a good site for long-term storage of hazardous

greatly from technological advancements of manufactured products previous generations could hardly dream of. These products come at a cost. Mining rare earth materials like nickel, zinc and lithium sulphur dioxides use acids to dissolve metal out of rock. We mine these metals from China, the acids seep into agriculture poisoning local farmers and livestock. A main component of solar panels is polysilicon, a semi-conductor used to transfer sunlight into electricity. The production of polysilicon can create silicon tetrachloride; a highly toxic byproduct that poses environmental hazards.

Denying this landfill will not make these pollutants and byproducts disappear, it moves them to another part of our State, another part of our country. Most assuredly a place that isn't already contaminated. This property is already contaminated. Keep the contaminants here. Don't spread them all over for future generations to deal with.

JUDGE O'CONNELL: We'll reconvene at two-thirty-five. Thank you.

(Whereupon a recess was taken.)

JUDGE O'CONNELL: If you could take your places, please. We have three speakers on deck; John Battaglia, Vincent Agnello and Audrey Agnello. As

1 requested, you've asked for the time clock. I'm
2 imposing a five-minute limit, please. Mr. Battaglia.

3 MR. BATTAGLIA: Good afternoon. My name is John
4 Battaglia. I'm a resident of the Village of
5 Youngstown, New York. I'd like to thank Your Honor
6 and the Government officials and CWM staff for hosting
7 this public hearing and allowing us to prevent and
8 safeguard abuse of the incoming decision affecting our
9 community. I'm a Town of Porter resident and have
10 lived in the Lewiston, Youngstown area for most of my
11 life.

12 My family and I were all born in Niagara Falls,
13 New York. I moved to the Town of Lewiston in 1968
14 where I attended high school at Lewiston-Porter. I'm
15 a University of Buffalo engineering graduate and
16 professional engineer. My wife and I moved to
17 Youngstown in 1991, raising three children and several
18 canines. All my children went to Lewiston-Porter High
19 School. My friends and family have swam, fished and
20 played in and around the Town of Lewiston and Porter.

21 My experience over the past thirty years has
22 been in waste management remediation materials and
23 recycling recovery. I work with solid waste,
24 hazardous waste, CMBs, soils, recyclables, radioactive
25 storage and more, pretty much dealing in states of New

1 York, Pennsylvania, Massachusetts, Virginia, Florida
2 and Texas. I also currently have some work at CWM and
3 also work in New York State, across New York State at
4 several landfill disposal facilities.

5 This experience provides me with a unique
6 backdrop, understanding and putting environmental
7 impacts into perspective. My company and staff have
8 made numerous contributions to the improvement of our
9 environment. We are very familiar with the area and
10 have worked in many local landfill remediation and
11 recycling projects. I've personally been a member of
12 the LORAB committee; dealing and assessing issues
13 regarding the radioactive material storage site on
14 Pletcher Road.

15 I can say with firsthand knowledge I perform
16 inspection certifications for Waste Management over
17 the past thirty years and that CWM's facility is a
18 professionally run facility with a quality staff.
19 There is words such as "risk factors". Environmental
20 impact brings about many strong feelings.

21 I do not fear the operation of a properly
22 managed facility. I went to Lew-Port schools and my
23 children went to Lew-Port schools. I hope I see the
24 day that my grandchildren attend my high school. I do
25 not fear the landfill because I understand it and I'm

comfortable with the appropriate measures that are taken to ensure my family's safety.

When permitting a facility, the State and Federal regulators have a very high level of detail and proof must be maintained. In most cases, it takes several integrations of review and revisions to permit applications to ensure the most accurate detail is presented. The New York State DEC regional permit administrator goes to great lengths to assure this.

There's a benefit to the community to provide and inject information prepared under the direction of the regulators. The CWM facility in Lewiston or Town of Porter, has a host of landfill disposal facilities; so are Rochester, Seneca falls, Albany, and many other communities across New York as well.

The CWM facility is a well-rounded, environmentally sound operation. There's no measurable risk to human health or the environment from the facility. It's very impracticable to relocate or construct a new waste management facility. Instead it's more prudent and environmentally sound to expand the operations of an existing facility and use the revenues to further improve this site and provide long-term maintenance and monitoring of the facility as a whole.

1 CWM supports local companies and their
2 employees. As a professional engineer, I'm obligated
3 to protect human health and the environment. We work
4 with CWM because we know the company is committed to
5 protecting the environment and community. I urge New
6 York State Siting Board to recognize the need for this
7 facility for the safe handling and disposal of
8 hazardous materials, for the jobs provided to our
9 community and for the benefits received by our local
10 Government. Thank you.

11 JUDGE O'CONNELL: Our next speaker, please.

12 MR. AGNELLO: Good afternoon Judge O'Connell,
13 Siting Board. My name is Vince Agnello. I live in
14 Youngstown, New York. Before I start my remarks, I
15 want to preface one comment. There's been a lot of
16 yelling and arguing in the audience here. I'm a past
17 president of Residents for Central Government. I
18 appreciate all of you residents for attending. If you
19 did want to make an impact, come up here and tell the
20 Siting Board exactly what you think.

21 Today I will focus my comments on the issue of
22 economic and fiscal impact of CWM Chemical Services
23 Hazardous Waste Landfill prepared by Bonadio &
24 Company, L.L.P., Certified Public Accountants.
25 Certified Public Accountants or CPAs are used to

thirty-two years of toxic landfilling in our community. Nor does it take into account that if CWM was denied the right to build a new toxic landfill, they'd still need to have some employees monitoring the site, perpetually, and the Town, County and School real estate taxes will still need to be paid.

7 So what are some of the negatives not included
8 in the report? Each year, CWM discharges between
9 twenty and thirty million gallons of liquids into the
0 Niagara River. The EPA mandates that firms report
1 toxic chemicals that have been released into the
2 environment each year. The numbers reported by CWM,
3 of what was dumped into the Niagara River are
4 staggering. During a ten-year period, 1998 to 2008,
5 CWM reported that they had dumped three thousand,
6 seven hundred and forty pounds of toxins into the
7 river. These are all toxic to humans. Most, if not
8 all, are cancer causing. Three thousand, seven
9 hundred forty pounds of toxins dumped into the water
0 that forty-three million Americans and millions of
1 Canadians rely on for safe drinking water; into the
2 water that we and our children swim in each Summer and
3 dumped into the water where people come to fish.

4 A few years ago, I read an article in the Sunday
5 Buffalo News that left me totally shocked. Nine

1 thousand, five hundred people in Western New York are
2 diagnosed with cancer each year. According to the New
3 York State Department of Health, the Towns of Lewiston
4 and Porter and the Sanborn area surrounding CWM's
5 toxic landfill bears the highest percentage of cancers
6 in the area and the State.

7 JUDGE O'CONNELL: Mr. Agnello, your time is up.

8 MR. AGNELLO: With all do respect, I've been
9 fighting this for twelve years. I realize this is a
10 very important decision. The five-minute limit is
11 outrageous. I have one more page to read.

12 AUDIENCE MEMBER: Please let him finish.

13 MR. AGNELLO: You're holding this hearing to
14 listen to our comments. Please listen to our
15 comments. If I may finish now?

16 JUDGE O'CONNELL: You may.

17 MR. AGNELLO: This area has an overabundance of
18 other diseases, especially those affecting children as
19 well. This area has been identified as having high
20 incidences of Lupus. Why does the report not include
21 this negative impact? Who would dare say what
22 monetary value to put on a loved one and especially a
23 child with cancer?

24 Our community was once a great fishing
25 community. What is the negative economic impact on

our community when fishing visitors are advised they should limit or not eat the fish? How many have decided not to return? A thriving fish area has an abundance of motel rooms and campsites. These are lacking in the Lewiston-Porter area.

In April 1997, President Clinton issued an Executive Order requiring each federal agency to assess risks of toxins that disproportionately affect children, many of which was on the list I just read. On April 7th, 1997, the United States and Canada signed the Bi-national Toxics Strategy developed under the Great Lakes Water Quality Agreement. The Bi-national Toxics Strategy was designed to reduce toxics in the Great Lakes.

How does granting permission to build a new toxic landfill fit with this Bi-national Toxics Strategy and with the Toxic Substances Act? Is this within the strategy and goals of the USEPA Persistent, Bioaccumulative and Toxic Pollutants action plan? What are the negative impacts that should have been included in the impact report?

What is the negative impact of all of the truck traffic on our roadways? The cost of rebuilding the roads was not included nor was the negative impact on housing values for those residents living on the truck

routes included in the report.

Developers who came to our community have fled once they discovered the environmental mess in our community.

In the New York State Hazardous Waste Facility Siting Plan the New York DEC reported that there is no need for a new toxic waste landfill.

In Chapter 9 it states, "The plan identifies hazardous waste generation in New York that requires management by all facility types; recycling, incineration, treatment, landfill and storage. Based on the capacity data and analysis, the Plan finds sufficient capacity within and beyond New York's borders for the management of the hazardous waste presently generated within the State.

The projection of the amount of hazardous waste that will be generated in the longer term is complicated by the variable nature of remedial waste generation. Based on the substantial number of past remedial cleanups and anticipated future projects within New York, however, it appears that national capacity exists for the management of this and other hazardous waste for at least another twenty years.

It would be circular logic to think that we should build a toxic hazardous waste landfill just to

implications of the cover letter in their report. I am speaking as an accountant and I have high regard for the Bonadio & Company, L.L.P. CPA firm, but unless one is well-versed in the various services that CPAs provide and how they state their findings, one could misunderstand what they are saying. Here are the facts as I see them.

First, CWM needs to demonstrate that a toxic waste landfill is needed, since the October 2010 New York State Hazardous Waste Facility Siting Plan stated that there is no need for a toxic waste landfill.

Second, CWM contracted with Bonadio & Company L.L.P. for services, but since we do not have a copy of their engagement letter or specifics on what they were supposed to do, we really cannot be sure.

