

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

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NEW YORK STATE FACILITY SITING BOARD

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

by

CWM Chemical Services, LLC, .

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

Proceedings held before DANIEL P. O'CONNELL, Administrative Law Judge, at the Lewiston-Porter High School Auditorium, 4061 Creek Road, Youngstown, New York, taken on Wednesday, July 16, 2014, commencing at 6:30 p.m.

APPEARANCES :

COHEN & GRIGSBY

BY: DANIEL M. DARRAGH, Esq.  
625 Liberty Avenue, 5th Floor  
Pittsburgh, Pennsylvania 15222  
Appearing for the Siting Board.

FACULTY SITING BOARD MEMBERS

PAUL D'AMATO, Chair-Designee for Department of Environmental  
Conservation.

LYNN MARINELLI, Designee for Department of Economic  
Development.

MATTHEW FORCUCCI, Designee for NYS Department of Health.

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

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

AD HOC MEMBERS: JOHN F. BENOIT  
LEE SIMONSON  
A. SCOTT WEBER, Ph.D.

SUPPORT STAFF: LOUIS A. ALEXANDER, ASSISTANT COMMISSIONER For  
HEARINGS And MEDIATION SERVICES  
MICHAEL CARUSO: Facility SITING BOARD MEMBER

1 JUDGE O'CONNELL: We'll go on the record, please. Good  
2 evening ladies and gentlemen. This is a joint  
3 administrative hearing of the New York State Department  
4 of Environmental Conservation and the New York State  
5 Facility Siting Board. It is being held pursuant to  
6 Articles 27 and 70 of the Environmental Conservation Law  
7 of the State of New York and Parts 361 and 624 of Title 6  
8 of the Official Compilation of Codes, Rules and  
9 Regulations of the State of New York to consider  
10 applications filed by CWM Chemical Services, LLC, for the  
11 proposed Residual Management Unit Two landfill and  
12 related units in Niagara County. The proposed Residual  
13 Management Unit Two landfill and related units would be  
14 constructed on property currently owned by CWM Chemical  
15 Service, located at 1550 Balmer Road, Model City Niagara  
16 County New York.

17 My name is Daniel O'Connell from the DEC Office of  
18 Hearings and Mediation Services. I am the Administrative  
19 Law Judge assigned to conduct this joint public comment  
20 hearing. The Office of Hearings and Mediation Services  
21 is a distinct unit within the Department of Environmental  
22 Conservation. It is separate from Counsel's office,  
23 various Program Units and the Regional Offices. The sole  
24 purpose of the Office of Hearings and Mediation Services  
25 is to conduct public hearings such as this one today.

1 Consistent with the requirements outlined in  
2 Environmental Conservation Law Section 27-1105, Governor  
3 Cuomo constituted a Facility Siting Board to review and  
4 decide CWM's application for a certificate of  
5 Environmental Safety and Public Necessity. Members  
6 of the Siting Board are attending the public comment  
7 hearing today. They are: Paul D'Amato on behalf of the  
8 Department of Environmental Conservation; Matthew  
9 Forcucci -- I'm sorry, Forcucci on behalf of the  
10 Department of Health; Dierdre Scozzafava on behalf of the  
11 Secretary of State; Darrell Kaminski on behalf of the  
12 Department of Transportation, and the three ad hoc  
13 members are also here this evening. They are John  
14 Benoit, Lee Simonson, and Scott Weber. Mr. D Amato is  
15 serving as the Chair of the Siting Board and is DEC  
16 Commissioner Martens' designee.

17 During this evening's public hearing session,  
18 members of the public will have an opportunity to comment  
19 about CWM's proposal, its application for the Certificate  
20 and the applications pending before the Department of  
21 Environmental Conservation, as well as the draft  
22 Environmental Statement. Written comments may also be  
23 presented now and will be weighed equally with oral  
24 statements made during the legislative hearing sessions.  
25 One was already held this afternoon and in addition to

1           tonight. In addition, written comments may be filed  
2           until September 5th, 2014 with my office at the Office of  
3           Hearings and Mediation Services.

4           I'd like to note for the record that a combined  
5           Notice of Joint Public Statement Hearing and Notice of  
6           Extension of Public Comment Period was published in the  
7           Department's Environmental Notice Bulletin on June 11th,  
8           2014 and in the following newspapers: The Niagara  
9           Gazette and Buffalo News on June 11, and the  
10          Lewiston-Porter Sentinel on June 14th. On June 11, 2014,  
11          radio announcements regarding the hearing were also  
12          broadcast at the following radio station: WJLJ, WLVL,  
13          WBEN, and WGR.

14          Applicant has provided me with the affidavits of  
15          publication of the combined Notice in the local  
16          newspapers, affidavits of broadcast of the radio  
17          announcement, and affidavits of mailing to the landowners  
18          located within one-half mile of the facility.

19          As I indicated before going on the record, anyone  
20          wishing to speak tonight must fill out a speaker card.  
21          The cards are available, as I said, in the hallway  
22          outside the auditorium door.

23          I will call your names in the order which I receive the  
24          cards and I apologize if I mispronounce your names. If I  
25          do, please correct it for the record. After I've called

1 your name, as I explained before we went on the record,  
2 please come down and use the podium here in front and I'd  
3 ask you to speak slowly and carefully so that the  
4 stenographer can take down your entire statement. People  
5 tend to have -- there's a tendency for people to speed up  
6 when they're reading. Please just be conscious of that  
7 as you're reading your statement. And as I said before  
8 we went on the record, if you want to leave your  
9 statement in writing, you can use the box at the edge of  
10 the stage there.

11 Due to the number of cards and the speakers that are  
12 interested in making comments tonight, I will be limiting  
13 the speaker's remarks to four minutes. When you make  
14 your statement, please come up and use the podium as I  
15 said before. I'd also ask your cooperation this evening  
16 as people are talking, please extend the same courtesies  
17 to them as you would like extended to you.

18 If you do not wish to make an oral statement, as I  
19 noted before, you may submit written statements either by  
20 mail or e-mail. The mailing address is the DEC Office of  
21 Hearings and Mediation Services, 625 Broadway, 1st floor,  
22 Albany, New York 12233-1550. The e-mail address is  
23 cwmmru2@gw.dec.state.ny.us. At the entrance to the  
24 auditorium on the table is a sheet of paper with this  
25 mailing address, e-mailing address, and also additional

1 information about the availability of the application  
2 documents. A department staff member will provide a  
3 brief presentation with respect to the draft permits and  
4 that's Mr. David Denk

5 DAVID DENK: Good evening, Judge O'Connell, ladies and  
6 gentlemen, Siting Board Members, elected officials and  
7 representatives. My name is David Denk and I'm the  
8 Regional Permit Administrator for the New York State  
9 Department of Environmental Conservation Region 9.

10 CWM is proposing to construct and operate a new  
11 landfill known as Residual Management Unit 2 or RMU-2  
12 within this existing model facility for the continued  
13 disposal of hazardous and industrial and non-hazardous  
14 waste. The proposed landfill would occupy approximately  
15 forty-three acres, have a design capacity of  
16 approximately four million cubic yards and a design life  
17 of ten to twenty years. The proposed RMU-2 landfill  
18 would be designed with a double composite liner system  
19 with primary and secondary system for leachate  
20 collection. Upon reaching capacity, RMU-2 would be  
21 closed utilizing a composite final coverage to be  
22 maintained by CWM during the landfill's post-closure  
23 period.

24 CWM is also proposing to construct and operate a  
25 number of new and modified waste storage and treatment

1 units. The new units would replace existing units which  
2 would close during the course of RMU-2 construction.  
3 Another existing unit would be modified to manage  
4 leachate from RMU-2.

5 The DEC has tentatively determined that the Part 373  
6 Waste Management Facility Permit Modification Application  
7 is technically an administratively complete and had made  
8 a tentative determination to issue the Part 373 Permit  
9 Modification for the proposed RMU-2 landfill project. A  
10 draft Part 373 Permit Modification has been prepared for  
11 public review.

12 The DEC has also tentatively determined that the  
13 Part 663 Freshwater Wetlands Permit and Water Quality  
14 Certification Applications are technically and  
15 administratively complete and has made a tentative  
16 determination to issue that approval for CWM's proposed  
17 disturbance of land adjacent to Freshwater Wetlands RV8.  
18 A draft of that approval has been prepared for public  
19 review. The State Environmental Quality Review Act  
20 requires the proposed project to undergo environmental  
21 review in conjunction with permit applications. CWM has  
22 prepared a Draft Environmental Impact Statement or a DEIS  
23 for this project. This proposed RMU-2 landfill project  
24 is required to undergo a regulatory and public involving  
25 process to allow for the evaluation of the applications,

1 the DEIS and draft permits, in relation to applicable New  
2 York State Law and Regulations. Copies of the permit  
3 applications, draft permits and DEIS are available for  
4 review in the following locations: The Youngstown Free  
5 Library, 240 Lockport Street in Youngstown; Porter Town  
6 Hall, 3265 Creek Road in the Town of Porter; DEC Region's  
7 9 Office at 270 Michigan Avenue; DEC Central Office is  
8 625 Broadway in Albany.

9 In addition, two new document repositories have been  
10 created to give the public greater access to documents.  
11 The Ransomville Free Library at 3733 Ransomville Road in  
12 Ransomville, and the Lewiston Free Library at 305 8th  
13 Street in Lewiston. The documents will be placed at  
14 these two locations tomorrow. Electronic copies of  
15 permit applications and the DEIS are available through  
16 CWM's website. Electronic copies of the draft permits  
17 and CWM's compliance record are available through DEC's  
18 website.

19 The public comment period began on May 7th, 2014.  
20 In response to requests from the public, it has been  
21 extended until September 5th, 2014. All written comments  
22 must be submitted no later than September 5th, 2014. All  
23 written comments and those recorded at this hearing will  
24 be reviewed and considered prior to DEC's final decision  
25 on this permit matter. There are copies of the fact

1 sheet available here tonight. The fact sheet explains  
2 the project in greater detail; explains where you can  
3 find the paper and electronic versions of the documents  
4 and how to submit written comments. There is another  
5 handout available with a list of document repositories  
6 and the websites that I mentioned.

7 Thank you to the Lewiston Porter School Officials  
8 for the use of this facility and thank you for your  
9 attention.

10 JUDGE O'CONNELL: Now, what I'd like to do is call a set  
11 speakers down here on the right side of the auditorium in  
12 the front row. The seats are empty. I'd like to call  
13 four or five cards at once and I'd ask you if you could  
14 come down and occupy those seats as the on-deck site and  
15 then as speakers finish, you can come right up. Thank  
16 you very much for your attention here. Dennis Brochey,  
17 Clyde Burmaster, Bill Conrad, and Francine DelMonte.

18 DENNIS BROCHEY: Hello everybody. I'm Dennis Brochey, Town of  
19 Lewiston Supervisor. I live at 205 North 5th Street in  
20 the Village of Lewiston. I've lived in Youngstown,  
21 Porter, and now in Lewiston for the past fifty years. As  
22 supervisor I wish to express our stance and I feel the  
23 majority of our townspeople who live in our beautiful  
24 town and village of Lewiston, of the opposition to the  
25 expansion CWM. When I have guests over my house, I show

1           them around. I show them around, but I don't show them  
2           what's in my garbage. When I take them out, I show them  
3           the Villages of Lewiston and Youngstown. I show them the  
4           Niagara Rapids and the Falls. I do not show them what  
5           embarrasses me such as the Love Canal, the LOOW Site or  
6           CWM. Thanks to Love Canal, the LOOW Site and CWM,  
7           Niagara County has a staple of being a toxic wasteland  
8           and apparently an open door policy to anyone wishing to  
9           unload whatever toxic material that they don't want  
10          in their own neighborhood. Some people have mentioned  
11          earlier today that it's a contaminated area anyways, so  
12          why bother stopping it? Let it enlarge. Gentlemen, if  
13          you have a cut on your finger, do you make it larger to  
14          fix it? No, you mend it, so let's work on mending what's  
15          there and not making it bigger.

16                 Quasar is another issue that has hit our area that  
17                 people are concerned about. They're concerned about the  
18                 waste byproduct and that they want to use as fertilizer  
19                 on nearby farms. This fertilizer that they wish to call  
20                 equate is produced from human waste, chemical, and  
21                 industrial wastes. I feel the DEC has made a big mistake  
22                 in giving them permits to do this. Niagara County was  
23                 their first choice to have their digester plant built in  
24                 the Town of Wheatfield. Why? Is it because we're the  
25                 toxic wasteland that so many have heard of. If you allow

1 CWM to enlarge, you will be making another mistake here  
2 in Niagara County and two wrongs do not make a right.  
3 It's funny that yesterday at an anti-Quasar meeting that  
4 a representative from Quasar called this group against  
5 them as having Love Canal-itus. If that is a true  
6 sickness, then you're right in assuming so. We have this  
7 in Lewiston. We're sick and tired of New York State, the  
8 DEC and CWM. Please think of us, our health, and our  
9 safety. Give us back our town and our county. Thank  
10 you.