Fact three; what we can be sure of, because it is stated in their letter, is that Bonadio & Company L.L.P. prepared estimates of the current and potential economic and fiscal impact of CWM based on the information and assumptions that CWM gave them. Bonadio & Company specified very clearly in the letter that they do not, quote, "not express an opinion", end quote, on the underlying assumptions and information. They weren't negligent based on their arrangement with CWM, it was not their job to check on CWM's

1 Legacy Waste and second is our region unduly burdened
2 with waste.

3 This study was performed by the University of
4 Buffalo. It was checked by the DEC and EPA using
5 existing data available not necessarily (inaudible)
6 but available on-line and was a map. What we found in
7 the Legacy Waste issues that were like Super Funds,
8 DEC classes of radioactivity material, et cetera. And
9 active waste, which is water pollution, air pollution,
0 transfer storage systems, which are the issues going
1 on right now, is that yes, Western New York is
2 unfairly burdened.

3 We did this for three counties. We did this for
4 Erie, Niagara and Cattaraugus County and it turns out
5 of the sixty-two counties in the State of New York,
6 these three counties are on the top three of every
7 category that we looked at. In other words, Western
8 New York already has a huge environmental burden.
9 Expanding the waste site will not help this in any
0 way, shape or form.

1 The second issue has to do with what is our
2 vision of Western New York; what we really want to see
3 this area have. Turns out Western New York Regional
4 Economic Development Council strategy calls for
5 sustainable economic growth and improvement in the

1 region's image. Another expansion of toxic waste is
2 not going to help our vision in any way, shape or
3 form.

4 It's -- as a matter of fact, according to the
5 Siting Plan, one point four percent of CWM's landfill
6 is actually produced by New York State businesses.
7 New York State is taking the burden that perhaps
8 should be expanded in a larger area.

9 Further, there's questions about public
10 subsidies, such as low cost power, when those
11 subsidies can be used for clean industries rather than
12 toxic industries. It seems giving them subsidies will
13 compete with new and different technologies that we
14 need to take care of.

15 Every time hazardous waste is relocated to CWM,
16 it helps to create a massive new Super Fund site with
17 associated taxpayer liability well beyond financial
18 assurances of the operator.

19 I'd like to mention two things. One is that we
20 may be talking about this being safely operated, but
21 we know that every single thing human beings make will
22 some day fall apart. It may not be this generation,
23 it may not be the next generation, but we are creating
24 Legacy for future generations we have no control over.

25 We need to stop it. We just need to stop it.

Not just this landfill, we need to stop it. The implication for that means that you and I and all the rest of us are going to have to find new ways to live that don't depend on this toxic material that we have in our lifestyle we're used to.

Secondly, the irony of this CWM being on Model City. Remember Model City and Love Canal are part of the utopian project to make life wonderful and better for all of us at the turn of the last century with new hydroelectric power and the fact that both Love Canal and CWM are part of the same project now has given us a toxic Legacy is most unfortunate.

We know if CWM closes, it's going to be there for a very, very long time and we need to start taking care of it now. Thank you very much.

MR. LAMB: Hi. My name is Charles Lamb. I'm a clergyman. I've lived in the Town of Porter since 1979. I have a prepared Statement. I'm going to hand it in and depart from it and talk more off-the-cuff right now.

First of all, I'm very glad at the amount of booing on speakers who were in favor of the approval has stopped, because I'm convinced the facts will speak for themselves and the reasons to vote "no" on the permit will be so convincing that the truth will

1 come out.

2 And we're trusting you to look very carefully at
3 the evidence that is presented and I'm confident
4 you'll be convinced. Some of us have been going to
5 hearings like this or similar to this for many years
6 and the same things have been said over and over.
7 This is the showdown and this time it really counts.

8 You've heard about health concerns. You can
9 trust, I think, what the Niagara County Health
10 Department says about that. Even if there's already
11 pollution here, it certainly isn't going to help by
12 bringing in more.

13 When I taught environmental fraud at Niagara
14 University, I used to bring in speakers from many
15 environmental groups, but I also brought in speakers
16 from Waste Management to be fair and CWM was asked if
17 their trucks ever leak. They said, Oh, yes. They do,
18 but take that up with the trucking company.

19 We have to take care of our children. That is a
20 religious duty. Having all these trucks passing the
21 school doesn't make sense and the Lewiston-Porter
22 School Board has said so. Don't do that to us.

23 We know that there's leaks sometimes into the
24 water. The Great Lakes are one of the greatest
25 suppliers of fresh water in the whole world; a

1 resource becoming more and more precious. What sense
2 does it make to put a toxic landfill in the watershed
3 area?

4 What about the economy? The Niagara County
5 legislature are the group that know us best, and we've
6 elected them. Unanimously they say that CWM is a
7 detriment to our community, economically, not a help.
8 So many of these things have been said over and over
9 but we're still saying them.

10 Just recently, six doctors from Niagara Family
11 Medicine have signed a letter, you'll be getting,
12 saying, "Say no to this for the sake of our children."

13 And you heard a few moments ago that the
14 Department of Environmental Conservation already said,
15 in the Siting Plan, there's no need for a toxic waste
16 facility now. There's other ways of disposing of
17 toxic waste.

18 I guess we're here today and tonight to say it's
19 certainly not in the public interest to have it for
20 all of the reasons that I've already given and so many
21 more.

22 Over the years, those who have spoken up against
23 CWM include the Town of Lewiston, the Village of
24 Lewiston, the Village of Youngstown. And then
25 speaking as a clergyman, I'm proud that the religious

1 and close CWM down.

2 I've always been amazed at how hard we have to
3 fight our own Government for what should be our basic
4 right to safety, health and peace of mind. The right
5 to live in a community free from the fear of what will
6 happen to our water supply when the eight million tons
7 of poisons already buried at CWM begin to leak into
8 our creeks and well water.

9 The EPA has told us all landfills will
10 eventually leak. The fear of what is happening to our
11 air quality like when there's fires, like just last
12 month in the lithium drum storage area, because rain
13 was allowed to leak on the water reactive metal drums.
14 Where is the science and state-of-the-art when fifty
15 gallon drums of lithium are exposed to rain?

16 As representatives of New York State Government
17 Departments, each of you took an oath of office to
18 serve the residents of this State. Representatives
19 from the Health Department, you must know that the
20 cancer rates surrounding this facility are in many
21 cases more than a hundred percent above levels
22 expected.

23 Your reports all carry an additional note that
24 states the high rates are not due to chance. You must
25 know this, because it was your department that issued

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The failure to grant the extension, at least in my opinion, communicates the impression that the

1 important for you to consider the total amount of
2 waste that's within the area, in which their request
3 is made. That's page 9-5 of the Hazardous Waste
4 Facility Siting Plan; a guidance for you, the Siting
5 Board.

6 Closed landfills at CWM are permanent storage
7 facilities, subject to perpetual care monitoring and
8 treatment under the supervision and oversight of the
9 DEC. When these closed landfills are considered along
10 with the permitted capacity of RMU-1, CWM's currently
11 permitted landfill, the amount of waste subject to
12 long-term management in our community is nearly an
13 unimaginable six million tons. You got to keep that
14 in mind when you think about the expansion. Six
15 million tons buried here forever.

16 I challenge you, DEC, to identify any other
17 municipality in New York State that has any hazardous
18 waste permanently buried at a commercial facility,
19 much less six million tons. By my calculation it's
20 nine million tons, close to six million cubic feet and
21 the engineers can correct me if I'm wrong. It's an
22 extraordinary burden on this community.

23 Approving CWM's request for a new landfill for
24 disposal of an additional four million cubic yards,
25 six million additional tons, is not any matter in the

1 community's interest and only further completes a
2 picture of the Town of Lewiston, Town of Porter as a
3 sacrifice zone for New York State's warped vision of
4 environmental justice and equitable distribution of
5 hazardous waste disposal all for us, none for anyone
6 else.

7 That's apparently the definition of
8 environmental justice. Think about environmental
9 justice when you do your job; what does it mean. It
10 means communities that are disproportionately affected
11 by the regulatory actions of the State in this case.
12 That's you gentlemen and it's all here.

13 If you approve six more million tons, in my
14 opinion this area will go the way Alabama went. CWM
15 doesn't talk about that town like that town doesn't
16 exist anymore. Big landfill; schools closed,
17 businesses went elsewhere.

18 Second, the economic effects of the proposed
19 RMU-2 with tens of thousands of large trailer truck
20 tractors carrying loads of hazardous waste for the
21 next twenty-five, thirty years through well-
22 established residential areas -- you should follow the
23 truck route before you make your decision. It goes
24 down Creek Road Extension; a lovely area. It also
25 goes right, obviously, in front of the school and has

1 for thirty years.

2 Think of it; you're thinking about moving into
3 the area, you have lovely kids, you've heard things
4 about the beautiful homes, waterfront access. You go
5 to the school and you see all these trucks going by,
6 you say, "What are these trucks?" The superintendent
7 says, "That's hazardous waste trucks from Chemical
8 Waste Management. They drive eight to ten hours a day
9 and dump their stuff a mile from the school where it
10 will remain forever."

11 In my experience, parents are misdiverse. There
12 are plenty of comparably excellent school districts
13 that don't have this problem. How this benefits the
14 school is beyond me. They pay school tax. It doesn't
15 begin to address the cost that they impose.

16 You're going to hear a lot of talk about the
17 costs and benefits. I was like to go to the great
18 poet, Bob Dylan who many years ago penned the
19 memorable line, "You don't need a weather man to know
20 which way the wind blows." That aphorism applies
21 directly to the question of the economic effects of
22 the proposed RMU-2 here.

23 Do you really have to be an economist or
24 sociologist to question what is the effect in an area
25 that has beautiful historic homes, farms, orchards,

1 State parks, are putting in there one of the largest
2 commercial hazardous waste disposal facilities in the
3 United States. And having this go on for fifty years,
4 sixty years, is that going to have a positive effect?
5 What do you think?