11 JUDGE O'CONNELL: Mr. Burmaster, please come right up.

12 MR. BURMASTER: Thank you very much. Thank you for having  
13 this meeting tonight. Certainly we all have been waiting  
14 patiently and sometimes impatiently for this to happen  
15 and come about. It's imminent now what the disposition  
16 will be and I'm sure that the public here, as well as the  
17 officials, have a lot that they want to say to you too as  
18 do I.

19 My name is Clyde Burmaster, resident of the Town of  
20 Porter where the proposed landfill would be located.  
21 I've lived here all my life, been a Niagara County  
22 Legislator for the past twenty-two years representing the  
23 district of the proposed landfill and currently the  
24 Vice-Chairman and co-sponsor and sponsor of legislation  
25 in the legislature, which has always been unanimously

1           opposed to this hazardous waste landfill. I'm also a  
2           five time prostate and bladder cancer survivor. I come  
3           here tonight to join with other leaders of our county who  
4           have been in opposition, County Attorney Claude Joerg,  
5           Public Health Director, Daniel Stapleton and Attorney  
6           representing the County, Mr. Gary Abraham. We are  
7           Niagara County unified and I know our Legislature  
8           Chairman, Bill Ross, spoke earlier today as well.

9           Ladies and gentlemen of the Siting Board, today is  
10          without question perhaps one of the most important  
11          gatherings in the history of Niagara County that will  
12          determine what kind of legacy this Board will leave to  
13          protecting the health safety of our citizens for decades  
14          to come.

15          Truly, this is not a question of whether a business  
16          should be allowed to expand. It is about the health of  
17          over two million people and whether or not they live or  
18          die due to a tragic event not in their control.

19          Several years ago, the issue of landfilling  
20          hazardous waste came to the forefront in the form of a  
21          lawsuit challenging why the Town of Porter should be the  
22          dumping ground for all New York State as the only  
23          government authorized landfill in the state.

24          The case was heard by New York State Supreme Court  
25          Judge Joseph Mintz who ruled for the people and ordered

1 that -- from that day forward, there is to be no new  
2 dumping until such time as a siting plan was approved  
3 going forward that would provide equitable distribution  
4 of any hazardous waste dumping in New York State. That  
5 order was never followed and in fact CWM and the DEC  
6 themselves, have operated in contempt of court by  
7 ignoring the law.

8 The ruling by Judge Mintz is clear. The Balmer Road  
9 site should not be able to take in one more shovel full  
10 until there is another site approved in New York State.  
11 Not only that, but in addition to that new site which is  
12 -- have to be other than Balmer Road, the new site should  
13 have had to have taken in the same amount of material on  
14 Balmer Road before CWM can accept anymore at all. That's  
15 the meaning of equitable distribution. Neither the DEC  
16 or the CWM has obeyed the law to this day.

17 The question that has been asked, why do we need  
18 another deadly landfill here if the majority of material  
19 buried here doesn't even come from NYS and comes from as  
20 far away as Puerto Rico and Canada. That clock runs  
21 fast. I thought I talked fast, but I'm going to race it.  
22 I'm going to lose.

23 Let me just go down through -- I have submitted a  
24 report, but what I did want to say is that the biggest  
25 reason, and this may not make sense to some because of

1 the short time, but CWM sits on a land -- or an  
2 earthquake fault and it's possible that that could be  
3 open by an earthquake with those particles and also I  
4 believe the L.O.O.W. site (inaudible) and say that with  
5 sixty mile an hour winds here in the winter time  
6 sometimes, if it would be possible if both of those  
7 opened up through an earthquake, seven million three  
8 hundred thousand people could be subjected to serious  
9 illness, even death, but it doesn't stop there in the one  
10 hour. That's only the first hour. In three hours all of  
11 New York State would be exposed. I've provided maps to  
12 the board for them to look at and get a good idea of what  
13 really it is. That's three quarters of the way to  
14 Rochester, three quarters of the way to Pennsylvania, and  
15 half the population of Metropolitan Toronto.

16 I went to Canada. As a matter of fact, I spoke with  
17 Regional Chair in Ontario and they were extremely  
18 concerned about this and I'm certain they'e going to be  
19 submitting a written response as well. Just quickly down  
20 through here, we know what Dioxin did as a result of Love  
21 Canal. Can you imagine what it would be if the  
22 radioactive material will fall in Lake Ontario out  
23 through the lake into eventually the Atlantic Ocean, but  
24 do the fishing -- you probably would never be able to eat  
25 fish from there and it would destroy the commercial and

1 sports fishing that we have.

2 We've got a terrible legacy already fighting the  
3 stigma of the infamous Love Canal which destroyed an  
4 entire neighborhood and put us on the map as one of the  
5 worst environmental disasters in the United States and if  
6 that wasn't enough, we also have L.O.O.W as I said. But  
7 I think perhaps the biggest most immediate threat to us  
8 all, certainly a major importance in your deliberations  
9 is the ever present threat of a terrorist attack. The  
10 terrorists want to kill as many Americans as they can and  
11 they have to do it with limited resources.

12 As I said earlier, an opening of any of these  
13 landfills can cause a catastrophe never seen in the US  
14 before. Possibly seven million people. I have been told  
15 by experts it would only take a bomb made in someone's  
16 garage to compromise that ten foot dirt cover over at  
17 L.O.O.W. Is that chief enough to consider all the  
18 tragedy that happened at the World Trade Center and the  
19 Pentagon for only three airplane tickets. How about a  
20 truckload of fertilizer. We have never experienced a  
21 catastrophe such as this magnitude would cause. Again,  
22 is this a place to put a toxic hazardous waste landfill?

23 The Niagara County Legislature has been acting on  
24 behalf of its two hundred twenty thousand citizens over  
25 many years in anticipation of the eminent decision of the

1 DEC and passed many resolutions, unanimously, in  
2 opposition. Copies are in the materials that I'm leaving  
3 with you tonight. The Niagara County Legislature stands  
4 proud alongside our state elected officials in restating  
5 our unified opposition to any request for a hazardous  
6 landfill anywhere in Niagara County at any time. Enough  
7 is enough. We concur with Judge Mintz, environmental  
8 justice and obey the law.

9 Ladies and gentlemen of the Siting Board, you have  
10 an awesome responsibility in your deliberations of this  
11 issue which will determine the legacy passed on to  
12 generations to come. You have the power to insure a  
13 happy, healthy future to our children by voting no to  
14 anymore hazardous landfills in Niagara County. You have  
15 the ability by your actions to prevent a catastrophe as  
16 outlined earlier. As you deliberate, may God grant  
17 everyone the strength of conviction without influence and  
18 on behalf of every citizen in Niagara, thank you for your  
19 service.

20 WILLIAM CONRAD: Good evening everyone. My name is William  
21 Conrad. I'm the newest member of the town -- Lewiston  
22 Town Board and I've lived here all my life except for my  
23 time in the military and while I was going to college. I  
24 raised my family here. My parents are here. Everyone --  
25 I have brothers and sisters and everyone else. So does

1 anybody know what CWM used to be occupied by, that piece  
2 of property? Ma'am? It used to be a peach orchard  
3 filled with peaches. You know, think of that, you know,  
4 as you go through this. What history shows is that, you  
5 know, what is going on here tonight is going to be a  
6 legacy for decades to come, that no matter what anybody  
7 says, technology fails. It's happened over and over  
8 again in countless examples. A failure in this  
9 containment system somewhere, whether it's in the next  
10 ten, twenty, fifteen or one hundred years is going to  
11 happen. Management of waste is not an exact science.  
12 It's like managing the waves in the ocean.

13 I've worked in the construction industry for over  
14 twenty-five years and things sometimes happen, unforeseen  
15 things, not intentionally overlooked or (inaudible)  
16 planned, but accidental. For generations industry has  
17 provided a livelihood for many of our friends and family.  
18 I know many of my father's friends are no longer with us.  
19 He suffers from asbestosis and the years -- and over the  
20 years I've seen him slow down and it destroy the lives of  
21 his co-workers. We have all suffered from the  
22 carelessness of industry in Western, New York. The  
23 Manhattan project was -- Mr. Burmaster mentioned the Lake  
24 Ontario Ordinance Works, Bloody Run, and Love Canal. And  
25 we'll learn something today, that in 1893 William T. Love

1 planned an ideal community plan -- or powered by water  
2 brought by canal from Niagara Falls, but before his plan  
3 collapsed, Mr. Love built a section of his canal in the  
4 City of Niagara Falls, which later became surrounded by  
5 the chemical plants that created the poisonous cesspool  
6 known as Love Canal, but on the other end of the  
7 uncompleted canal, Mr. Love built a score of houses and  
8 stores at a crossroads he called Model City. I thought  
9 that was interesting.

10 We have a long and sad history of chemical waste  
11 being dumped all around us. Oklahoma City was taken down  
12 by gas and laundry detergent. We do live on a fault  
13 line. Clay is not watertight unless you keep it moist,  
14 so, you know, I remember seeing cracks in the ground when  
15 I was a kid, found cracks in the clay that was in front  
16 of my home, and it just goes to show that if it's a  
17 watertight system, that clay is going to fail sooner or  
18 later. So I would just ask that in closing that the  
19 Siting Board do the right thing. Don't just look at the  
20 business model. Do what's ethically and morally proper  
21 for this area. You know, we've carried a torch long  
22 enough. We've done our part and I've got better plans  
23 for these forty acres. Let's plant those peaches again.  
24 Thank you.

25 FRANCINE DELMONTE: Good evening Judge O'Connell, Siting Board

1 members. My name is Francine DelMonte. For ten years I  
2 represented the City of Niagara Falls and the towns of  
3 Lewiston, Porter, and eight others as a member of the  
4 State Assembly. Today I stand before you as a resident  
5 of Lewiston, a member of Residents for Responsible  
6 Government and a citizen who knows and understands that  
7 this hearing is our last best public opportunity to  
8 stress to the State DEC, Governor Cuomo and the Siting  
9 Board as CWM's permit application for expansion must be  
10 denied so that this wretched, wretched chapter of our  
11 area's history and housing tons of toxic waste is ended.

12 The people attending today's hearing want to  
13 believe, they need to believe that the ultimate decision  
14 on whether CWM continues operating or not will be based  
15 on the law, science, and facts. If that is the case, the  
16 citizenry that opposes the expansion of CWM should win  
17 hands down. We have been down this road -- we have been  
18 down this road before and we've been disappointed, but  
19 this hearing and the findings of a 2010 State and  
20 Hazardous Waste Facility Siting Plan clearly states, and  
21 I quote, the principal finding of the plan is that based  
22 on present national capacity, there is no need for  
23 additional hazardous waste management facilities or  
24 expanded hazardous waste management capacity in New York  
25 State. For me that's all the evidence the State, the

1 Governor, and the Siting Board needs regarding this  
2 permit application.

3 Many presenters this afternoon and after me will  
4 discuss far more intricate, scientific, environmental and  
5 economic factors that are all vitally important to this  
6 discussion and ultimate decision, but for me as a  
7 legislator in 2010, one of the best sentences that I ever  
8 read in any report is the one I just cited. I have  
9 spoken to too many people who are weary from fighting and  
10 expressing their opposition against CWM expansion.

11 Fatigue naturally sets in when people think they can't  
12 stop something from happening or that government doesn't  
13 listen. I'm here to say that regardless of how complex  
14 this issue is, how long it has been festering, how  
15 difficult it has been to keep people engaged, we the  
16 people are on the right side. We will not be the  
17 toxic waste landfill capital of the nation. We do not  
18 want thousands of trucks crossing our state and school  
19 district to deliver toxic wastes. We want low cost power  
20 to be used for businesses that create jobs and more  
21 importantly, the facts, the science, and the law backs us  
22 up. Thank you.

23 JUDGE O'CONNELL: The next group of speakers, Jodee Riordan,  
24 Sue Seneca -- I'm sorry, Senerah, Nadine Williams, Karen  
25 Dillon.

1 JODEE RIORDAN: Good evening. I am Jodee Riordan and I am  
2 President of the Lewiston Board of Education. The  
3 Lewiston-Porter Central School District is opposed to the  
4 proposed expansion of CWM Chemical Services located  
5 within our school district. As you are aware,  
6 Lewiston-Porter is the major stake holder in this  
7 application process. We recently sought party status in  
8 opposition to the application. Previously in 2010, the  
9 Board of Education passed a formal resolution of  
10 opposition to the proposed expansion. These two actions  
11 clearly demonstrate our opposition to the expansion and  
12 our belief that such an expansion would negatively impact  
13 the health and safety of our students and the  
14 Lewiston-Porter community as a whole. As the DEC has  
15 stated, and I quote, there is no need for additional  
16 hazardous waste management facilities for expanded  
17 hazardous waste management capacity in New York.

18 In the DEC 2010 Hazardous Waste Facility Siting  
19 Plan, you are about to consider criteria related to the  
20 health and safety of adjacent populations.  
21 Lewiston-Porter is in agreement with all municipalities  
22 holding (inaudible) status that the net impact to health  
23 and safety of our community would be negative. There are  
24 a myriad of health and safety concerns with the proposed  
25 expansion including, but not limited to, truck emissions

1 and traffic. The DEC say the vehicle mileage, EMTS at  
2 ten million five hundred and thirty two thousand seven  
3 hundred miles in 2008. While the district has imposed  
4 blank out periods for truck traffic directly in front of  
5 our schools, it has not eliminated traffic during arrival  
6 and departure as intended due to non-compliance and lack  
7 of enforcement.

8 The proposal is incongruous with the quality of life  
9 in our community as has undeniably had an adverse effect  
10 on the perceived quality of our area to the greater  
11 Western New York area. Gentlemen, perception is reality.  
12 Families of school aged children are not choosing to live  
13 within and enroll their children in our school district.  
14 CWM began operations in 1978. The graduating class of  
15 1977 was four hundred twenty-eight. Forty years later  
16 our incoming kindergarten, the class of 2027 is a hundred  
17 and sixteen.

18 As you weigh the financial impact of our district,  
19 please consider the financial impact lost enrollment has  
20 had which is staggering. Take into consideration the  
21 impact to our housing market as property tax makes up the  
22 majority of our revenue. Financially -- tax receipts in  
23 2010 were over six hundred and forty six hundred thousand  
24 dollars. Last year they were approximately fifty  
25 thousand. Our budget for next year included no revenue

1 for gross tax receipts. Gross tax receipt payments are  
2 made to offset the negative impact of our current  
3 operations. They were not a gift to our school district.

4 As you weigh the financial impact of employment,  
5 please consider that while employment at CWM will be  
6 affected due mostly to decreased proximity due to this,  
7 due mostly the the decreased enrollment, the  
8 Lewiston-Porter school district has cut seventy-nine  
9 positions in the past six years, there has been no  
10 community outrage at the loss of jobs within our school  
11 community. In closing, the Lewiston-Porter school  
12 district is opposed to the proposed expansion of CWM  
13 Chemical Services within our school district. Please  
14 reject their proposal. Thank you.

15 SUE SENECAH: My name is Sue Senecah with an H at the end and  
16 it has been my privilege to assist Senator Joe Maziarz  
17 for his -- most of his nineteen years in the senate with  
18 environmental policies and tonight he's asked me to read  
19 this statement for him. Good evening, everyone. Here we  
20 are again and once again thank you to everyone for  
21 investing more time and effort to come together to defend  
22 our communities and our beautiful natural resources from  
23 the scourge of more hazardous waste coming into Niagara  
24 County. To the Siting Board members, tonight you will  
25 hear from many with technical, legal, and ecological

1 expertise who will lay out forceful and convincing  
2 arguments against CWM expanding. I will focus on what I  
3 know best, the compelling legislative mandates against  
4 expansion. Together, I have absolutely no doubt that we  
5 hold the ecological, scientific, ethical, socio-economic,  
6 and even the moral high ground by opposing the expansion  
7 of CWM's hazardous waste landfill application. For more  
8 than a decade, I have stood arm-in-arm with citizens,  
9 elected officials and organizations to stop the flow of  
10 hazardous waste into Niagara County.

11 I have never shied away from this conviction and I  
12 never will. As your senator I have tried as hard as I  
13 can in every way available to me to raise awareness and  
14 to bring permanent relief to Niagara County from the  
15 additional burden of more hazardous waste. Two questions  
16 drive the Siting Boards decision on CWM's application for  
17 expansion and after immersing ourselves in every facet of  
18 this case for at least fourteen years, and I mean all of  
19 us, we can easily answer those questions. Question  
20 number one. Does New York State need this expansion and  
21 as we know? Say it with me. No.

22 AUDIENCE MEMBERS: No.

23 SUE SENECAH: Louder.

24 AUDIENCE MEMBERS: No.

25 SUE SENECAH: Question number two. Is expansion in the public

1 interest?

2 AUDIENCE MEMBERS: No.

3 SUE SENECAH: Let the Siting Board hear you.

4 AUDIENCE MEMBERS: No

5 SUE SENECAH: So tonight, my last time in the roll of senator,  
6 I want to especially emphasize the legislative imperative  
7 that can only lead the Siting Board to deny CWM's  
8 application for expansion. It's critically important  
9 that the Siting Board understand how we got here because  
10 over the last twenty-seven years CWM at the New York  
11 State Department of Environmental Conservation have  
12 egregiously defied state laws, twisted and distorted the  
13 laws explicit legislative intent, ignored legal mandates,  
14 promoted irrational justifications for expanding landfill  
15 capacity when none is needed or wanted, not in our  
16 lifetime, not ever, scoffed at many auditoriums like this  
17 filled with opposing citizens and elected officials and  
18 dismissed thousands of written comments and robust  
19 evidence against expansion.

20 At the heart of WCM's application for expansion is  
21 the 1987 Hazardous Waste Management Act and DEC's  
22 rhetorical acrobatics over the last twenty-seven years to  
23 make it perform to support that application.  
24 Legislatures often offer bills that are intended to  
25 endure over a long period of time and I know how

1 challenging it can be to choose the words and frame bill  
2 language in such a way that even after decades have  
3 passed, the intent of a bill will still be clear and  
4 accurate. The 1987 act is a prime example of such a  
5 bill. It was written twenty-seven years ago by my  
6 predecessors Senator John Daily, and former assemblyman  
7 Joseph Pellitere passed by the legislature and signed  
8 into law by Governor Mario Cuomo.

9 The act was crafted as carefully as possible to  
10 remain clear in its intent across unpredictable span of  
11 time. Therefore it's critical the Siting Board go back  
12 to the 1987 Act and trace its journey from the swamps  
13 with its original intent to this public hearing tonight,  
14 and when they review the Act, original documents,  
15 testimony, notes and the bill language, the Siting Board  
16 will have no choice but to deny this application.

17 So what was the impetus for the 1987 hazardous waste  
18 management act and what did the legislature and Governor  
19 Mario Cuomo intend by making it law. An act -- and early  
20 an accurate history of the hazardous waste management  
21 socket(sic) in New York State does thankfully exist. It  
22 is meticulously reviewed in a March 1989 report called  
23 Hazardous Waste Facility Siting in New York State, the  
24 evolution of a promising public policy and the irony is  
25 not lost. It was produced by the New York State Joint

1 Legislative Commission on toxic substances and hazardous  
2 waste that was chaired by the sponsor of the act, the  
3 late Senator John Bailey. According to this history, the  
4 1987 act was in part triggered by the Love Canal disaster  
5 just years before and a handful of miles away. The Love  
6 Canal tragedy prompted at least two significant  
7 consequences.

8 One, it established the Federal Super Fund Program  
9 to clean up severely contaminated sites, and two, it  
10 triggered a recognition that Niagara County bore a  
11 disproportionate burden of many environmental impacts as  
12 a result of government policy and industrial activity,  
13 the poster child of the environmental justice movement.  
14 This recognition led to a desire to relieve Niagara  
15 County of this disproportionate burden.

16 While Governor Cuomo was in Western New York in  
17 1986, local residents questioned him about the unchecked  
18 expansion about the two hazardous waste landfills in the  
19 region. Governor Cuomo offered the services of his  
20 special counsel to assist the citizens in fighting a  
21 proposed expansion. Because of this, the legislature  
22 began to see a renewed interest in amending existing  
23 statutes to address the expansion issue and I want this  
24 heard loud and clear. The main impetus for the 1987  
25 Hazardous Waste Management Act was the landfill in Porter

1 and the demand for geographic and equitable distribution  
2 of any future hazardous waste land disposible facilities  
3 whether built by the state or by private interest. The  
4 1987 law also mandated a priority ranking of how the  
5 state must manage future hazardous waste. Land disposal  
6 is at the bottom after reducing, reusing, and treating  
7 the waste. In fact, the act directed the DEC to phase  
8 out landfilling. And that's the key phrase that I want  
9 to focus on for the rest of my time. Here is the key  
10 phrase, phase out the landfilling of untreated hazardous  
11 waste, so first I want to focus on landfilling.

12 The intention of the 1987 Act was to close CWM and  
13 CWM Porter and Niagara County of the continuing burden of  
14 hazardous waste and the threat imposed to public health  
15 and the environment and the documents from that era leave  
16 no doubt, but fast forward to 2014 and CWM and DEC would  
17 have you believe that what CWM wants to build is not  
18 really a landfill at all. Why? Because they will have  
19 to do more to protect air, water, and land than they  
20 would for a near landfill. That's in your environmental  
21 impact statement.

22 CWM wants to build a state of the art -- what they  
23 call an expensive facility, one, it claims no one will  
24 want to build on green space. Better to put in another  
25 million tons of hazardous waste in Niagara County. Look,

1 a landfill is a big whole gap in the land where you bury  
2 stuff and that is what CWM proposes, a state of the art  
3 land fill. In 1987 landfills were also built and  
4 operating with state of the art engineering and you will  
5 hear from others how that worked out. Farmers once  
6 sprayed state of the art arsenic and pesticides and  
7 orchards in Niagara County. That didn't work out so well  
8 over time either.

9 State of the art is meaningless when you're talking  
10 about the highest cancer rate in the state. Canisters  
11 that eventually leak are a real threat to ninety percent  
12 of the fresh surface water in the United States. No  
13 doubt exists that the 1987 act was aimed at the landfill  
14 importer with the goal of phasing out landfills  
15 altogether as a way to manage hazardous waste, period,  
16 and that takes us to the second part of phase out  
17 landfilling. Just two more minutes. It's important. I  
18 just have a little bit left.

19 JUDGE O'CONNELL: Thank you.

20 SUE SENECAH: So what does treated mean and this is really  
21 important because it's the crux of CWM's application.  
22 According to the Joint Commission's report, waste that  
23 had been detoxified to the extent that they no longer  
24 pose a significant threat is what treated means, but if  
25 you faster forward to 2014, the CWM and DEC would have

1           you believe that putting the waste into state of the art  
2           containers and then bury -- and then bury them in the  
3           landfill is not really landfill over waste, it's a form  
4           of treatment, therefore there really aren't any landfills  
5           left in New York State, only a huge treatment facility  
6           that looks like a landfill. And this makes a mockery of  
7           the law and the clear legislative -- let me go right to  
8           the end.

9                         In conclusion, for over a generation,  
10           twenty-seven years, nearly all citizens, elected  
11           officials and communities of Niagara County have pleaded  
12           and fought to be heard on this issue. They have  
13           rightfully pressed for relief and the act -- the 1987 Act  
14           mandates it and yet the DEC through both republican and  
15           democratic administrations have steamrolled ahead to  
16           support CWM. This is a defining moment in Niagara County  
17           history and state history and each of the siting board  
18           member's lives. Each of the siting board members is in a  
19           rare and unique position. Your decision will reverberate  
20           for thousands of years and have profound consequences for  
21           unborn generations for this very special and beautiful  
22           and fragile Great Lakes ecosystem.

23                         I don't recall which of the many DEC commissioners  
24           -- I don't recall which of the many DEC commissioners  
25           over the past fourteen years and six administrations was

1 candidly honest with me, that the words still haunt me  
2 with stark clarity and profound disappointment. One DEC  
3 commissioner said to me, Senator, we can't close that  
4 facility. The state just can't close that facility. So  
5 what will be the Siting Board member's personal legacy  
6 given the overwhelming evidence on the contrary. Will  
7 you support short term profit from one mega corporation  
8 to alleviate the state's fear of legal retaliation or  
9 will you support long term sustainability and ecosystem  
10 held for the people of Niagara County? Have the courage  
11 to make the right decision for the greater good. Thank  
12 you.

13 AUDIENCE MEMBER: May I please suggest that the clock be  
14 turned off. We were invited to come here because the DEC  
15 and the Siting Board wanted to hear what the people had  
16 to say. They also asked us to speak slowly and  
17 distinctly so that the stenographer can get it all down.  
18 Now, you've got to make a choice. You either turn the  
19 clock on and we have to garble through it like a tobacco  
20 auctioneer or turn the clock off and let us speak at a  
21 rate of speed that the stenographer can record. Thank  
22 you.

23 JUDGE O'CONNELL: Clock is all set now. Can we have the next  
24 speaker, please. Ms. Williams.

25 NADINE WILLIAMS: I guess they're going to keep it on and make

1 me more nervous than I already am. I've appeared several  
2 times and I've spoken before. I listened to everything  
3 that people had to say. I listen to the facts. I've  
4 also noticed though today that people that said they were  
5 in favor actually misrepresented a lot of facts. It can  
6 be confusing when someone states what they do as a job  
7 and then try to convince you otherwise. Looking into it  
8 it can be very confusing, but what I'll tell is that I  
9 live on Pletcher Road. It's less than a mile from the  
10 site.