6 You listen to the accountants, although I think
7 the Agnello's pretty much shredded that. Property
8 values within the towns are stagnant, are dropping.
9 Associated property tax receipts are as well. The
10 migration of new, young families from outside the area
11 to the towns decreases as they find out about the
12 environmental issues notoriously risk adverse.
13 Comparable residential and educational opportunities
14 exist elsewhere without hazardous waste traffic and
15 disposal. You don't have to be a weather man to know
16 which way that wind is blowing and it's not blowing in
17 a very healthful way to the people of this community.

18 RRG is prepared to prove the obvious. Many
19 beautiful historic homes in the area languish on the
20 market, literally for years, and sales prices are
21 lower than comparable homes in other areas, despite
22 all the benefits I talked about. They're not located
23 on the Niagara River and Lake Ontario. They don't
24 have a private State Park for nine months of the year,
25 Fort Niagara Park, yet it's very hard to sell houses

1 in the area because it's closest to the problem here.

2 Efforts to support clean, sustainable industry
3 are hardly benefited by having this massive, heavy
4 industry of trucking in and disposing of hazardous
5 waste. They go elsewhere. They go to Lockport to
6 promote the region's assets. They didn't come here,
7 they went to Lockport.

8 Those sort of industries are not going to come
9 here. We're the dump. We have other dumps, too. I
10 won't even talk about them. We're talking about this
11 one and the nine million tons of it here. No
12 community wants to support its development with direct
13 or indirect payments from the hazardous waste
14 industry.

15 Come on. You wonder why these cities are not
16 going along here. If the applicant's extravagant
17 claims of a positive and productive influence on our
18 economy and way of life were even half-true, other
19 communities would be lining up to lure CWM away, as
20 so-often occurs with more acceptable industrial
21 enterprises through the efforts of local Economic
22 Development Corporations.

23 That's not happening here. It's not going to
24 happen here obviously. No one is going to say, "I
25 want all this benefit in our town. Let's put it in

1 Lockport. Let's put it in Cambria." It's easy to
2 drive down here and drive home if you're employed
3 there.

4 JUDGE O'CONNELL: Mr. Olsen --

5 THE WITNESS: I know. I'll wrap it up as
6 quickly as I can. Lawyers have a problem with that;
7 I'm sure you're familiar.

8 Further harm to the well-being and reputation of
9 our community from the expansion and continuous
10 operation of CWM is apparent to anyone that wants to
11 look. Thus, serious questions persist as to the
12 effects of this massive accumulation of hazardous
13 waste on our community's public health. Studies
14 undertaken by the New York State Department of Health,
15 the Center for Community Health, the New York Cancer
16 Registry, and the Center for Environmental Health
17 report statistically significant instances of cancer
18 beyond that reasonably expected that are consistent
19 with exposure to environmental contaminants in our
20 community.

21 Efforts of the DEC and CWM to discount these
22 conclusions point to the fact that there is no direct
23 causation proven. You can't prove that this cancer is
24 caused by CWM. They point their finger at the Niagara
25 Falls Storage site.

1 We shouldn't have to prove that. You can't
2 prove that. What you can prove is this is a facility
3 that is not needed. This is a community that has had
4 public health studies that have shown problems. It's
5 not right to bring another one in no matter what
6 causes it. Don't take a chance with the public health
7 here.

8 Again, people who are thinking of moving here
9 will be scared away by a community where it's
10 necessary to do public health studies on a regular
11 basis. There's lots of other communities that will
12 never have a public health study done. They don't
13 have these environmental issues.

14 Keep this in mind when you're concerned about
15 what you do. Additionally, the Hazardous Waste
16 Facility Siting Plan requires consideration of whether
17 the proposed facility will promote moving up the
18 hazardous waste treatment hierarchy for management of
19 hazardous waste and employ sustainable options for the
20 management of hazardous waste; page 9-6. Under
21 controlling law, land disposal is considered the least
22 desirable management option.

23 In fact, the Department of Environmental
24 Conservation is told to phase it out. Incredibly the
25 DEC has been ignoring this since the inception of the

1 landfill in the community. I'll skip the rest of it.

2 In 1971, SLF-1, secure a landfill, that's
3 reassuring, the facility's first landfill was approved
4 for a capacity of seven thousand, four hundred seven
5 cubic yards. It doesn't sound so bad, seven thousand.

6 In 1990, SLF-12, secure landfill twelve -- they
7 went through eleven others -- was approved with a
8 capacity of nine hundred and forty thousand cubic
9 yards; quite an increase. Doesn't sound like they're
10 phasing out land disposal to me.

11 The current proposal for RMU-2 seeks approval
12 for an estimated four million cubic yards of waste.
13 So we've gone from seven thousand, four hundred cubic
14 yards to four million. Take the hierarchy seriously,
15 all right? They want to band them for a reason.
16 There's better ways to deal with the waste, right?
17 The engineers on the panel will know that.

18 There's all sorts of alternatives being
19 developed; some of them right here. Having a cheap --
20 relatively cheap hazardous waste landfill competes
21 with those opportunities; makes it all the harder.

22 I point to PCBs. There's a lot of ways to treat
23 PCBs on-site. They don't have to send them here.
24 It's cheaper to send them here so those wastes don't
25 get followed.

1 Finally, you look at it, there's literally
2 hundreds of violations of their license; of their
3 permits that have gone on over the years. These are
4 not minor violations, there's fires, explosions, the
5 unlawful burying of Mercury, which is prohibited by
6 the land band.

7 All these things go on. If a new facility isn't
8 necessary, don't make us look at that and ponder how
9 much money can you find. I'm tired of hearing this is
10 a really good deal for us; that somehow this community
11 is going to be better off because of this huge, mega
12 landfill. It's not even solid waste, it's hazardous
13 waste.

14 Use your common sense. Is it really a benefit
15 for the public here, particularly if it's not needed?
16 Who is really going to benefit from this when people
17 talk about it?

18 Hold them to their assertions. If they say it's
19 necessary for Brownfields, notwithstanding the
20 Department of Environmental Conservation saying it's
21 not necessary, make them prove it. They can't.
22 Brownfields are not generally disposed of at
23 commercial hazardous waste facilities.

24 I appreciate your time. I know I've run over;
25 that's the purview of a lawyer. We're putting our

1 faith in you, those of us that have done this over the
2 years. We have our skepticism. As Tim has said, we
3 spend a lot of time at a lot of these meetings.
4 People here don't know what's going on half the time
5 because there's so many of them.

6 This is a big one. This is like the last nail
7 in the coffin for this community. You say "no" to it,
8 it becomes news. There's no longer a commercial
9 hazardous waste facility operating in this area.
10 They'll still be paying taxes, they'll still be
11 cleaning up their site, addressing new leaks that have
12 occurred. They'll be studying the radioactivity of
13 the site. All that will occur.

14 People will be employed. The operating
15 engineers will still be there. Look at the big
16 picture. Look at the interest of the community, not
17 those who have a financial or other stake in the
18 operation. Thank you.

19 JUDGE O'CONNELL: Next group is Rick Penale,
20 Marilyn Millen, Janie Tussing and Kim Hill. Is Mr.
21 Penale here? Marilyn Millen?

22 MS. MILLEN: Hello, I'm Marilyn Millen. I used
23 to live at 1878 Baumer Road. The last thirty years
24 I've seen, down the creek where I live, there would be
25 no water there. A couple days later, it would be

1 filled right up and black silt would be running right
2 down the creek.

3 I have moved to 180 -- 500 Willow Avenue, North
4 Tonawanda and I got three letters from you guys
5 stating you had my address, but you had my sister's
6 name up there and I got the letters. She lived down
7 here and she does not own the property and you got it
8 that she owned the property down here.

9 I called up and they said, "Oh, we'll take care
10 of that." I got two more letters, nothing was done.
11 Still got her as owning the property down here.
12 Because of that, she did not ever receive a letter
13 stating about this meeting and I only live less than a
14 mile. She does right now live less than a mile from
15 here.

16 So I am against this expansion and this
17 community, because there will be heartache for the
18 next generation for the next twenty, thirty, fifty,
19 hundred years. You will never be able to clean up
20 this mess you made.

21 It should never have been approved thirty years
22 ago. It's all about the big dollar money. We don't
23 care about human beings no more. Think about your own
24 children. How many of them live here?

25 So many people in this community have passed

1 away because of cancer. Sure, you can't say that you
2 caused it, but you certainly haven't improved this
3 community at all. Nobody want to come here to live;
4 nobody's business or nothing. We just burying this
5 community. Thank you.

6 JUDGE O'CONNELL: Is Janie Tussing here?
7 Mr. Hill?

8 MR. HILL: Judge, I'm a fellow Niagara County
9 and Lewiston resident. My name is Kim Hill. I live
10 over on Pletcher Road right behind the school. I just
11 had a couple of common sense items I thought I'd touch
12 on.

13 Some of the speakers are talking about putting
14 in a new hazardous waste site like we've never had one
15 before. It's there, it's been there. This community,
16 none of it is probably alive, made a deal with the
17 devil seventy-five years ago. Some other poor
18 community is going to get it if we don't.

19 There's a couple of points that I wanted to
20 make. CWM, if they go -- and this -- the extension
21 project is not approved, they will not shut down. The
22 DEC won't let them. They will have people here to
23 monitor the landfill, but I ask you, a company that is
24 making money is going to fall over itself to make sure
25 that there's less instances than a company sitting

there not making money off of it.

I think it's there. I don't like it there. I'm not thrilled when I found out about it being there in the first place, but it is there.

The second part of the common sense facts I want to bring up is there's literally millions of dollars that CWM gives to this community. Lewiston is a thriving community. If you talk to people who are from other communities, they wonder how the heck we put on all the festivals, do the things that we do. A lot of it is because of the donations and tax money that come in from this community from CWM and say Modern also.