11 I had no idea that when I moved in fifteen years ago  
12 on a blind date with my husband that it was going to be  
13 one of the happiest days of my life and yet a nightmare  
14 for me. Within less than six months, I wound up with so  
15 many illnesses that nobody could figure out. At a given  
16 point in the past ten years, I've been diagnosed with  
17 seven different autoimmune illnesses. I have three  
18 children after quite a few miscarriages. Most of them  
19 were late miscarriages, all of which fall on the autism  
20 spectrum.

21 There is not doubt in my mind that living on  
22 Pletcher Road and this close to this environmental  
23 disaster has caused these problems. It goes into the  
24 higher rate of cancers. No one has really fully  
25 mentioned lupus, thyroid issues that plague a lot of

1 women in this area. There's a myriad of autoimmune  
2 illnesses and I know that from different research you can  
3 directly link that to dioxin, PCPs, the strontium, the  
4 plutonium. There is no one that can tell that these  
5 containers are going to stay safe. We've repeated it  
6 over and over again today that it's been quoted that it's  
7 not going to stay and that they will eventually leave.

8 I know my husband had written several reports which  
9 continually, every time we ask about them, mysteriously  
10 disappeared. He couldn't be here tonight. He's a  
11 geologist and a hydrogeologist. He wrote the reports  
12 talking about the clay soil that contains most of the  
13 toxic waste over at CWM and he has mentioned to me in  
14 that in dry seasons when we had steel pipes going to our  
15 sewers, it would break, that the same thing would most  
16 likely happen to those containers and that you could not  
17 contain them and they would directly float into the Great  
18 Lakes, Lake Ontario into the Niagara River. I think,  
19 adding more to it though, I don't think that the air  
20 quality that people like to sit and talk about is  
21 monitored at all.

22 Several times earlier this afternoon people talked  
23 about the lovely stench that comes out in the evening. I  
24 was once told when I called to try to question about it,  
25 it was the cabbage. They don't grow cabbage any further

1 down at the end of Pletcher Road, but it still stinks  
2 like that when I try to sit out on my deck. So I wonder  
3 what it is that I'm smelling, but I guess I'll ask myself  
4 in-between the doctor appointments and wondering what's  
5 going to happen to my children. But I'm not just  
6 standing here for myself or for my children, but all the  
7 children that go to this school. Maybe they're not sick,  
8 maybe you don't know some people who are sick.

9 Genetically, some people I guess are stronger than other  
10 people. I think placing some people here is like a  
11 ticking time bomb, so maybe you're not sick now, but  
12 maybe ten years from now, maybe further down the road,  
13 but I definitely think that if you live here for even a  
14 year, two years, five years, ten years, eventually  
15 anything that happens could be cancers or be different  
16 illnesses. It's going to directly be linked, so to bring  
17 more here is unfathomable.

18 There's enough people that live here. We deserve to  
19 live in a pristine clean environment, a happy  
20 environment. The thought of peach orchards and peach  
21 festival, they really don't care if CWM helps to sponsor  
22 it or not. It was in existence long before they helped  
23 sponsor it, right? I'd like to know about the -- who  
24 spoke earlier talked about the vegetables and things that  
25 they grow that I could actually pick one off from those

1 peach trees and eat it without having to worry about  
2 what's growing on them or whatever they did to it. So  
3 thank you for letting me speak. I hope it made some  
4 influence, because I don't think you listen to us. I  
5 don't think you listen to us at all. It's loud, it's  
6 clear, it's no, like everyone keeps saying. No. No.  
7 No.

8 KAREN DILLON: My name is Karen Dillon. I live on Ridge Road.  
9 That's where I grew up. I've lived in this community all  
10 my life. The last speaker brought up health issues and  
11 she's talking about we the people with health issues. I  
12 think we also have to think about the animals and  
13 wildlife. If it's affecting us, the people, it's got to  
14 be affecting the deer, the rabbits, and the wildlife out  
15 there.

16 If you look at the plan that CWM has proposed in  
17 their news, you'll also notice that there's a pipeline  
18 going right to the Niagara River carrying chemical waste  
19 to the Niagara River. If you've read it in the  
20 newspapers already, they've already closed some of the  
21 beaches that we the people should be able to take our  
22 children to and enjoy, but we can't, and now they're  
23 proposing to put another pipeline with more waste into  
24 the Niagara River and Lake Ontario. Again, we the people  
25 should have a right to enjoy the river, the lake. We

1 should be able to do sports. We should be able to take  
2 out families and enjoy swimming and skiing and scuba  
3 diving, whatever you do and, you know, the chemical  
4 wastes that are going into those areas are taken from us  
5 and I say it's wrong. I say that me and my family say  
6 no.

7 The other thing is I think New York State has enough  
8 issues as it is already. You know, they're bringing in  
9 these chemical wastes from other countries. Don't we  
10 have enough of our own in this country? You know, I  
11 don't see where he have to support these other countries.  
12 And the other thing is the trucking. You know, you have  
13 the school and all the children are out waiting for the  
14 buses and that and you have the trucks and if they break  
15 down or if they tip over and there's spills, again, who's  
16 going to pay for it? Who's going to suffer from it?  
17 It's going to be in our soils. They say they get it out  
18 of soil or they get as much as they can out of the soil,  
19 but do they really get it all? No. No. I say no. And  
20 that's all I really have to say is the trucking -- I  
21 think those were the major -- I didn't write anything  
22 down. I just came to say the piece and say that I and my  
23 family would say, no, we don't want anything.

24 JUDGE O'CONNELL: The next set, Gary Abraham, Cherie Burau,  
25 Eva Nicklas and Tim Henderson.

1 GARY ABRAHAM: Thank you. Good afternoon Honorable Judge  
2 O'Connell and distinguished members of the Siting Board.  
3 I represent Niagara County, the Town of Lewiston and the  
4 Villages of Lewiston and Youngstown, each hosting or  
5 adjacent to host communities for the CWM proposal. I  
6 would hope I would get a little bit of forbearance on the  
7 four minute clock because I'm speaking for four  
8 municipalities. I've truncated my remarks and will  
9 summarize them as best I can.

10 JUDGE O'CONNELL: Thank you.

11 GARY ABRAHAM: We anticipate filing a petition for full party  
12 status by the September 30 deadline including reports on  
13 technical issues by experts in radioactive waste,  
14 hydrogeology, air emissions, and landfill engineering.  
15 However, today, as time is limited, I'll offer our  
16 perspective on two key issues. First the CWM site  
17 contaminated with residual radioactivity. The site has  
18 never been cleaned up to the standard necessary to avoid  
19 exposure to the public.

20 Second, CWM intends to site RMU-2 over the buried  
21 sand and gravel valley which will act as a highway for  
22 contaminant migration. This is likely to make it  
23 impossible to monitor ground water contamination from  
24 RMU-2. Let me go into these two issues in some depth.  
25 As is well-known, CWM's Model City facility was a part of

1 a much larger site called the Lake Ontario Ordinance  
2 Works, LOOW, which was a military TNT production plant.  
3 The TNT plant only operated for a few months before the  
4 plant was shut down and the site was divided up. The  
5 part of the LOOW site now occupied by CWM was turned into  
6 a radioactive waste depot and disposal area by the Atomic  
7 Energy Commission. A variety of radioactive wastes,  
8 including Manhattan Project wastes from development of  
9 the first atom bomb, nuclear fuel reprocessing wastes,  
10 and animal carcasses containing plutonium from  
11 experiments at the University of Rochester were all  
12 dumped on the CWM property.

13 Radioactive wastes were seriously mismanaged with  
14 wastes left on the surface or carelessly buried. Open  
15 burning of some wastes led to fallout of radioactive  
16 particles on some areas of the CWM site. The Atomic  
17 Energy Commission attempted to clean up radioactive  
18 contamination on the CWM site in the 1950s, followed by a  
19 second attempt in the 1970s. Radioactive contamination  
20 remained, however, and a third attempt to clean up was  
21 carried out by the Department of Energy in the 1980s.  
22 Since then, the Army Corps of Engineers has taken  
23 jurisdiction of those areas of CWM which DOE was unable  
24 to completely clean up. Subsequent investigation of one  
25 of these areas has shown it remains contaminated, even

1 after DOE reported it was cleaned up.

2 Continued development of the CWM Model City facility  
3 interferes with the Army Corps' ability to investigate  
4 and remediate areas of radioactive contamination, putting  
5 off the day that the community can feel some assurance  
6 that their air, surface water and ground water will not  
7 expose them to radiation. Your company has never  
8 properly characterized or mapped radiologically  
9 contaminated areas on the site. New excavation of soils  
10 in the areas scanned by CWM could therefore release  
11 radioactive material into the environment and expose the  
12 public.

13 The health threat of exposure to radioactive  
14 materials is assessed over a lifetime because any  
15 exposure additional to radiation, which is elevated as a  
16 result of nuclear bomb tests, nuclear bomb warfare, and  
17 releases from nuclear power plants, and additional to  
18 nuclear medical procedures, elevates the risk of cancer.  
19 Effective subsurface soil tests and other measures to  
20 prevent radioactive particles from being transported  
21 off-site by air dispersal as a result of major excavation  
22 would not be employed for the RMU-2 project. Up to now,  
23 and since 2005, the New York State Department of Health  
24 and DEC have approved small excavations necessary to  
25 clean up spills and the repair or replacement of

1 ancillary facilities at Model City. The protocol imposed  
2 on CWM for these small excavations has been deemed safe.  
3 CWM must scan for radiation at each six inch level of the  
4 excavation. In effect, all of the excavated soil is  
5 being scanned as it is excavated so that the radioactive  
6 material is immediately detected before it becomes a  
7 problem. However, for RMU-2 CWM proposes to dispense  
8 with this protocol. Instead, if approved as proposed,  
9 CWM would haul excavated soils by the truckload to a  
10 stockpile.

11 The trucks would pass through a radiation detector,  
12 but there are questions about whether radioactive  
13 materials buried in the truckload could be detected in  
14 this manner or whether primarily alpha emissions from  
15 some radionuclides like plutonium, which do not penetrate  
16 a piece of paper, could be detected through the steel  
17 walls of a dump truck. Once stockpiled, CWM would use a  
18 surface scanner to detect any radioactive materials.  
19 Only if the scan of the stockpile or the radiation  
20 detector for dump trucks exceeds screening level would  
21 any scans be taken.

22 In that event, CWM would spread out the stockpiled  
23 soil and scan it every six inches. This proposal is on  
24 its face far less protective of the environment and  
25 public health than the current protocol CWM follows for

1 small excavations. Illogically, CWM proposes that large  
2 excavations required for a new landfill should require  
3 far less stringent measures for protecting the community.  
4 We are therefore at a loss, to put it mildly, to see how  
5 any agency could approve major excavation at this site  
6 prior to fully characterizing all areas of potential soil  
7 disturbance. This is the position of my client the  
8 Niagara County Health Department, as well as the other  
9 municipal stakeholders.

10 Let me turn now to the second issue, the poor  
11 hydrogeology of the portion of the Model City site for  
12 RMU-2. The CWM site is not hydrogeologically secure.  
13 Ground water moves much faster than CWM has predicted  
14 west toward the Niagara River and the Lew-Port schools.  
15 In addition, given the severe ground water contamination  
16 in the vicinity of the RMU-2 footprint, it is unlikely  
17 RMU-2 could be effectively monitored for leaks and  
18 spills. Hydrogeology involves the investigation of what  
19 is occurring below the surface of the site, including  
20 below the depth of excavation where no one can see.  
21 Accordingly, monitoring wells and soil borings are used  
22 to develop a model of what is occurring at depth.

23 The hydrogeology of the CWM site has been studied at  
24 length. In 1977, numerous soil borings were taken for a  
25 comprehensive evaluation of how groundwater moves on the

1 CWM site. This study correctly identified that the CWM  
2 site is vulnerable. A deep channel of sand and gravel  
3 runs from east to west across the southern-central part  
4 of the site and provides an escape route for  
5 contamination to leave CWM property.