So if you shut that down -- I'm standing here in a school that is part of the Lew-Port School District that is hurting. Matter of fact, I suspect taxes will be going up shortly. They had to cancel adult education because they're low on money. I'm thinking what is going to happen if they stop getting millions of dollars they get from CWM?

Your taxes are going to go up and they're going to go up anyway, it's just how much is it going to go up? That's part of the problem there.

In conclusion, I feel that it's here. If they're making money off of it, it's going to be

1 I've had the privilege of being exposed by
2 inspecting, surveying large commercial accounts to
3 determine their eligibility for commercial insurance.
4 I've dealt with accounts where the annual premium was
5 five hundred thousand dollars to thirty million
6 dollars a year. That was twenty-five years ago. I
7 have no idea, they must be skyrocketed by now.

8 I'm not a geologist or an arborist but my job
9 took me from Buffalo to Mohawk Long Island and from
10 Malone to White Plains. I see the same trees that are
11 native to that area in this area, which means the soil
12 must be the same. I'm not advocating that chemical
13 waste should move to other parts of New York State.
14 I'm advocating they get out of New York State.

15 There's millions of other acres unspoiled, and
16 I've seen them at my job experience, if you can get
17 the public surrounding and living in that area to
18 accept you.

19 As far as what you contribute to the area of
20 having the ability for different events in the school
21 district, half of my family are educators in Niagara
22 Falls. I would be happy to have a tax increase, I'm
23 speaking permanently, to keep the school system as
24 functional and well-known as this one is; happy to.

25 The fact that I live in the Town of Lewiston

1 is -- I couldn't -- my wife and I could have retired
2 anywhere we chose. We chose this area because we're
3 both from Western New York.

4 The other thing that I want to say is because of
5 our -- we both worked for the insurance companies.
6 When we transferred, which we had to, three times in
7 twelve years, the companies were very generous in
8 their pocket money to help us move; paid for the move,
9 bought our homes.

10 If CWM wants to move to another location, again,
11 if the community will accept them, they can offer
12 their employees the same thing. That's the capitalist
13 in me. I want to see companies make money. I want
14 them to prosper and profit, but I want them to do it
15 for the health, safety and security of the inhabitants
16 of wherever they are. Thank you.

17 JUDGE O'CONNELL: Mr. Smith.

18 MR. SMITH: My name is Brian Smith and I'm
19 Associate Executive Director for Citizens Campaign for
20 the Environment or CCE. Here today on behalf of our
21 eight thousand members, I thank you for the
22 opportunity to provide testimony today.

23 However, given the volume of information that
24 needs to be reviewed and commented on and of course,
25 the magnitude of impact that this facility has in the

Regarding our Great Lakes; in recent years have been unprecedented local, State and Federal investments in protecting these Great Lakes. More than one point six billion dollars has been invested in Great Lakes restoration to do, among other things, cleaning up the Legacy of toxic contamination we have in the Great Lakes. This includes a toxic hot spot or area of concern right here in the Niagara River. Making these investments and cleaning up this toxic Legacy is a wise investment because the lakes contain ninety percent of the nation's fresh water supply, drinking water, to more than forty million people. They support multi-billion dollar industries.

The economic impact of healthy Great Lakes is far, far greater than anything CWM could ever dream to do. Expanding the CWM facility threatens to undermine these investments we're making in Great Lakes restoration and the efforts and our progress to restore the Great Lakes.

Aside from the significant environmental and public health impacts associated with CWM, and this has been said but I'm going to say it again, there's no need to expand the facility. A principal finding in the New York State Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous

1 waste management in New York State.

2 Also want to touch on the fact that dumping
3 hazardous waste in landfills is not the answer. It's
4 not the answer here in Niagara County, it's not the
5 answer anywhere. There's a hierarchy for managing
6 hazardous waste, established in New York State law,
7 that clearly indicates that landfilling is the least
8 preferential method of managing hazardous waste.

9 Rather than depending upon antiquated hazardous
10 waste disposal methods like land filling you must,
11 instead, work towards more cost effective and
12 environmentally friendly alternatives including first
13 reducing the amount of waste that we're generating in
14 the first place and also investing in things like
15 recycling and reuse.

16 That all being said, it's been an important
17 issue for CCE and its eight thousand members for many
18 years and we're calling on the Siting Board to do the
19 right thing and say "no" to expansion. Thank you.

20 JUDGE O'CONNELL: Can we go off the record,
21 please.

22 (Whereupon a discussion was held off the record.)

23 JUDGE O'CONNELL: Mr. Duling? Can we go back on
24 the record.

25 MR. DULING: Your Honor and members of the

1 raised in Niagara County. I've lived in Niagara
2 County over sixty some years and I'm from Sanborn and
3 belong to the Sierra Club and I'm pleased to say that
4 Sanborn was able to put on a festival this past
5 weekend without the help of CWM and we're putting
6 another one on at the end of the month without their
7 help.

8 You don't have to worry, I'm not going to talk
9 about all this. This is a report shows that there are
10 two hundred and fifteen hazardous waste sites in Erie
11 and Niagara Counties. Of these, a hundred and six are
12 in Niagara County. Many of them have been remediated
13 and are inactive and are now Brownfields.

14 However, none of us would want to live on top of
15 them or near them. We don't need any more here. This
16 report does not include incinerated sites, water
17 bodies or settling ponds. They're not even addressed.
18 We have a very precious, as I heard someone else use,
19 precious bodies of water here that we should not
20 spoil.

21 When I'm out visiting my daughter, in one of the
22 many places out there, her father-in-law talks about
23 how they're going to try to get our Great Lakes water
24 for them to use to make up for what little they have
25 out there. In my generation of eight people in my

1 sure that it was done in July when people are off on
2 vacation; when people are not around, they're busy, so
3 to limit the amount of people that would be in
4 attendance of this.

5 So for that reason and for the reason that only
6 people within a half mile radius of this site were
7 notified is, in my opinion, ridiculous. CWM owns most
8 of that property as far as I know and the fact that
9 you have people who were not really notified.

10 You see the volume of information that's being
11 presented. There's no way for us, as individuals, to
12 fight this. We need to group together to band and to
13 protect ourselves, protect our families. The only way
14 we can do that is with time.

15 I'm here to ask the committee to please, please
16 consider the lives of the people in this community. I
17 know that most of you are not from this community, but
18 you are -- and you have families. You have loved ones
19 that you care for and we do too. So please, take our
20 individuals into consideration.

21 Besides protecting the individuals of this
22 region, you're also responsible for the Great Lakes.
23 Every bit of runoff that comes from CWM, and there's a
24 lot of it, ends up in the Great Lakes. As long as
25 companies have a place to dump this toxic material,

there's no reason for them to stop generating it.

Yes, it costs them a lot of money, so what.

They just make it back up. As long as we continue to give them a place to dump this, there's no reason for them to reduce their emissions. There's no reason for them to recycle. In other countries they do give them this reason and their toxic materials and pollutants are significantly less than what we're driving here in the United States.

Every environmental disaster that's happened over the years has two things in common; one is the company that is lining their pockets with these projects bring up an expert witness that tells everybody how it's completely safe, there's no problems, we'll never have any problems. That's pretty predictable.

The other part of that is there's a Government agency that gives them approval to do it and we're begging you, please take our lives into consideration when you're making this decision, please. But we, as citizens, cannot expect the Department of Environmental Conservation or CWM will do the right thing.

We have to join together. We can't fight a multi-billion dollar company. We cannot do it alone.

1 students who live at our facility part-time. I'm
2 concerned about the people who come to the Theatre in
3 the Mist.

4 Anyone who thinks this chemical dump is in the
5 middle of nowhere, it's in the middle of a vibrant
6 community. Now, what I'm asking for is if you'll
7 humor this old lady and let her share some of her
8 personal history with you since I've been fighting
9 this chemical dump since the early seventies. I'll
10 tell you my story.

11 At that time, the citizens of the lower Niagara
12 River formed a citizens committee and began to look
13 into the problems that we had. Also, because of my
14 membership in that committee, I was appointed to the
15 Citizens Advisory Committee of New York State and met
16 monthly with Mario Cuomo also to discuss chemical
17 waste and waste management and problems along our
18 waterways.

19 It's because of that contact that I was privy to
20 maybe some information that not every citizen knew.
21 But what I knew was that as a result of the Vietnam
22 War Peace Treaty, it was decided that the chemical or
23 the radioactive waste from all over the world would be
24 taken to this site here in Niagara County, which is
25 now known as the Chemical Waste Management, but

1 people. But, you know, every time they changed their
2 name, you had to start a new lawsuit. These were very
3 clever capitalists, if you want to call them that.

4 This is something that I personally have been
5 opposing and fighting every opportunity that I get,
6 and I hope that this is the opportunity that's going
7 to make a difference and the expansion of this
8 facility will be stopped.

9 Even if the things are going to be put in the
10 middle of the present facility, the trucks that go
11 there go by not only Lew-Port School, but when they
12 complain enough, it goes down all the other streets
13 and we all see them and those trucks are not heavily
14 protected for those of us that live in the area. So
15 please, please, let this be the end, do not let them
16 expand.

17 JUDGE O'CONNELL: Kenneth Warren.

18 MR. WARREN: Thank you, Your Honor. DEC and
19 Siting Board, my name is Kenneth Warren. I live in
20 Ransomville. I stand here opposed to this application
21 and permit issuance. I stand here in solidarity with
22 my neighbors, farmers, small business owners, faith
23 leaders and children in their interest to life, safe
24 water, land and the human ecology of our nation that
25 stands dependent upon clean, affordable water. A

1 barnyard. We disconnected the one that services the
2 house and capped off that pipe and we took the handle
3 off the pump from the one that goes to the barnyard so
4 no one would inadvertently drink that water.

5 I had a prepared Statement here, but much of
6 what I have on here has already been reiterated by
7 previous people, but I just want to say to the Siting
8 Board, most of you people don't live in this area.
9 And although you're getting all this input, you have
10 no idea what we, who live here, are going through.

11 I could try to describe to you what a migraine
12 headache is like, but trust me, unless you've actually
13 had one, you cannot imagine what it does to your body.
14 And unless you have actually lived here in the Town of
15 Porter and Lewiston for five or ten years, you have no
16 idea what we are going through.

17 We've had these hearings before on previous
18 occasions and you listened to us. Each and every time
19 in the past, you had betrayed us and you went ahead
20 and granted the permit anyhow, despite the
21 overwhelming evidence. And I can only ask; what ever
22 have the residents of the Town of Lewiston-Porter done
23 to warrant such cruel and unusual punishment? I
24 beseech you to listen to the people.

25 Don't listen to CWM. They have an agenda. They

1 specifically said that the only waste -- that only
2 waste above a certain level of toxicity was expected
3 by CWM. Waste below that certain level of toxicity
4 was delivered to Modern.

5 I made copies of that letter and have them
6 available for anybody that is interested in seeing the
7 other examples that were cited in the Letter to the
8 Editor. More important, perhaps, may be reports that
9 CWM sites receive toxic waste for more than half of
10 all states and from foreign countries.

11 Question; should toxic waste be transported over
12 very long distances? Thank you.

13 JUDGE O'CONNELL: Ms. Carnes.

14 MS. CARNES: Good afternoon. My name is Claudia
15 Carnes. I live at 275 North Fourth Street in the
16 Village of Lewiston. I purchased my home in the
17 charming historic Village of Lewiston because of all
18 the rich history and culture.

19 I especially enjoy the festivals, restaurants
20 and events at Art Park. I love the ambiance that
21 living near a river that runs through my community
22 offers. The peaceful countryside and farms I pass
23 while I'm driving to work in the morning, is also a
24 reason why I treasure this area. Our school system,
25 Lewiston-Porter, is a source of pride for all of us.

Knowing that there is eight million tons of carcinogens buried less than one mile from our school upsets me tremendously. We have lived with the scourge of hazardous waste trucks on our highways for long enough. CWM is not compatible with the life we are blessed with in this community.

Please protect our quality of life and close them down. We've been dumped on long enough. They've overstayed their welcome here. This community should be known as a tourist destination, not a hazardous dumping ground. Thank you.

MS. COLEMAN: My name is Maribeth Coleman. I live in the Village of Lewiston. My children and grandchildren live in the Town of Lewiston. I'm opposed to any expansion of CWM.

The rule to allow toxic material to be brought to Lewiston is in the past. What is done is done. Trucking this material from thirty states, Puerto Rico and ironically Lewiston, is a travesty. It's caused medical harm to our residents. CWM trucks, often leaking, drive past this very school.

This area has a much higher level of cancer and multiple sclerosis. Enough is enough. This area does not produce toxic waste. Let states and companies who produce this material expose of it in their own

Justice and Permitting as the fair treatment and meaningful involvement of all people regardless to race, color or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Fair treatment means that no group of people, including a racial, ethnic or social economic group, should bear a disproportionate share of negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of State, Federal, Local and Tribal programs and policies.

And whereas the New York State Hazardous Waste Facility Siting Plan was adopted by the Department of Environmental Conservation in 2010, and I also submitted a copy of that, and whereas the principal findings of the Siting Plan was there is no need for additional hazardous waste management facilities or expanded hazardous waste management capacity in New York State.

And whereas there's an estimated two million tons of hazardous waste permanently managed in closed landfills in Niagara County and Niagara Falls and another eight million tons in the Town of Porter.

And whereas this PCBs and hazardous waste was

1 imported from outside of New York State and whereas
2 Niagara County is the only area of the State to ever
3 host a commercial hazardous waste land disposal
4 facility.

5 And whereas there's an application pending to
6 site approximately six million more tons of hazardous
7 waste land disposal capacity in Niagara County,
8 requiring upwards of a quarter of a million PCBs and
9 hazardous waste fill trucks to travel New York State
10 highways, through Niagara Falls, past our public
11 schools, along our rural roads for an estimated thirty
12 years.

13 Be it resolved that the NAACP Niagara Falls
14 branch objects to this siting of any more hazardous
15 waste land disposal capacity in Niagara County and the
16 State of New York because the City of Niagara Falls
17 and Niagara County already bears a disproportionate
18 burden and because agencies have established there is
19 no need for additional capacity."

20 I am speaking today to ask you to live up to the
21 mission of the Department of Environmental
22 Conservation which is to conserve, improve, protect
23 New York natural resources and environment and to
24 prevent, abate and control water, land and air
25 pollution in order to enhance the health, safety,

1 welfare of the people of this State and their overall
2 economic and social well-being.

3 The Department of Environmental Conservation's
4 goal is to achieve, through simultaneous pursuit of
5 environmental quality, public health, economic
6 prosperity, social well-being, including environmental
7 justice and the empowerment of individuals to
8 participate in environmental decisions that affect
9 their lives.

10 As you allow us to participate with this
11 process, I would also ask you to allow us to share in
12 your decision, to be part of that decision, to allow
13 what was said to have meaning and have weight as you
14 make your decision.

15 This is about social well-being, this is not
16 about -- this is not only about this community, but
17 any and all communities where this hazardous waste
18 would travel. This is about enhancing the health of
19 this community, this is about the health, safety and
20 welfare of the people of New York State.

21 At times I think our regulatory agencies forget
22 their mission. They forget why they were created and
23 whom they are supposed to protect. They forget about
24 people. They forgot about the people living at
25 Tonawanda Coke where they found benzene levels

1 seventy-five times higher than the recommended
2 guidelines until the Federal Government, the EPA,
3 stepped in.

4 They forgot about the people living around the
5 Peace Bridge when they failed to monitor the air
6 during the Summer months; the busiest times. They are
7 also forgetting about the people in Niagara Falls when
8 they decided not to perform a cumulative air impact
9 study and requiring constant air monitoring at
10 Covanta.

11 I'm asking you to vote "no" on the CWM
12 expansion. I'm asking you today to not forget about
13 the mission when it comes to your decision. I'm
14 asking you to please, don't forget about us, the
15 people of this community; the people of New York
16 State. Thank you.

17 JUDGE O'CONNELL: Is Eileen LappHastings or
18 Margery Beanflossom here?

19 Our last group is Gina Gigliotti, Rebecca Strong
20 and Amy Witryol.

21 MS. STRONG: I'm Rebecca Strong.

22 JUDGE O'CONNELL: What is your name again?

23 MS. STRONG: Rebecca Strong.

24 JUDGE O'CONNELL: Thank you.

25 MS. STRONG: I'm currently a resident of

1 Lockport, but I grew up in Niagara County and I grew
2 up in Gasport. As a resident of Niagara County, we're
3 the national stewards of the waters of the Niagara
4 River and of Lake Ontario. In traditional
5 communities, when we're born, we're first introduced
6 to the place and to the elements and we're introduced
7 into our human birth and given the privilege to
8 steward that place.

9 What we know is there are limits to growth,
10 right? We're learning this with the economic
11 collapse. We're learning this with climate change.
12 We're learning this all over the place and that we
13 live on a finite planet.

14 As a human species, unlike most other species,
15 we do not have a natural predator so that means we
16 have to keep ourselves in check. I celebrate how many
17 people showed up today and how many people have been
18 showing up for this conversation; individuals who are
19 saying "no".

20 "No" to the expansion of the CWM. It's my
21 assessment that we have a moral obligation to protect,
22 yes, the health of our children, but we also have the
23 moral obligation to protect the quality of the air,
24 the soil and the water.

25 These are the elements that sustain us. How can

we fight cancer without drawing the link to what we're doing to our environment? We have to use our intellect. We have to draw the link.

I ask the people making the decision, I ask us,
I speak today as a concerned citizen; who will benefit
from this expansion?

Now really, can we think like cathedral builders? Can we employ the kind of thinking that the people of the six nations model; thinking in seven generations, right?

So who will benefit from this expansion; a handful of individuals in a financial way and how long will that financial benefit last them? But when we think of the deficit we create to the web of life, to the water, to the quality of air, to the quality of soil, ultimately toxic waste production needs to be stopped.

We must employ our intelligence to limit ourselves in what we're doing to the earth; what we're doing to ourselves. What we do to the earth, we do to ourselves. What we do to the earth, we do to ourselves. What we do to the earth, we do to ourselves.

So we think who will benefit from this expansion? Less than one percent of one percent of

1 one percent of human beings who do not live in this
2 community will benefit on a financial level for how
3 long after they've purchased their fifteenth house or
4 maybe their fourth? Is that what we're feeding, that
5 pocket? And the deficit we're creating for
6 generations to come is on our shoulders. We're the
7 ancestors of the future.

8 So I leave us with this question; it's an ethic
9 for the 21st century. Thank you for bringing
10 environmental justice into the story. Thank you.
11 Thank you. What would the water say if it could
12 speak?

13 And the question; can we use this ethic for the
14 21st century? Will this decision benefit life,
15 enhance life? When we say "life", yes, the life of
16 the human community, the life of our human children,
17 but also the life of the children of other species,
18 the life of the soil, the life of the air, the life of
19 the water.

20 Will this decision enhance life or will it not?
21 We know the answer. Will we use our intellect? Will
22 we live our moral obligation as ancestors to the
23 future to protect the life that we are given as
24 stewards and value that, more than putting a few green
25 pieces of paper, a human invention, in the pockets of

a few?

What do you want to wake up thinking about in the morning? What would the water say if it could speak? Thank you so much.

JUDGE O'CONNELL: Is Gina Gigliotti here?

Ms. Witryol.

MS. WITRYOL: I'm your last speaker for this afternoon. My name is Amy Witryol. I live in Lewiston. And Karen, if you want to open up Number 1, double click and then go up to view from beginning. That will be great. Thank you.