6 From 1978 to 1984, landfills were sited in the  
7 northern section of the CWM site to avoid this potential  
8 highway for contaminated migration. In 1984 Waste  
9 Management purchased Model City for further landfill  
10 expansion. A new hydrogeological study was ordered and  
11 the earlier data was reinterpreted. Instead, of  
12 highlighting the sand and gravel channel, where  
13 groundwater moves most rapidly, the new study disguised  
14 the vulnerability of the southern and central area of the  
15 CWM by relying on the median rate of groundwater flow for  
16 the entire site. As time passed, further reevaluations  
17 produced even lower rates of median groundwater flow.  
18 Compare how the published rates of -- or the reported  
19 rates of groundwater flow in the sand and gravel aquifer  
20 have changed since CWM acquired the Model City facility.  
21 From 1977 to 1984, it was reported groundwater flows at a  
22 rate between 88 and 324 feet a year. In 1985, CWM  
23 reported groundwater flows at a rate of 14.5 feet a year.  
24 In 1988, 4 feet per year. In 2013 in the present  
25 application, 3.21 feet per year. By combining

1 groundwater flow rates for the sand and gravel channel  
2 with flow rates for groundwater in more dense silt, CWM  
3 has disguised the vulnerable area of the Model City  
4 facility which is unsuitable for landfill development.  
5 In short, not only is the proposed site for RMU-2  
6 unsuitable, RMU-1 should never have been built. To this  
7 day, CWM has no wells monitoring the deep aquifer down  
8 gradient to the west of the area proposed for RMU-2.

9 This conclusion is important because groundwater in  
10 that area has become severely contaminated by CWM's  
11 operations over the years, and contaminated groundwater  
12 will discharge to the Niagara River. For example, PCBs  
13 are among the most toxic synthetic compounds known and  
14 one of the contaminants most commonly found in soil and  
15 groundwater at the Model City site. CWM has a history of  
16 violating the limits in its permit for the surface  
17 release of PCBs, which is a fraction of a part per  
18 billion in water. Groundwater beneath the site today has  
19 already reached 35,0000 parts per billion. This is three  
20 orders of magnitude higher than the solubility of PCBs in  
21 water, indicating that the PCBs are part of a release of  
22 additional non-aqueous chemicals that will be slowly  
23 released over time.

24 The current permit provides this additional  
25 background and I quote from the permit: In some

1 locations it is not possible to conclusively attribute  
2 the presence of groundwater contamination to waste  
3 management activities at the regulated units, nor is it  
4 possible to rule out those units as potential sources of  
5 contamination. In other locations the observed  
6 groundwater contamination has resulted from waste  
7 management activities that occurred before the units were  
8 constructed and, hence, is not attributable to releases  
9 from them. You should know though that a -- permit or  
10 Part 373 permit is a quid -- comes with a quid pro quo,  
11 that the permitting is responsible for cleaning up the  
12 contamination at the site wherever it came from. That is  
13 a condition of having the permit.

14 This factual background should result in  
15 considerable skepticism about whether the facility can  
16 achieve the goal of groundwater detection monitoring  
17 programs required under the current permit. The programs  
18 are designed to provide unit-specific detection  
19 capabilities at those active or inactive landfills and  
20 surface impoundments which have not released hazardous  
21 waste constituents in the groundwater. Clearly, if it is  
22 not possible to determine whether regulated units have  
23 contaminated groundwater as the permit itself now says,  
24 groundwater detection monitoring programs will not be  
25 capable of detecting whether specific units have released

1 hazardous waste constituents detected in site  
2 groundwater. The ability to operate effective detection  
3 monitoring programs is a basic precondition to qualify  
4 for a permit under Part 373. Because groundwater beneath  
5 the Model City site is already seriously contaminated  
6 with hazardous waste constituents released from CWM  
7 landfills and the legacy waste on site, and these  
8 constituents include those that could be released from  
9 RMU-2, additional groundwater monitoring will be unable  
10 to detect contamination that has migrated from the waste  
11 management area to the uppermost aquifer and cannot be  
12 expected for this reason to be effective. RMU-2 cannot,  
13 in short, meet the general groundwater monitoring  
14 requirements under Part 373. Thank you.

15 JUDGE O'CONNELL: Cherie Bureau.

16 CHERIE BURAU: Yes.

17 JUDGE O'CONNELL: Thank you.

18 CHERIE BURAU: Good afternoon. My name is Cherie Bureau and  
19 I'd like to address myself to the Siting Board. I am a  
20 home owner. I recently, two years ago, I bought a house  
21 up in Youngstown. I got a good deal. I got a real good  
22 deal. It's one mile from the landfill. They told me  
23 there was a landfill down there. I thought maybe tires,  
24 you know, some garbage, you know, household garbage. I  
25 didn't realize it was toxic and that's why I'm before you

1 today, because when you deliberate my fate, please  
2 remember what I have to say. It's a nice house. It's  
3 only less than twenty-five years old, but really, it has  
4 no resale value.

5 I'm getting diagnosed -- well, I've only been there  
6 two years. I am going to relate -- just keep it to my  
7 point -- my three minutes. I'm only going to tell a few  
8 stories because I don't have a scientific background and  
9 I'm new to the area, so I'm not -- but what I heard this  
10 afternoon was that the people of this community have been  
11 asking the DEC and the people of the government to help  
12 them for twelve years and nothing has happened.

13 So I want you to remember what -- my fate and it's  
14 my fate that you'll be deciding. I'm only one mile. I  
15 didn't know about landfills. I didn't know those big  
16 mounds over by the Outlet Mall -- somebody pointed out to  
17 me those were landfills. Oh, the atomic must be under  
18 there. He said, no, it's a mile from your house. I said  
19 CWM. When I look at those big mountains on the 190, I  
20 notice that there's no houses around those landfills. We  
21 have children. We have families. We have names. We  
22 live there primarily because we couldn't afford any other  
23 higher mortgages. I'm going to tell you one more story.  
24 We saw fire trucks going down. It was last summer. We  
25 saw fire trucks going down the street towards the

1 landfill and it was like a horror movie. Everybody came  
2 to the ends of their driveways. Everybody on Pletcher,  
3 on the right and on the left and we all looked down and  
4 we saw the black smoke. What do we do? Who do we call?  
5 These people are here because they are opposed to it. It  
6 is their community. When you deliberate my future and  
7 the future of this community, please ask yourselves one  
8 question for me, who benefits from this landfill? Thank  
9 you.

10 EVA NICKLAS: My name is Eva Nicklas and I am a resident of  
11 Lewiston. Most of us are here today because we are  
12 fighting for our future. There is no hidden agenda. We  
13 were just ordinary people willing to confront the odds in  
14 order to restore environmental justice for our community,  
15 a community so rich in the Arts, Music, History and  
16 Culture. The earth is poisoned at CWM and we are already  
17 afraid of the air we breathe, the water we drink and the  
18 cancers and immune diseases that too many of us will  
19 experience. We dread the huge trucks that thunder by on  
20 our roads. We realize that toxic waste has to go  
21 somewhere, but these poisons should be kept away from  
22 humans, animals, and all living things, as far away as  
23 possible. The damage has already been done, but, please,  
24 stop degrading our environment by adding more. Look at  
25 what -- look at all the people that are here. Listen to

1           what they are saying. Is one company so powerful that  
2           thousands of voices cannot be heard?

3 AUDIENCE MEMBERS: No.

4 EVA NICKLAS: Please do the right thing and say no to the  
5           proposed expansion. Thank you.

6 JUDGE O'CONNELL: Mr. Henderson, you had an opportunity this  
7           morning or this afternoon already.

8 TIM HENDERSON: Yeah. I checked and this is a different topic  
9           I'm bringing.

10 JUDGE O'CONNELL: Well, there are many more people who want to  
11           speak this evening.

12 AUDIENCE MEMBERS: Let him speak.

13 TIM HENDERSON: According to the New York State Department of  
14           Environmental Conservation(sic), CWM expansion is not  
15           needed and we are here tonight to tell you also that it's  
16           not wanted. The business of hazardous waste is  
17           incompatible with Governor Cuomo's Regional Economic  
18           Development Plan which calls for sustainable economic  
19           growth and improvement to the region's image. A region's  
20           image cannot be improved by importing hazardous waste  
21           from other regions nor can a hazardous waste landfill  
22           sustain itself. The proposed expansion of this hazardous  
23           waste treatment facility is in direct conflict with  
24           Niagara County's two main industries, tourism and  
25           agriculture. What attraction to tourists is there in

1 hazardous waste? CWM has already destroyed forty acres  
2 of land. Their spokesperson has said that the area is  
3 already polluted and therefore ideal for another  
4 landfill. Really? That's science and the state of the  
5 art reasoning that we're being told? It's more of an  
6 admission of failure on the part of CWM and DEC to clean  
7 up their facility.

8 PCBs which are not found in nature have been found  
9 in creeks that flow away from CWM and into Lake Ontario.  
10 Their sixty million gallon lagoons will make Quasar look  
11 like a health resort. An expansion would act to stagnate  
12 economic growth and lower home values and perpetuate the  
13 rising cancer rates in surrounding communities. Doubling  
14 the size of this community is not in any way in the best  
15 interest of this community.

16 Another six million tons of hazardous waste is  
17 simply an environmental disaster waiting to happen. The  
18 downfall of Niagara Falls can be traced to the advent of  
19 the Love Canal disaster. There's currently potentially  
20 four hundred Love Canals buried in a landfill one mile  
21 from our school that will eventually leak. Doubling its  
22 size is unconscionable. We, which also includes you,  
23 still have within our power the ability to protect our  
24 future from a similar disaster. Common sense compels you  
25 to deny their application for expansion and close down

1 CWM.

2 JUDGE O'CONNELL: Next group is Peter Diachun, Pamela Hughes,  
3 Carmela Alati and April Fideli.

4 PETER DIACHUN: I'm Peter Diachun, a resident of the Village  
5 of Lewiston. For a long time I've been concerned about  
6 the long range and perpetual care of the CWM landfill.  
7 I'm still very concerned especially about the financial  
8 strength of CWM's parent, Waste Management. This company  
9 has an awful history of financial fraud.

10 Waste Management has no legal responsibility or  
11 liability for this landfill when it come to -- when it  
12 becomes unprofitable to them. Only our local company,  
13 CWM, is the signer of the agreements, licenses,  
14 applications, and so forth. If CWM should become  
15 bankrupt or dissolve, the parent company will escape  
16 completely. This issue was brought up when CWM's  
17 application for its current landfill license was being  
18 considered. At that time CWM's lawyer confirmed in  
19 writing that the parent company is not bound by any  
20 agreement or obligation of CWM.

21 Again, a few years ago the parent company was  
22 requested to voluntarily sign these documents. They  
23 declined, but again confirmed their lack of legal  
24 responsibility for the landfill. This means that there  
25 is nothing to stop Waste Management from liquidating its

1 local subsidiary CWM when all revenue has been taken from  
2 the site or when some failure occurs. In short, when  
3 this facility becomes a liability, Waste Management will  
4 abandon it.

5 Waste Management should be required to sign and be a  
6 full participant in any application or license for this  
7 landfill, and especially its perpetual care. Without the  
8 legal responsibility of Waste Management, we have nothing  
9 to fall back on in the future when repair and care are  
10 required. The community has to live with it forever.  
11 Those who profit from building it should be required to  
12 stand behind it forever. The time to establish this  
13 responsibility is now when a new landfill is being  
14 proposed. They should be required to fully and forever  
15 stand behind the application and resulting permits of  
16 their subsidiary, relinquishing all limited liability  
17 which comes from the corporate structures.

18 They claim to be confident of the safety and long  
19 term stability of the landfill, but their refusals to  
20 make such a guarantee indicates the opposite. If the  
21 landfill is as safe and stable as it has been presented  
22 to the community, this guarantee will cost Waste  
23 Management nothing. There is no reason they should  
24 resist being as financially responsible as CWM. When  
25 this has been requested in the past, Waste Management has

1           responded by detailing the perpetual care financial  
2           arrangements. They claim these are adequate. This is an  
3           irrelevant and inadequate response. No one can predict  
4           the future. No one can know what it will cost to maintain  
5           or repair this landfill in the future. Look at the cost  
6           required to partially repair the landfill at Love Canal.  
7           That landfill was tiny compared to what's being done and  
8           proposed here in Niagara. This was done under the best  
9           "state of the art" at the time it was constructed.

10           It is certain that the construction of CWM's  
11           landfills will be considered as primitive sometime in the  
12           future. We just do not know when or how primitive.

13           Waste management should not be allowed to escape the  
14           future legacy of the landfill they build today.

15           Individual officers and members of the Board of Directors  
16           of Waste Management should also legally accept this same  
17           liability. They are the ones that profit from the  
18           operation with astronomically sized salaries, benefits,  
19           and bonuses, and they should be held responsible for its  
20           future liabilities. I call on four groups to take  
21           action now. Everyone here, everyone, is a part of one of  
22           these groups.

23           First, Waste Management should voluntarily do the  
24           right thing and abandon all limits on their liabilities  
25           for the landfills in Niagara. The officers and Board of

1 Directors should personally accept these liabilities  
2 also.

3 Secondly, the DEC should not allow this application  
4 to proceed until Waste Management signs all applications  
5 and becomes as responsible as CWM for these landfills.