If hazardous waste and PCB dumps are so safe, so economic, why doesn't everyone want one? Next slide please. Why the State should say no. Number one, the State loses money on CWM.

I spent my career as a banker. I'm not an environmentalist. I came to this community and found an awful lot of people sick for reasons I couldn't understand that I think unfortunately I understand a lot better.

But I can tell you, looking at the financial information that CWM has submitted, and I'll submit this in detail, written testimony; the State is losing money. And this is not the single most important issue to us, but I put it Number 1, because I believe

it's the single most important issue to the State
unfortunately.

Number 2, the facility is dangerous and poses unacceptable risk. Number 3, in my opinion the DEC is covering up a leaking radioactive waste site next-door to protect the CWM application. Number 4, the facility is primarily self-monitored and I will be expanding on that in written testimony as well.

We do not have two full-time monitors out there. We've never had two, full-time monitors out there. And Number 5, the cumulative impacts, which I actually had a separate PowerPoint on and, Your Honor, depending upon the number of people tonight, if there's time at the end of that session -- I skipped that particular PowerPoint -- I'd be pleased to show that again.

And part of those cumulative impacts are recognized in the legislation passed by Governor Mario Cuomo that says you can't keep siting a hazardous waste landfill in the same place in the State over and over and over again. That law has been broken a number of times in the past. We're hoping that the law will be upheld this time.

Next slide, please. Why is CWM here? Not because they do a lot of business here. The two

largest dumps that I imagine they've referred to in their applications, which I haven't been able to read thoroughly yet, had original record decisions that called for on-site treatment that didn't need to go to any landfill. So the suggestion that waste disposed from a landfill, if not coming here, would have to go to another landfill is simply untrue. I'm sure there are many DER professionals at DEC who understand that.

Number 2, in comparison to at least one competitor I've looked at so far, whose waste analysis plans are rather lengthy and expensive, DEC provides exemptions for sampling incoming waste that other facilities don't get the benefits of. They do screening, but there are enormous loop holes in their screening practices. These exemptions save the companies millions and millions of dollars.

Lax monitoring, the biggest reason not to site RMU-2 is because it's in the footprint. You need the monitoring wells for RMU-1. I'm sure it will be a topic of extensive discussion which I'll discuss at least some of the key points of in a few more slides.

But I will also tell you that we not only host the only hazardous waste landfill in the State of New York, right next-door to it is a temporary storage site for radioactive waste that's been temporary here

1 since 1944 and also the State's second largest solid
2 waste landfill, so we know landfills around here.

3 The monitoring in some of the regulations
4 required for the solid waste landfill, Modern
5 Corporation, more rigorous than the monitoring and
6 regulatory requirements that DEC has decided to impose
7 or I guess not impose on CWM.

8 CWM is the only facility that I know of, and I
9 haven't done a national survey in the last few years,
0 that doesn't pay a hazardous waste disposal tax. Its
1 gross receipts are a fraction. I think it's difficult
2 for any New Yorker to understand how, of all things,
3 we could not have a hazardous waste disposal tax.

4 It costs twenty-five dollars to apply for a
5 fishing license in New York State. It costs zero to
6 apply for a hazardous waste landfill that the DEC has
7 spent twelve years processing at our expense.

Another reason why I believe that CWM is here is they have a synergy to their solid waste operations throughout the State. And Mr. D'Amato knows better than anyone else, his region hosts large waste management landfills. Thankfully the Region 8 permit that was awarded to Waste Management in Orleans County was defeated and with the full support of the people of Orleans County, but it is a built-in sales force

1 did two hundred thousand tons in 2012 and they've done
2 a pittance since then. Thankfully this facility is
3 near closing.

4 Last, but not least, as a tribute to the
5 Mastercard commercials, Number 7, pay to pay
6 politicians in the State of New York, priceless.

7 Next slide, please. Okay. This is not just
8 about wrecking fifty acres. You've heard a number of
9 people say, this place is so contaminated CWM spent
10 thirty-five years trying to clean it up. They still
11 can't clean it up.

12 Part of it is because Department of
13 Environmental Conservation has allowed them to put
14 monitoring wells in areas that are cheaper to clean up
15 because they have less contamination.

16 Next slide, please. This is not just about
17 wrecking a neighborhood. Here, you see kind of a zoom
18 out of that same photo of the massive facility,
19 massively complex facility that we have even if the
20 Federal Government hadn't brought in every defense
21 activity known to man before they got here.

22 Next slide, please. Or about wrecking a
23 community. There you see Fort Niagara, the Niagara
24 River, our schools, a fish hatchery that had its
25 beginnings from clay mining for CWM of all things.

Not a place I'd want to fish. And one of the most notorious storage sites in the United States, the Niagara Falls Storage Site, and just beneath it Modern.

Next slide, please. It's about people's health. Click, please. You've heard reference to New York State Department of Health Cancer study that covered a ten-year period that was covered just a few years ago here.

Next click, please. Children living in our school district had nearly double the rate of childhood cancers compared to the expected rate for the State.

Next click, please. The DEC was so concerned it asked an engineer to respond. The responses to comments this community was given last year on CWM's permit renewal, which I think was eight years late; massively complicated. You think the Siting Certificate is long, multiple that by a thousand.

DEC's response, it went -- provided with that comment was no, we're not going to check with the Department of Health. No, we're not going to consult an epidemiologist. We're going to say well, most of the cancers are up-radiant, upwind and I can't remember what else from the facility, but first of

all, our schools are not upgraded from this facility.

Secondly, if you have a neighborhood that is double the size of another neighborhood, it ought to have twice as many cancers, that's not the case here.

So when faced with these comments, the lack of response, the way for those of you who don't know, and including the Siting Board, when you submit public comments for a permit renewal and your questions, you get your answers simultaneously with the permit renewal.

So if there was a factual error or a gross misrepresentation, you better go get a lawyer because you don't get a second chance. How on earth are we expected to provide a response to comments when we can't even get some of these questions answered; like how many trucks are sampled. Gee, we don't know.

And I will be submitting in detail a list, which if I started today I am not sure I could finish by September 5th, of all the factual errors and omissions in the responses to comments that this community received.

I've asked repeatedly, everyone you talk to in the Department of Environmental Conservation, which most professionals will tell you this, probably ninety-nine percent of the staff of the department, to

find out who reviewed those responses to comments before they were issued last year. The short answer is nobody.

Next slide, please. You've heard references to our house statistics, we'll be talking about that more in detail. You see CWM over in the upper left-hand corner of the County and the areas of elevated incidents not likely due to chance that Mr. Henderson mentioned.

Relative to our variability and prevailing wind direction, CWM is smack at the source of this particular cancer cluster. I would have had a more recent map for you. It was a PILOT Program, Mr. Forcucci could tell you. After the maps were published, the PILOT was over.

Next slide, please. This is colorectal cancer. CWM, it's only my crude rendition of Four Mile Creek which CWM discharges into. There's CWM (indicating.) There's the creek and there's the colorectal cancer, fifty to one hundred percent above expected.

Okay. Next slide, please. You've heard about the Great Lakes.

Next slide. Okay. This is really important. I have to tell you reading -- I'm a frequent visitor to the DEC FOIL site. Reading the correspondence between

the professionals hired by Niagara County and its Health Department and the Department of Environmental Conservation, we've got so many problems with groundwater contamination moving off-site that's been ignored.

I don't know if it's a matter of resource problems or they too are drinking out of a fire hose, but we're standing just one mile from the Epicenter of this chart from the annual, technical memorandum from the U.S. Army Corps of Engineers from Niagara Falls Storage Site which is adjacent to CWM's property. That is our temporary radioactive storage site from the 1940s.

You can see there's a little chart for population density. You have Toronto in the upper left-hand corner, you can see Erie, in the dark spot there is Buffalo and this slide is a tribute to Clyde Burrmaster. If you see him, tell him. I think it's one of his favorites. One of the most notorious FUSRAP sites in the nation.

Next slide. Where did that radioactive waste come from? The waste in producing this -- I can't remember if this is the bomb they dropped on Nagasaki or Hiroshima (indicating.) The stuff in the Niagara Falls storage site is as high as anything that comes

out of a reactor.

Next slide, please. The Niagara Falls Storage Site, now you can see we're looking northeast. CWM is up there to the left. You can see the second largest solid waste landfill in the State of New York and this nice -- ten-acre nicely mowed cap beneath it, which is called the Niagara Falls Storage Site.

Next slide, please. We've tried repeatedly to discuss with the Department of Environmental Conservation the issues of that storage site leaking. Usually, when there's an Army Corps remedial project, it's handled by a remedial professional from DER region.

But for some reason, the Niagara Falls Storage Site is handled out of Albany by the same member of staff who's been working with CWM for over twenty years. That's a concern. I can tell you as a banker, that's a major institutional problem.

Next click, please. In a FOIL request, remarkably I got a slide presentation that was given to internal staff last December that says, "Jim, here's responses to Amy's questions that we will discuss in the meeting.", and in boldface, "Not To Be Sent Back To Her". Your Honor, if that isn't a reason alone to grant me party status, I don't know what is.

1 examples there of huge increases in uranium and
2 groundwater. Uranium was looked at. Certainly not
3 the worst stuff we have out there, but the background
4 level of uranium, when the Department of Energy first
5 got here, in the order of three micrograms per liter
6 and then the background kind of morphed up to nine
7 micrograms per liter.

8 Within a few years, the Department of Energy was
9 very alarmed that the detections in groundwater rose
10 to sixty micrograms per liter. Look at the numbers on
11 this chart. In 2003 we're up at nine hundred and
12 fifty-eight and in ten years, we're up to seventeen
13 hundred and forty and this guy in the Army Corps is
14 telling us this cell is not leaking? What are we,
15 stupid?

16 Next slide, please. And here is the explanation
17 for where the suspicion is that the cell is leaking,
18 in the south area, and underground utility pipelines
19 that are transporting that contamination to well
20 detections that were on a very steep increase.