6 Third, the employees of CWM should refuse to  
7 participate in this application procedure until Waste  
8 Management signs on as their responsible parent and  
9 finally, the community needs to support these courageous  
10 CWM employees who do this and the enlightened DEC  
11 demanding Waste Management assume its full responsibility  
12 for our landfills. This is all it would take. It  
13 wouldn't cost anybody a single dollar. It might even be  
14 a step in the direction of getting all of us together  
15 positively rather than as adversaries. It could be a  
16 major benefit to the future generations of us all. Thank  
17 you.

18 PAMELA HUGHES: Hello, my name is Pamela Hughes and I'm the  
19 Vice-Chair of Sierra Club Niagara Group representing over  
20 twenty-six hundred members in Western New York. The  
21 Sierra Club has long opposed the expansion of CWM  
22 Hazardous WasteLand here and the watershed of Lake  
23 Ontario for the following reasons, many of which have  
24 already been covered, but I'd like to reinforce them.

25 Number one, New York State DEC and US EPA conclude

1 that a new hazardous waste landfill is not necessary.  
2 The New York State Hazardous Waste Facility Siting Plan  
3 adopted in 2010 states that no additional hazardous waste  
4 disposal capacity is required. In 1995 the EPA  
5 eliminated the requirement that the state provide  
6 hazardous waste management capacity assurance due to long  
7 term excess capacity. Excess capacity continues as noted  
8 in the Siting Plan's Chapter 6. Quote, based on the  
9 national availability of facilities, there are sufficient  
10 transfers, storage, and disposable facilities for  
11 management of hazardous waste generated in New York and  
12 will be for the foreseeable future, unquote. Additional  
13 and expanded hazardous waste management facilities are  
14 unnecessary in New York. A disproportionate amount of  
15 waste disposal in this region compared to other counties  
16 in the state, deem this area unnecessarily weighted.

17 Number two, Hazardous waste landfills pose risk to  
18 human health and the environment. In addition to  
19 compliance with New York State's' Environmental Quality  
20 Review Act, regulations specific to hazardous waste  
21 landfills requires that evaluation of contamination of  
22 groundwater, risks from fires, transportation and to  
23 public health. The regulations seems to operate these  
24 facilities as safely as possible. Expansion of CWM is  
25 not synonymous with safe. CWM has a long history of

1 state and federal fines for permit violations. The  
2 designated inbound truck route to CWM passes in front of  
3 all public schools serving two towns and Niagara County.  
4 These trucks originate from throughout the country on  
5 interstate highways that typically merge in Greater  
6 Buffalo.

7 In addition, monthly monitor reports issued by New  
8 York State DEC frequently site hazardous waste trucks  
9 arriving at CWM's gate as already leaking. In addition,  
10 according to a study by the New York State Department of  
11 Health, children living in the school district hosting  
12 CWM Chemical, experience nearly double the rate of  
13 expected childhood cancers compared to the rest of the  
14 state. The cases were downwind, down gradient or in  
15 areas hosting CWM's truck route.

16 Number three, the Western New York RUDC development  
17 plan calls for sustainable economic growth and  
18 improvement upon the region's image. A hazardous waste  
19 landfill is unsustainable and has a negative image that  
20 has been publicized by media across upstate and also the  
21 New York times. There's seventeen commercial hazardous  
22 waste landfills left in the United States. Several have  
23 closed in the past twenty years and more may close over  
24 the thirty year term of CWM application. Hosting one of  
25 the last toxic waste dumps in the United States is

1 incompatible with RUDC objectives. Just one point four  
2 percent of CWM landfill volume was produced by New York  
3 State businesses.

4 In addition, Siting Plans state that CWM could be  
5 considered if it brought economic benefit to the  
6 community, but if you read that section carefully, it  
7 calls for as much attention to the economic downside of  
8 such facilities as it does to cash flow with, quote,  
9 potential reduction in property values, new housing  
10 construction, attracting new and clean and sustainable  
11 businesses, tourism, et cetera. If Niagara County seeks  
12 to become a world class tourist destination, the  
13 operation of a hazardous waste landfill would certainly  
14 be in conflict with that fold.

15 The immediate economic benefit of expansion is  
16 greatly offset by disincentives to new businesses as well  
17 as a promotion of this region at the center for tourist  
18 attraction. With the newly expanded landfill's presence,  
19 the landfill would retard economic growth and lower  
20 property values. One additional point that I didn't hear  
21 from other speakers was that the consideration of climate  
22 destabilization is a major factor. We don't know what's  
23 going to happen in the future in addition to earthquakes  
24 and terrorism. Climate destabilization should be a major  
25 consideration. The morality of the danger and the

1 viability of our environment is not the stewardship our  
2 earth. The time to stop this practice and protect the  
3 health of our community and environment is now.

4 APRIL FIDELI: Good evening. My name is April Fideli and I am  
5 president of Residents for Responsible Government, the  
6 largest environmental group in Niagara County. Thank you  
7 all for taking time out of your busy schedule to help us  
8 bring our community back. I am here to tell Governor  
9 Cuomo, we will no longer be everyone else's dumping  
10 ground. In case you haven't heard -- in case you haven't  
11 heard, we take waste from thirty states, Canada, and  
12 Puerto Rico. We will not accept this for another  
13 thirty-two years or even another second. CWM is killing  
14 our community. We've been telling the DEC for years  
15 accidents were going to happen. Well, guess what, since  
16 the last set of hearings just three years ago, a truck  
17 avoiding blackout times in front of the school killed one  
18 of our own member's son. This is a cost that's too high  
19 for our community.

20 Accidents have happened and will continue to happen  
21 until CWM's doors are closed forever. Every single truck  
22 that goes through this facility drives directly past this  
23 very school leaking PCBs on the way to CWM, but they also  
24 drive through other people's communities leaking PCBs  
25 before they get here. Emelle, Alabama used to be a

1           hustling bustling town full of children and churches and  
2           businesses, then CWM came to town and Emelle, Alabama no  
3           longer exists. They are a ghost town and this is the  
4           true effect of inviting CWM into your community. I am  
5           here to tell all of you, we refuse to be another Emelle,  
6           Alabama. No amount of donations from CWM or tax revenue  
7           is worth losing the life of our community.

8           Since CWM came to town, we have six million tons of  
9           hazardous waste. Property values have decreased, school  
10          enrollment has decreased, the population has decreased.  
11          Our community is sicker than ever. Cancer rates have  
12          increased, lupus rates have increased, MS rates have  
13          increased and people aren't moving here anymore. Some  
14          people today have said they aren't afraid of landfills.  
15          The DEC has said every landfill leaks. This makes me  
16          very afraid. DEC has also said that there's no need for  
17          additional hazardous waste landfill capacity in New York  
18          State. Why on earth are we even here. We do not need a  
19          second toxic landfill.

20          The EPA has also said there is no need. We do not  
21          need CWM for ground fill cleanup. They want us to  
22          believe that, but it's just not true. Ground filled  
23          waste can go to BFI or a solid waste landfill that has a  
24          special permit. It doesn't need to be landfilled in a  
25          toxic filled landfill. CWM should be ashamed of

1 themselves for trying to convince people that that's the  
2 truth. It's sad that the government hasn't learned  
3 everything they could have learned from Love Canal. Love  
4 Canal is coming back with a vengeance and the people  
5 there have been sick for years and they continue to get  
6 sick to this very day.

7 We have four hundred Love Canals at CWM and could  
8 have four hundred more if you give CWM their permit. We  
9 have the highest cancer rates in Western New York. In my  
10 small neighborhood, five people have cancer and one lady  
11 just died. We have extremely high levels of MS and many  
12 other unexplained illnesses. There are so many people in  
13 this area, both parents who went to Lew-Port and they  
14 have premature babies for no reasons that the doctors can  
15 explain.

16 I'd like to tell you Carter's story. I'll try to be  
17 as brief as I can. I met Carter at the Lewiston-Porter  
18 Elementary School. He and his family live directly across  
19 from the school, directly on CWM's truck route. He had  
20 unexplained allergies, illnesses, problems, so many  
21 health problems I can't even list. He had blisters all  
22 over his body and he was constantly in pain. For two  
23 years I watched this child and his family suffer. His  
24 sister who wasn't born here was the picture of health.  
25 She was born in Adirondack and Carter had the bad hand

1           dealt to him of being born here. He couldn't go outside  
2           because the effects of the air living right across the  
3           street -- he couldn't go outside because the air affected  
4           him so badly. He went to being in the ER and doctors so  
5           many times they could not explain what was happening to  
6           him. His family decided to move back to the Adirondacks  
7           because they were just at their wits end. You know, they  
8           couldn't stand him being sick and they weren't sure if it  
9           was because they moved here. So they moved back to the  
10          Adirondacks several months later. Carter started getting  
11          better. His unexplained allergies went away. His  
12          breathing problems didn't exist. He was a healthy little  
13          boy.

14                 They decided to come back to Western New York to  
15          this particular area. They stayed for a half a day. He  
16          played outside like a free little boy. He also stopped  
17          breathing. They rushed him to the ER. They took him. He  
18          had to stay in the hospital overnight. Now it's been  
19          several years. His family hasn't come back. He went  
20          back to the Adirondacks. The doctors -- the parents  
21          explained to the doctors what had happened here. The  
22          doctors looked at Carter's parents and they said,  
23          whatever is going on in that environment there has a  
24          direct effect on his life and if you never have to take  
25          him back there, don't. This is -- now he is a healthy

1 young man. This is the effect that hazardous waste has  
2 in our community. It affects -- our community has  
3 suffered far too long and has so much loss from cancer  
4 and other illnesses. Enough is enough. We do not need  
5 another landfill. We do not deserve another landfill and  
6 we do not want another landfill.

7 CARMELLA ALATI: Good evening. My name is Carmela Alati. I've  
8 lived in Lewiston since 1960, having been born in Niagara  
9 Falls, New York. I'm here to adamantly oppose any  
10 further expansion of CWM. I said it before. I was here  
11 once before and I'm going to repeat the same words that I  
12 said before. Citing Benjamin Disraeli, the former Prime  
13 Minister of England, there are three kinds of lies, lies,  
14 damn lies, and statistics. I don't want anymore  
15 statistics about CWM. We've heard it all and I think  
16 it's time that it should be shut down and never come back  
17 again.

18 I've heard so many different people have died from  
19 contamination, what they have been bringing into this  
20 community and I really love Lewiston, but in the years  
21 that ensued, I've seen the desecration of many things all  
22 due to this contamination, so I say in the words of  
23 Ronald Reagan, Mr. O'Connell, tear down CWM forever.

24 JUDGE O'CONNELL: So we'll take a break until 8:25.

25

1 (A recess was taken.)

2  
3 JUDGE O'CONNELL: Our next set of speakers, Fred Newlin,  
4 Richard Soluri, Joseph Leone, Dan Clark. Our next set of  
5 speakers, please. Is Mr. Newlin here?

6 FRED NEWLIN: Yes.

7 JUDGE O'CONNELL: Thank you. Order, please.

8 FRED NEWLIN: Hello everybody. My name is Fred Newlin. I'm a  
9 thirty year resident of Lewiston. I had the great honor  
10 of serving as Town Supervisor of Lewiston for six years.  
11 Before I start with my remarks, I'd like just to take a  
12 moment to thank R&G and especially people like April  
13 Fideli and Tim Henderson who've given up so much time  
14 with family and friends to keep us motivated in coming  
15 here and you can see with the turnout we've had tonight  
16 that they're a credit to our community. Thank you.

17 Like many of you, I've spent a lot of time educating  
18 myself on this very complex issue and we're at an  
19 important point in this issue, and that is, all these  
20 decisions, whether or not to continue to allow the  
21 expansion of this site and bring all these hazardous  
22 wastes to our community or the time to shut it down and  
23 put an end to it.

24 Now, I'd like to talk just for a minute about the  
25 perspective of how we got here and I think we've gotten

1 here by traveling on a long road of mistake, after  
2 mistake, after mistake. It was a mistake to site a  
3 hazardous waste dump in an area that's a peninsula  
4 squeezed in on all sides by the largest freshwater  
5 resource in the world. It was a mistake to site it so  
6 close to population centers and encourage the traffic and  
7 the ways to go through other population centers among the  
8 biggest and busiest transportation corridors in the  
9 entire northeast and the I90 system. It was a mistake to  
10 cite an area that's known for its torrential downpours  
11 and its voluminous snow. Once that water gets moving, we  
12 all know the material on that land does not stay inert.  
13 It travels. And finally I think it was a big mistake to  
14 cite any kind of commercial enterprise, CWM or whatever,  
15 on a site that is infected with longstanding  
16 environmental challenges.