21 Next slide, please. Then we go back to the
22 secret, "not be sent back to Amy" slides that were
23 given to, I guess, snooker DEC staff executive, where
24 they say, "Increasing detections in this particular
25 well suggests that the cell is leaking."

1 And it says at the bottom, well, they're
2 comparing apples and oranges, knowing full well that
3 those wells were just a few feet away from what they
4 were being compared to ten years ago and the Army
5 Corps explained why they had to replace the wells and
6 couldn't sample in the exact, identical place.

7 If you believe this Department of Environmental
8 Conservation staffer, all groundwater, all geology on
9 this site is the same. What difference would it make
10 that one sample was taken in one place and the other
11 sample was taken in Timbuktu?

12 That wasn't the case. So remember, bogus
13 explanation to their own staff. I'm not supposed to
14 see it, maybe presumably because I know it's bogus.

15 Next slide, please. Here's the rationale that's
16 given to Department of Environmental Conservation
17 professionals to discredit the information put forth
18 by the community. And for the sake of time, I'll
19 prepare this in written comments. Let me say, it's
20 ridiculous.

21 Next slide, please. Theory two, that the --
22 it's the area of the south side of the cell that's
23 leaking; again, with comparison of Army Corps data and
24 the Army Corps telling us that the groundwater is
25 interacting with the sewer line, which makes perfect

1 sense to us.

2 Next slide. Again, this is the attempt of the
3 Department of Environmental Conservation staffer to
4 discredit that. If you know what's in the
5 investigations, this information was cherry picked and
6 misleading; and I will expand on that in written
7 testimony.

8 Next slide, please. Again, I cannot
9 overemphasize the severity of the problems at the
10 Niagara Falls Storage Site. When I spoke to the head
11 of the EPA Radiation Bureau, nearly ten years ago at
12 this point, he was there in 1984 when the radioactive
13 material was deposited in that World War II era
14 basement. And he told me, "I never thought I'd be
15 sitting here today still talking about getting that
16 stuff out of there."

17 He expected there would have been a record of
18 decision to get that stuff out of there by 1994.
19 Everyone wants that stuff out of there except the
20 Department of Environmental Conservation staffer
21 working on CWM permitting.

22 Next slide, please. Again, I just want to
23 remind you how hot that place is. I can't say it
24 enough.

25 Next slide, please. Okay. I didn't have time

1 actually walked the site within three years, got
2 cancer.

3 We know that one in three Americans are going to
4 get cancer. We know that. We're not complaining we
5 have cancer, we're complaining we have more than our
6 share; just like our hazardous waste.

7 Next slide, please. CWM -- and this is --
8 again, I've asked so many people at every level in
9 Albany and Buffalo, would you please, please, please
10 talk to us about groundwater. This application never
11 should have been declared complete.

12 CWM's expert, Golder Associates said, to my
13 knowledge, before I started looking closely, a firm
14 with hydrology expertise that is generally well
15 regarded, they're saying that CWM's lower groundwater,
16 which is contaminated, moves only three feet a year so
17 don't worry. Nothing's leaving the site. That's the
18 theory. We're just destroying our own property.

19 Next click, please. The Erie/Niagara County
20 Regional Planning Board, when looking where they
21 needed to implement public water first, looked here
22 because they found boron four and a half miles away
23 and estimated it took twenty years to get there. You
24 do the math, that's eleven hundred feet per year.
25 That's a quarter of a mile per year.

1 The Department of Environmental Conservation
2 staffer knows about this. We've discussed it at
3 meetings he's been in. You would think that someone
4 would take a second look and nobody has. One
5 explanation that I got from a Department of
6 Environmental Conservation official was, well, you
7 know the EPA does the same thing; they have one
8 professional look at something and nobody else checks
9 their work.

10 I don't know if you saw in September, I think
11 maybe it was 60 Minutes, about an EPA deputy who told
12 his supervisors that he worked for the CIA and didn't
13 show up to work for two and a half years. For twenty
14 years he got away with this. The United States
15 Inspector General said the EPA is devoid of the most
16 basic institutional checks and balances.

17 I can certainly tell you, from my experience
18 being involved with a lot of mergers and acquisitions
19 being a senior credit officer looking at what the
20 sales side of the business, loan officers are doing,
21 and reporting to an entirely separate management. We
22 didn't even meet until we got to the Chairman of the
23 Board and then additionally had an audit function that
24 reported directly to the Board of Directors.

25 It's no wonder we've had such ridiculous,

1 horrible and painful decisions from the Department of
2 Environmental Conservation at this site over many
3 years.

4 Next clip, please. This is background. It was
5 a well on River Road in Youngstown that documented the
6 contamination. It was a guy that ran a greenhouse and
7 went out of business, partly because his plants were
8 dying and Cornell Extension helped him out and they
9 traced it back to the well water and they found boron.

10 I don't have time to show you the cumulative
11 impact slide show tonight. If I don't, I'll send it
12 to you. It will take you through an automated review
13 of the history and you'll see the four areas of CWM
14 that boron was produced.

15 Next slide, please. Okay. CWM moving the goal
16 posts on monitoring and corrective actions.
17 Corrective actions is a euphemism for cleanup. It's
18 like a teacher correcting your paper. You got it
19 wrong, so you're going to try to get it right. These
20 are usually taken after a permit is granted.

21 You don't have to prove you can clean up the
22 site before Department of Environmental Conservation
23 gives you a permit. And if you didn't get it cleaned
24 up, the next time the permit renewal comes around you
25 get more corrective actions. The football at the


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1 | bottom says "health" on it.
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2 Next one, please. Okay. I said, back in 1977,
3 the engineers advising the Regional Planning Board on
4 groundwater quality and how to triage the instillation
5 of public water and 2013, CWM said three feet. CWM
6 bought this landfill operation what, Dan, '83, '84?
7 It was SCA for a little while until it changed their
8 name to Waste Management.

9 Next clip, please. 1985, we're at fourteen feet
0 a year. I wonder why groundwater slowed. Maybe there
1 was a glacier that came by between 1985 and 2013, you
2 know, it's several times faster. What was happening
3 in 1985, Waste Management wanted a landfill in a part
4 of the site that wasn't so hot.

5 While I haven't looked at the regulatory impact,
6 Department of Environmental Conservation knows it was
7 in the mid '80s when REPA was really kind of
8 reinvigorated and got its teeth. Let's see what the
9 predecessor's hydrologist said about the flow rate of
10 groundwater back in 1977.

1 Next clip, please. Between eighty-eight and
2 three hundred and twenty-four feet a year; this is
3 what the consultant for the operator said and I didn't
4 have time to put in a slide that suggests Department
5 of Environmental Conservation has its head in the

1 silt. Where the alteration of information that took
2 place in 1985 occurred is also the gravel became
3 densely packed sand to slow the rate of contamination
4 off that site.

5 Next slide, please. What went on at Waste
6 Management headquarters at the time this data was
7 being altered or the analysis was being reinterpreted,
8 certainly they were like, "that's an outlier", and
9 they disappeared. As if you could even have an
0 outliner on the site because of the variability.

1 Next clip, please. CWM wrote off three and a
2 half billion dollars of earnings it had falsely
3 reported during the prior ten years.

4 Next clip, please. Waste Management violated
5 the antifraud books and records and internal controls
6 provisions of the Securities Exchange Act. They were
7 defying their stockholders. Wouldn't it make sense
8 for the Department of Environmental Conservation to go
9 back and look at what their reporting was doing at
0 that time?

1 Next slide, please. I'm not going to go through
2 this in detail, but it's basically price fixing, price
3 fixing, price fixing, violations, bribery.

4 Next slide, please. Exactly the same, except
5 throw in mixed PCBs with oil and selling it as fuel.

1 Next slide, please. Same thing price fixing,
2 price fixing, waste lagoon violations, anti-trust,
3 explosion shut down incinerators. Thank you, Dr. Nils
4 Olsen, who negotiated with Waste Management in 1994
5 and saved us from having a similar incinerator here.

6 Next slide, please. With CWM's poor
7 environmental track record, I could not prove their
8 expansion request. CWM in Indiana closed in recent
9 years. An attorney for the City in that State said
10 the State, quote "Would have to grant a permit to
11 Satan before they could grant a permit to this
12 outfit."

13 Next slide, please. Next, please. Okay.
14 Access reports, in reasonable time to review
15 historical data. Your Honor, I've asked for every
16 report prior to 1995 from the Department of
17 Environmental Conservation. They don't,
18 unfortunately, have a list of the reports. The
19 application says they were relying on geology reports
20 from 1985. I'd like to see all of the reports leading
21 up to that.

22 We found some data that has a lot of
23 significance that has been altered. It's kind of like
24 a jigsaw puzzle. Therefore -- and believe me, after
25 working on this for twelve years, I have no desire to

1 delay this process. I'd like my life back.

2 But if the Department of Environmental
3 Conservation -- because we tried for a year to talk to
4 them -- for whatever reason doesn't want to
5 reconstruct that data and figure out what is going on
6 at the groundwater at that site, Your Honor, I ask for
7 the availability of reports and the time to do that;
8 starting with list all of the reports that you have
9 that are related to engineering on the site, operation
10 of the site and the geology of the site that are
11 available in Albany or Buffalo.

12 Next slide, please. I thought I removed this
13 one. This one is something that our County
14 legislature used to describe the Department of
15 Environmental Conservation. I make no apologies for
16 forgetting to remove that, but that's how this
17 community feels.

18 I can't -- we don't have enough time for me to
19 list all of the problems and errors that we found. I
20 hope that's the end of this segment. Your Honor,
21 I'm -- can we click that again and hope that it will
22 close? Yeah. Great. Aren't you happy that segment
23 is over?

24 We have a couple of more segments, Your Honor,
25 that I think are quite important but, as you know, I

1 Environmental Conservation will endeavor to be
2 objective, regardless of what I say about you, and
3 look at the substance.