17 And I want to speak to the one challenge and share  
18 with you a story that I encountered when I was lucky  
19 enough to be in office. Back then the environmental  
20 agencies were starting to do an examination of the  
21 history of the site and they found that there were some  
22 radioactive pellets buried on that land where CWM is now.  
23 Back then we were fighting the war against fascism.  
24 Winning the war was job number one. We didn't know the  
25 effects of radiation so they tested the effects of

1 radiation on animals. Some of those pellets are buried  
2 there. Now, you would think and hope we knew exactly  
3 what was buried where, but that was not the case. They  
4 were interviewing -- this is just six or seven years  
5 ago -- they were interviewing World War II laborers and  
6 scientists picking their brains and their memories sixty,  
7 seventy years on as to where exactly these pellets were  
8 buried on that site. Now, I hope their memory is a lot  
9 better than mine because I couldn't tell you what drawer  
10 I put my socks in last week, but that's relying on a very  
11 deep memory for some very important and very harmful  
12 material.

13 So I just want to point out that that land material  
14 arrived there in the '40s. The emphasis wasn't on  
15 environmental damage, it was on winning the war and now  
16 this area has shifted to another war and that is the war  
17 against toxic waste. We just celebrated a few weeks ago  
18 Independence Day where we remember as a country where we  
19 stood up against the far off corrupt regime that was  
20 making decisions on our behalf without listening to us.  
21 Does that remind anybody of a situation. Sure reminds me  
22 of a situation. And it's (inaudible) based unfortunately  
23 involving the people who are supposed to be representing  
24 us. Today we wage a new war on independence, and it's an  
25 independence war against toxic waste, so when Albany asks

1 us do you want to allow expansion or do you want to  
2 protect our water and shut it down, I know we can speak  
3 with one voice and say shut it down.

4 AUDIENCE MEMBERS: Shut it down.

5 FRED NEWLIN: All right. If they only asked us if we want to  
6 allow expansion or protect our land and agriculture or  
7 shut it down, what are we going to say?

8 AUDIENCE MEMBERS: Shut it down.

9 FRED NEWLIN: Listen, I'm a little bit closer to you guys than  
10 the esteemed judge here, so let's here it a little bit  
11 louder. What are we going to do?

12 AUDIENCE MEMBERS: Shut it down.

13 FRED NEWLIN: And when we -- they ultimately ask us, do we  
14 want to allow expansion and allow the continued hazardous  
15 waste coming into this area, or protect our people and  
16 our futures, are we going to let them do that or are we  
17 going to allow them to shut it down?

18 AUDIENCE MEMBERS: Shut it down.

19 FRED NEWLIN: Listen, my time is up, yours isn't. Say it  
20 loud, say it proud, shut it down.

21 AUDIENCE MEMBERS: Shut it down.

22 JUDGE O'CONNELL: Is Mr. Soluri here? Mr. Leone?

23 MR. LEONE: Thank you, Judge O'Connell, respected Board  
24 members. My name is Joseph Leone and I'm a resident of  
25 the Town of Lewiston for the past thirty-four years.

1 Before that Niagara Falls and I actually grew up in  
2 Lewiston, so I've got a statement at these proceedings.  
3 My first question is that I heard early on into these  
4 proceedings that there was a tentative approval of these  
5 plans and I keep on wondering myself how could there be a  
6 tentative approval. It's been recited that Article  
7 Conservation 27 of the Environmental Conservation Law is  
8 one of the articles that's in play here. Well, we need  
9 to look at all of the sections of Article 27 of the  
10 Environmental Conservation Law, especially the ones that  
11 deal with hazardous waste capacity assurances and  
12 standards. Assurances and standards.

13 Long range schedule for phasing out land disposal  
14 facilities, how does that -- how does that jive with  
15 expanding of facility? Long range projections that a  
16 facility shouldn't last anymore than twenty years. It  
17 doesn't mean that we have one that's supposed to last  
18 twenty years and then we add twenty more and then we add  
19 twenty more and then we add twenty more so that they go  
20 on ad infinitum one after another. It means when the  
21 time comes, they're supposed to be shut down. There  
22 was an emphasis early on, well, it's going to be closed  
23 after ten to twenty years. I wasn't here for the  
24 hearings that may have occurred some twenty seven years  
25 ago, but I would bet dimes to donuts that somebody said

1 then it's going to be closed in twenty or twenty seven  
2 years. Areas have to be compatible with the generation  
3 of hazardous waste. Well, I've heard that we have less  
4 than two percent of the hazardous waste that's going from  
5 that facility from this area, but we're taking in  
6 hazardous waste from thirty other states and a territory  
7 in another country. If we continue to take in hazardous  
8 waste from other places, when will they ever start to put  
9 together their own facilities. Transportation routes  
10 have been talked about ad infinitum. I'm not going to go  
11 into that, but one important section deals with a  
12 determination of the number, size, type, and location of  
13 these sorts of sites and I'm going to stress these words,  
14 with assurances required, required for an equitable  
15 geographical distribution of these facilities. Please,  
16 someone tell me, someone enlighten me, where is this  
17 equitable geographic distribution if everything continues  
18 to come into Niagara County?

19 In short, as a resident of the Town of Lewiston, I'm  
20 quite sick and tired of having noses being thumbed at at  
21 the law, at the sections of law that need to be  
22 considered. Don't ignore the law. If you're going to  
23 ignore it, take it out of the books, throw it in the  
24 garbage, and just tell us this is the way it's going to  
25 be, but it's not the way it should be. We have a right

1 to be heard. Close this place down. Don't allow any  
2 expansion. We don't want it. We don't need it and as  
3 far as I am concerned, it's illegal. Thank you.

4 DAN CLARK: Board, ladies and gentlemen. My name is Dan  
5 Clark. I've lived in Lewiston practically all my life.  
6 I live on Calkins Road. I'm a graduate of this high  
7 school and I've had enough with CWM. They've got to be  
8 closed down. DEC says it isn't needed. Why are we even  
9 here tonight? Why? Can somebody tell me that? Twenty  
10 thousand more trucks went by our school with our kids and  
11 our grandkids. Are you kidding me. Expansion, fifty  
12 acres. We have a high rate of cancer, we have a high  
13 rate of MS, lupus. I mean, I can't even believe that  
14 we're here tonight discussing this. You guys have the  
15 power to do the right thing. I hope you do so. Close  
16 them down. No more trucks. No more hazardous waste. No  
17 more CWM. No expansion, period.

18 JUDGE O'CONNELL: Jeff Brylski, Matthew Feldman, Elizabeth  
19 Schug and Joan Broderick, please.

20 JEFF BRYLSKI: Good evening, Judge O'Connell, panel members,  
21 members of the community. My name is Jeff Brylski. I'm  
22 the president of Teamsters Local 449 and I'm here today  
23 representing those members of our local who work for CWM  
24 Chemical Services. We've heard some allegations made  
25 from those opposing this landfill expansion. I'd like to

1 set the record straight. Our members working here  
2 have knowledge of handling and disposing of hazardous  
3 waste that most people can't even comprehend. Probably  
4 disposing of hazardous waste is nothing that the  
5 residents of the State of New York should take lightly.  
6 The monitoring and safety precautions taken at this  
7 facility are completely in compliance with the New York  
8 State strict environmental standards. There is  
9 specialized training for these men who work directly with  
10 hazardous materials. Haz-mat training including  
11 HAZWOPPER and OSHA safety training, confined space  
12 training, emergency response training, first aid and CPR  
13 training. There are also weekly and monthly refresher  
14 trainings.

15 Waste Management picks one Operator of the Year  
16 annually and a lot of the criteria is based on safety.  
17 This year's winner was Tim Morgan, a thirty-six year  
18 employee of CWM. To understand the magnitude of this,  
19 you have to recognize that Waste Management employs  
20 twenty-one thousand drivers and landfill operators. To  
21 be selected for this award, you have to be top-notch.  
22 Expertise comes from experience, so let's talk about  
23 experience. Chuck Aube, thirty-eight years with the  
24 site; Rick Harden, thirty-eight years, Geoff Naughton,  
25 thirty-seven years; Tim Morgan, thirty-six years; Ed

1 Cassick, thirty-six years; Dan Brimmer, thirty-six years;  
2 Doug Hiddie, thirty-six years; Dave Mariani, thirty-five  
3 years; Chris Jordan, thirty-four years; Dave Ruble,  
4 thirty-four years; Jim Cassick, thirty-three years; Tim  
5 Meadow, thirty-three years; Mark Mariani, thirty-one  
6 years, Dennis Hoover, thirty-one years and Randy Printup,  
7 thirty years. There are fifteen teamster members with  
8 over thirty years and six teamster members with over  
9 twenty years experience in this business at this site,  
10 most of whom also live in this community. These workers  
11 are held to a very high standard and they live up to  
12 those standards every single day. We need more career  
13 jobs, more opportunities. We don't need to stop  
14 operations at a safe, established business like CWM.

15 There's a need for this facility. If there wasn't a  
16 need, a company like Waste Management wouldn't be  
17 spending fifty-five million dollars on a project without  
18 any tax subsidies or tax breaks. Do the math. Employees  
19 with over six hundred years of experience plus a  
20 fifty-five million dollar commitment equals a win for  
21 this community. Thank you.

22 JUDGE O'CONNELL: Matthew Feldman.

23 MATTHEW FELDMAN: My name is Matthew Feldman. I'd first like  
24 to start by acknowledging the collective years of  
25 services contributed by all of the members, all the

1 individuals that the last speaker named, but I'd like to  
2 point out that this community for generations to come  
3 will suffer with this blight for a much longer period of  
4 time --

5 AUDIENCE MEMBER: Oh yeah.

6 MATTHEW FELDMAN: I'd like to read my written comment to the  
7 Siting Board and share it with everyone in attendance.  
8 On behalf of my family, please accept this statement as  
9 informed and resolute opposition to any expansion of  
10 CWM's facility in Niagara County. The basis for our  
11 opposition is manifold. Our community is over-burdened  
12 by waste disposal and its attendant activities which  
13 negatively impact economic growth, quality of life,  
14 safety, health and welfare not just in this community, in  
15 the surrounding communities that this waste must travel  
16 through. A disproportionate number of heavy trucks  
17 hauling waste enter and exit our community throughout the  
18 year. I have replaced two windshields in the past year  
19 as a result of projectiles launched from trucks coming to  
20 or departing Lewiston's waste management facilities.  
21 That's minor. Others have been less fortunate losing  
22 irreplaceable life.

23 I'm aware of at least one truck that tipped over and  
24 spilled its waste in our community not far from this  
25 school where my children attend or many other children

1 attend. If you come and spend time in Lewiston, members  
2 of the Siting Committee, you'll notice that we are a  
3 small community. None of us is ever far from CWM's  
4 growing facilities or the trucks that serve it. If you  
5 happen to spend a night in Lewiston or arrive very early  
6 in the morning, you will observe the noise pollution  
7 caused by vehicular engine braking, of the waste haulers  
8 descending our picturesque hill.

9 Many of us awake to this sound each day. The  
10 benefits to our community are minimal, particularly in  
11 the light of the known harms which stifle growth,  
12 prosperity and development of tourism and agribusinesses  
13 like the wineries that flank us to the east and to the  
14 west on the Canadian side of the Niagara River. The  
15 unknown, yet predictable harms are what keep us up at  
16 night and prevent us from returning to sleep after being  
17 awakened by the trucks entering our community. When will  
18 the next accident be? When will these toxins leak into  
19 the ground water and infiltrate the Great Lakes water  
20 supply?

21 When will some criminal realize that these trucks  
22 and their toxic cargo are a vulnerable target to attack  
23 and their passage over our local international border  
24 crossing, including bridges, expose us to a  
25 disproportionate and unacceptable danger. Our community

1 does not need an expansion of CWM or any other waste  
2 facility. We need cleanup, remediation, better oversight  
3 of persisting facilities and increased scrutiny in how  
4 these facility operators have sought to manipulate and  
5 influence our local political process to secure these  
6 operations well into the future. The only people in our  
7 community that support this expansion are interested  
8 parties and they do so as a detrimental minority.

9 JUDGE O'CONNELL: Elizabeth Schug.

10 ELIZABETH SCHUG: Hello. My name is Elizabeth Ann Schug.

11 I've resided on Orchard Drive up until about eighteen  
12 years-old. I come here today to speak to you as a young  
13 adult. I even walked this stage that this gentleman sits  
14 on to gain my high school diploma. I'd like to first  
15 thank you for giving me the opportunity to speak on this  
16 very grave, grave matter. I did not come too prepared  
17 here, so please bear with me, but there are some points  
18 that I would like touch on. Let's talk about the facts  
19 first. Yesterday I took it upon myself to make signs to  
20 oppose with my own money this very, very, destructive  
21 force right here in our backyards. I'd like to also  
22 point out the fact that outside there are two rainbows.  
23 Let's keep it that way. I am proud to be from the one  
24 and only Lewiston. I came to be a voice, a voice for the  
25 children. The children here who -- I have nine nieces

1 and nephews, seven of which reside here in Lewiston. If  
2 a child can be concise, they would say, please don't time  
3 out my life, please don't dump in my playground. We are  
4 here today as ladies and gentlemen of the world to  
5 reclaim our community. Why don't we have a vote? Why  
6 don't we have a say? Why are we leaving it up to people  
7 to decide our fate? I ask you -- I ask you, what exactly  
8 did they promise us in this so-called contract? Did they  
9 say they'll give us a new library? I have a library  
10 card. It's a beautiful library. I've gone there. They  
11 have a wonderful program. I beg you to check it out and  
12 please donate if you can. They're working on a  
13 shoestring budget. And I'm going to just wrap it up here  
14 because I'm being timed. Like I said, I didn't come  
15 prepared, but I came with a dream, a hope, a hope for a  
16 better tomorrow for our children and their children.