4 This public notice that's on the radio in
5 Lockport is about a place in Model City. People in
6 Lewiston know where it is, probably in Porter, but
7 most the people in Niagara County don't.

8 Next click. The notice was very troubling. It
9 said that this is primarily about a hazardous and
0 nonhazardous waste landfill. No, it's not. You don't
1 need a TSCA permit or EPA permit or science
2 certificate. You can go to Modern if you want to dump
3 your waste.

I'd like to hear -- the TSCA permit is part of the permit that EPA retains authority for. If CWM wants permission to build a new landfill, they need a permit from DEC for all the chemical stuff, and that's an oversimplification of the regulation, but they still need the EPA to give them permission to take PCBs and no mention of enormous, enormous lagoons that are releasing chemicals into our air for most of the year.

3 Next slide, please. This is, you know, where we
4 were told to go to, to find documents. It's high
5 altitude. Let's hope it's a little more

1 understandable when we drop down.

2 Next slide, please. If you were able to find
3 the twelve page fact sheet which started with a useful
4 life of ten to twenty years, it's impossible, it's
5 mathematically impossible to site four million
6 whatever cubic yards and do it in ten years if you're
7 applying for four hundred twenty-five thousand.

8 Even with a seventy-five thousand variance from
9 in-State actions, that means you would have to do six
10 hundred thousand tons per year. This application
11 maxes out at five hundred thousand tons. I'm reading
12 the fax sheet and wondering who the heck wrote it or
13 who checked it, but it's twelve pages and I'm still
14 trying to figure it out because when I go to the fax
15 sheet -- next click -- it sends me to this laundry
16 list; we got sixty days notice.

17 When I stood up here in the beginning of 2006,
18 Your Honor, I thanked DEC Region 9 for giving us sixty
19 days and holding the meeting here instead of that fire
20 hall where CWM wanted it. Sixty days for just the
21 scoping document and we're being given a hundred and
22 twenty days for this mess. And at the bottom it says
23 when we get the air permit, we'll let you know.

24 Where is the water division? Where is the air
25 division? I'm supposed to prepare testimony in thirty

1 days on all these permits and try and gear it
2 towards -- this is going to be my one chance to talk
3 to the Siting Board. My one chance and the public's
4 one chance.

5 How should I spend my time? I can't possibly
6 read all of this and start searching for the data
7 that's been falsified on the groundwater.

8 I can't tell people in the community what this
9 means or walk Creek Road and say, make sure you get to
10 the hearing because no one knew what this hearing was
11 about or to get here and would not have been here
12 today without the fine work of RRG with only thirty
13 days notice. I thought there would be fifty people
14 here this afternoon.

15 Next click, please. The community understands
16 so far. Next click. We can go to the next click,
17 please. It's as clear as mud. Hard copy
18 availability; Albany, Buffalo, Youngstown, Youngstown.

19 Mr. Fiodaro (sic), you made reference to
20 something in a package -- a letter from the Town of
21 Lewiston; just asked for a hard copy so people in
22 Lewiston can go into their Town Hall or library or
23 people serving on the RMU-1 Citizens Advisory
24 Committee could go look at didn't make the agenda for
25 first Siting Board meeting two weeks ago.


```
1      Next slide.  Can't get into Town Hall.  Can't
2      get into the library.
```

3 Next slide. Here, electronic copies of -- if
4 you can figure out what's an application, what is a
5 permit. Go look here, it says CWM's website. Click
6 on that website. It says, Waste Management Model City
7 and another laundry list.

8 I urge the Siting Board, go to the Department of
9 Environmental Conservation's website, think of
0 yourself as a member of the public; even an informed
1 member of the public like someone from RRG. See if
2 you can figure out what you ought to be reading and
3 what is going to be used to make what decision by
4 which agency.

5 Next slide, please. The Siting Certificate
6 under application on the DEC website, I eventually
7 found it on the Waste Management website, but there's
8 a section called Siting Certificate and Permit Joint
9 Hearing documents. There's no Siting Certificate
0 Application there.

1 Next slide, please. That's easier. Next click,
2 please. That would be easier than getting through the
3 Department of Environmental Conservation's website.

4 Next click, please. And that's Mt. Everest.

5 That would be easier than finding the documents and

1 its authority to the ALJ; with such that I won't even
2 be able to make a presentation to you on the fifteen
3 points on the Siting Certificate that the ALJ could
4 say, these aren't important.

5 I'll tell you why, and it has nothing to do with
6 the skill or integrity of the ALJ. I'm about to show
7 you why that's an enormous risk and also extremely
8 disturbed, Mr. D'Amato, extremely disturbed that the
9 letter that is simply referred to as "being in the
10 package" about letting the community speak with the
11 Siting Board about whatever way you want to run this,
12 whatever you think is in the public good, to at least
13 let us and CWM tell you how it might adversely or
14 positively impact our ability to even participate in
15 this massive nightmare.

16 Next slide, please. Here is the community.

17 Next click. The RMU-1 permit, as I said,
18 massive didn't get answers to the questions last year.
19 Factual inaccuracies, and I'm not nitpicking, but
20 major, major issues there where Department of
21 Environmental Conservation told us they didn't have
22 information relating to a plume of plutonium or
23 plutonium found in pipe scaling of a wastewater plant
24 that once serviced CWM properly when I know, in fact,
25 we were copied on the same E-mail. He's got it, yet

1 told you and then maybe see what it relates to when
2 you go and read these applications.

3 Next click. The Siting Certificate. I'm going
4 to ask that the Siting Board hold another hearing so
5 we can talk to you about all fifteen categories on the
6 Siting Certificate. I'm going to show you why in just
7 a minute.

8 Another click, please. Air permit. I haven't
9 even been notified as to whether or not it's even been
10 opposed yet, but they never even had an air permit.
11 They count the density in the dust. They don't sample
12 what's in it. When they were sampling many, many
13 moons ago, they stopped sampling when a lagoon dried
14 up and PCBs blew into the community. That's when they
15 stopped doing air sampling, decades ago.

16 Next clip, please. Storm water. Water Division
17 has found PCBs and VOCs in storm water discharges.
18 This alone is a complicated permit. This alone, we
19 were told years ago, we were going to get a hearing on
20 it and who was dispatched to lobby the Water Division
21 on behalf of the applicant? The same guy that
22 oversees the NFSS and CWM. The one same person.
23 Maybe he works for the CIA as well.

24 Next clip, please. River discharges. Big
25 disagreement with the Clean Water Act. CWM used the

1 new PCB detection method for mercury a few years ago
2 for water that went into the Niagara River. They
3 flunked. No wonder this (inaudible) permit is years
4 behind and they are dumping it all at once figuring we
5 won't have time, we won't have the hearing we were
6 promised three years ago to look at those important
7 and complicated issues.

8 Next clip, please. Wetlands. Oh, my gosh. I
9 can't even -- I'm speechless on the wetlands
10 mitigation that is proposed. Not only is the
11 Department of State and everybody else concerned about
12 preserving wetlands near the Great Lakes, but you want
13 to build a new wetland on the part of the property
14 where they actually burned plutonium that's never been
15 investigated? That the Army Corps hadn't gone in and
16 remediated because there was massive lagoons on there
17 and beneath them are the Linde site residues (sic)
18 from Tonawanda. The Army Corps can't go in there
19 because CWM is busy using it.

20 Next click, please. Next click, please. RMU-1.
21 Next click, please. The DEIS, I'm supposed to be done
22 and finished talking to you by September 5th on all of
23 these. RMU-2.

24 Click, please. Keep clicking. Here, this is
25 what the Department of Environmental Conservation and

1 CWM are doing to this community with these
2 applications. Piling on would be an understatement.
3 We have never, ever received this kind of treatment
4 before and I'm quite surprised if Region 9 is involved
5 at all or maybe they're being overruled on the
6 procedural aspects that didn't even make the Siting
7 Board agenda two weeks ago for their first meeting.

8 Next slide, please. I'm requesting public
9 extension through December 5th, provided we can get
10 some assurance we got the reports that we need and we
11 have a reasonable time to reconstruct that groundwater
12 data and then look at the seven other permits and you
13 might want to think about having the Water Division
14 conduct a hearing for the three water permits.

15 Next click, please. Okay. Your Honor,
16 depending on how tonight goes, I would like to show --
17 that slide show is automated so the Siting Board
18 wouldn't have to listen to me speak on the cumulative
19 impacts.

20 There's one more, the sixty seconds I would like
21 to show that would be something to address one aspect,
22 number five, please, of impacts and economic
23 development in our area, Your Honor, and I won't speak
24 because this one is automated as well. Sixty seconds,
25 is that okay?

1 JUDGE O'CONNELL: Yes, it is. The problem is
2 because you're not speaking, it's not being recorded.
3 I'm not sure what benefit you're going to have from
4 it.

5 MS. WITRYOL: We will hand in the slides. The
6 only benefit is the music, which may not cue very
7 well. We will see. These are our tourism assets
8 (indicating.) Thank you, Your Honor.

9 JUDGE O'CONNELL: Before we adjourn this
10 session, I just want to check and make sure; is there
11 anyone else with a comment to make? We're adjourned
12 until six-thirty when we'll reconvene for the second
13 public comment session.

14
15
16
17 * * * * *

C E R T I F I C A T I O N

STATE OF NEW YORK
COUNTY OF ERIE

I, LISA A. PETERSON, Notary Public in and for
the State of New York do hereby certify:

That the transcript appearing hereinbefore was
taken pursuant to notice at the time and place as
herein set forth; that said transcript was
stenographically recorded through machine shorthand by
me and thereafter computer transcribed into laser
printing.

I HEREBY CERTIFY, that the foregoing transcript
is a full, true and correct transcription of my
machine shorthand notes so taken.

IN WITNESS WHEREOF, I have hereunto subscribed
my name and affixed my stamp this 6th day of August
2014.

BY: _____

LISA A. PETERSON

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