17 Thank you.

18 JUDGE O'CONNELL: Is Joan Broderick here?

19 JOAN BRODERICK: (Inaudible.)

20 JUDGE O'CONNELL: I'm sorry, the stenographer can't hear you.

21 JOAN BRODERICK: I'm going to give my minutes to anybody else  
22 in the audience who would like to speak. I've heard a  
23 lot of the comments that I have written here.

24 (Inaudible.)

25 JUDGE O'CONNELL: Please -- and I'm going to call the next

1 person who follows her.

2 JOAN BRODERICK: Well, I just want to know --

3 JUDGE O'CONNELL: We'll stop the record please.

4

5 (Discussion held off the record.)

6

7 JUDGE O'CONNELL: Gerald Tavino, Tracy McClarity(sic) and

8 Marvin Delgado.

9 GERALD TAVINO: Hi Siting Board, Judge O'Connell. This is my

10 first time public speaking. I hope you'll bear with me.

11 I am a resident of Balmer Road. I have a wife and two

12 children, a dog and a cat. Right now we're all healthy,

13 thank God. I work at a chemical plant and I can

14 truthfully say I don't want that stuff in my backyard.

15 This is ridiculous. This area of Western New York is

16 full. I don't want you to contaminate anymore of the

17 area, the lakes, the oceans. It all ends up there. Then

18 one other thing I'd like you to do on your way home, when

19 you're going down the 90 past the mall, I'd like you take

20 a deep breath on the smell and stench of that area 'cause

21 that's what you're going to put us through if you allow

22 this to go on. Thank you.

23 JUDGE O'CONNELL: Mr. Delgado.

24 MARVIN DELGADO: Your Honor, Judge O'Connell, members of the

25 Board, I have to put on glasses. It sucks getting old.

1 Hello. My name is Marvin Delgado and some of you may  
2 know me. I've been living in the Town of Lewiston now  
3 for twenty years and I call it home. It is, I consider, a  
4 very beautiful area and to some -- to some here they  
5 actually call it God's green acre of which I also  
6 believe.

7 Over that twenty year period of time, I have also  
8 heard all sorts of stories of the dumping that used to  
9 take place here in the local area and I believe as a  
10 result we suffer from one of the highest cancer rates in  
11 the nation and because of the Creek Road extension -- no,  
12 excuse me, but I've been living off of the Creek Road  
13 extension now for the last twenty years and witnessed  
14 passage of not hundreds, but thousands of garbage trucks  
15 on the way to Modern. Now we have one of the most scenic  
16 places in New York State. I say it's time that we take a  
17 stand and stop being the armpit of New York. If we allow  
18 CWM to build the facility, there are several things that  
19 I believe and that people should be made aware of.

20 First is that I do not believe that there is any  
21 full-proof guarantee that anyone can give. I do not  
22 believe that they can maintain one hundred percent safety  
23 of a facility, and that any toxic waste disposed of there  
24 will eventually leach out into the local environment  
25 further desecrating the surrounding lands forever.

1 Second, this facility -- if this facility is being built,  
2 as I understand it, is going to be built one and a half  
3 miles away from where our school is, don't you think that  
4 they would choose a remote or more desolate area of New  
5 York for their operation because if there ever were an  
6 accident, they would have less of an impact on a sparsely  
7 populated area than in a populated one. To me that would  
8 make more sense, not one and a half miles from our  
9 schools.

10 Third, if this facility is built, that would add to  
11 the already massive number of trucks in this area, but  
12 the difference is that these tankers will, in fact,  
13 actually carry toxic waste. I assume that they will be  
14 carrying toxic material through where we live, through  
15 our communities, through our neighborhoods, and God  
16 forbid if anything should ever happen, okay, so far as I  
17 am concerned putting the local populace in harms way.

18 Fourth, God forbid if anything should happen because  
19 our property values would plummet. Who in their right  
20 mind would want to live near a toxic waste dump, I ask  
21 you? All right. Now, isn't it not time that we say no  
22 to being the armpit of New York? Isn't it time that we  
23 say we've had enough of the dumping and high cancer  
24 rates? I do not say this for the adults that are here,  
25 but I say this for our children -- for our children, mine

1 and yours, and their children's children and their  
2 children's children who might attend Lew-Port some day  
3 and should we not think of them and their safety as  
4 children and also the safety of the children that  
5 actually, in fact, go over to the school system now.  
6 Should we not take the stand for them. I do not believe  
7 that any good can come from this facility being built in  
8 such a beautiful and populated area, no good at all, and  
9 I say this should not be allowed.

10 JUDGE O'CONNELL: Joyce Casper, Theresa Mariani, Sandra Olsen,  
11 Pat Herberger.

12 JOYCE CASPER: Hi Judge, Board. My name is Joyce Casper. I  
13 live out in Ransomville, which is the Town of Lewiston  
14 and I also work for a -- or have worked for a local  
15 chemical company and in dealings with working within a  
16 chemical company, I have also had HAZWOPPER training  
17 which I don't know the extent of everybody's, but my  
18 situation, we're plopped down in front of a computer and  
19 we have ten tries to get the answers correct and we just  
20 keep taking the test until we pass and we have no  
21 hands-on experience whatsoever, and that is all reported  
22 as a pass. I have seen documentation that is falsified,  
23 records that have been falsified and know that trucks are  
24 loaded with waste that is not classified correctly,  
25 knowing that the products that we have produced and what

1 is going into the trucks, and as it concerns that, I -- I  
2 know that we have very few roads in this area of Niagara  
3 County and most of those roads are run by the towns and  
4 the villages who don't have a lot of money to keep these  
5 roads upheld. We also have very narrow roads. There's  
6 no shoulders on a lot of roads.

7 My road itself is about two miles long and if  
8 there's any kind of incident or accident on this state  
9 road, Route 104, which is one of the main trucking  
10 routes, what do they do? They divert all the traffic, so  
11 now they're diverting the traffic onto my road which I  
12 believe has been termed the worst road in Niagara County  
13 for potholes. I have probably a two inch shoulder and  
14 when you get into more residential area on Town Road, you  
15 have homes that are closer to the road. In an instance  
16 if a truck happened to veer off for one reason  
17 whatsoever, maybe even if somebody runs out into the road  
18 because kids are waiting for school buses standing right  
19 on the edge, if that tractor trailer actually veered off  
20 my road, it would be in my front -- it would be in my  
21 house. It wouldn't even have a chance to stop. That's  
22 how close we're to the road. We live in the country.  
23 You know, we have town roads. Who maintains these roads?  
24 Who's giving us money to maintain these roads if we have  
25 all these trucks being diverted onto the small roads and

1 we have potholes? I don't know who's going to maintain  
2 them. Now they're just creating more and more of an  
3 issue with the financial stability of our local township.  
4 I encourage you to drive around on some of these small  
5 roads.

6 I encourage you to see what conditions these roads  
7 are in that you want to put this truck traffic on. I'd  
8 like you to see how close some of these homes are to the  
9 road that you want to put this truck traffic on. I want  
10 you to see where these children are standing. I  
11 understand all about risk management and how you can  
12 quantify and qualify things until, you know, everything  
13 comes out roses, but the bottom line is all you need is  
14 one incident and you can throw all those statistical data  
15 out the window. You have a dead child. You have a dead  
16 family and where does that risk management get you. Last  
17 I'd like to say is, yes, I have a daughter who went to  
18 the school and has reproductive issues. She's watched  
19 for any kind of abnormality starting when she was  
20 fourteen years-old. CWM, we don't need you anymore. I  
21 don't know what you're managing, but you're not managing  
22 chemical waste, you're managing lives. Thank you.

23 JUDGE O'CONNELL: Theresa Mariani. Sandra Olsen.

24 SANDRA OLSEN: Thank you very much for this opportunity to  
25 speak. I'm Sandra Olsen and I live in Youngstown, New

1 York, and I have been director of both the Castellani Art  
2 Museum and (inaudible) Art Gallery so I have this kind of  
3 artistic view point. But one of the things I've had the  
4 great privilege of doing in my career is do a lot of  
5 research on Niagara Falls, on the Niagara River, and on  
6 Old Fort Niagara as the historic sites and one of the  
7 reason we moved up here was because I can almost not  
8 imagine a more ideallic place in the state. We're on an  
9 international border which historically is so important  
10 for the underground railroad historically and is known  
11 internationally as one of the most important crossings.

12 Niagara Falls is one of the worlds natural monuments  
13 that bring people internationally here from everywhere.  
14 We have the Niagara River which I have learned pulls  
15 together all the water from all the Great Lakes, all come  
16 together and go down the Niagara River into Lake Ontario.  
17 That's going right through here. That, in my opinion and  
18 the opinion of many people is the future of this area  
19 because as many people have mentioned, it's the largest  
20 fresh water source, if not in the world, certainly in our  
21 continent and there's already discussions about a pipe  
22 (inaudible) to the southwest. That's our future  
23 economically.

24 Our future also is with tourism. We all have talked  
25 about this. Also Old Fort Niagara. I was told by the

1 State Department of Education because this is part of my  
2 job is to work on education this area, that Old Fort  
3 Niagara is the oldest military building in this country.  
4 It is the oldest military spot that is still active and  
5 was active through World War II. It was there from the  
6 very beginning of people coming in this region because it  
7 was recognized right then and there that this place has  
8 to be protected because it's the gateway to the Great  
9 Lakes. It's the gateway to going west. It's the gateway  
10 of our future.

11 For centuries wars have been fought there, for that  
12 reason, to protect this region, to protect all of these  
13 natural resources. It's now our turn to protect the same  
14 way and to take that role and just say no. And it  
15 shouldn't just be us. It should be the State saying we  
16 have to protect this. It's so illogical to have this  
17 here in this site, not to mention being next to the  
18 school, but this whole area is totally going to be  
19 dependant on that freshwater source and keeping the lakes  
20 and the rivers that are already polluted. It's our turn  
21 to protect. We're right here and we don't want to have  
22 it any further. Thank you.

23 JUDGE O'CONNELL: Pat Harberger. The last speaker -- oh, I'm  
24 sorry. I beg your pardon. I didn't see you. You're Ms.  
25 Harberger, right?

1 PAT HARBERGER: Yes.

2 JUDGE O'CONNELL: Thank you.

3 PAT HARBERGER: I'm here to speak against the new landfill. It  
4 troubles me immensely for one main reason, people. People  
5 should be the bottom line in this scenario, not money.  
6 My husband and I moved here almost exactly a year ago to  
7 the Town of Porter thinking we were moving to a beautiful  
8 area. Well, somebody said today PCPs have been found in  
9 creeks. Now this spring when the snow was melting, the  
10 creeks overflowed onto our property into the ditch across  
11 the road. They had to put up signs about the road being  
12 flooded. It was like a river running next to our house.  
13 A river on one side of the grass and on the other side  
14 there is a ditch and there's a river flowing through the  
15 ditch too and all this dumped into Lake Ontario.

16 So where are these PCPs going and what does this  
17 mean to our family? We're out walking on the grass with  
18 a three year-old great granddaughter, one year-old  
19 granddaughter. What about the three kids playing next  
20 door. You know, who -- who is concerned about the people  
21 in this scenario and then you're saying eat local  
22 produce. Well, after what I heard today, can you trust  
23 the fruits and vegetables grown here and the grapes, you  
24 know, that are harvested for the wineries? I hope all the  
25 farmers and the winery owners speak up and oppose this.

1 I'd be very concerned if I was them and, you know, maybe  
2 that's why there's so many houses for sale on Lake Road.

3 I don't know if anybody's noticed, but the houses  
4 for sale signs are popping up like crazy on Lake Road.  
5 Maybe that's why my next-door neighbor moved last year.  
6 Maybe he knew something that we didn't. Maybe he could  
7 see the writing on the wall. And the family that bought  
8 the house next door that had those three little kids,  
9 guess what they were told as to why the person was  
10 moving. The realtor told them, oh, they're moving to  
11 California. They didn't move to California. They stayed  
12 in Western New York. They were lied to. Maybe they knew  
13 something.

14 So it really distresses me and I'm hoping the DEC  
15 does not approve this because what is the value of human  
16 life in this scenario. Doesn't it matter? Doesn't CWM  
17 care about this? Why would they do this to people? You  
18 know, it's obvious -- it seems that revenue is more  
19 important than human life, but it's not just human life,  
20 it's more than that. It's our whole community, our  
21 neighborhood. What about corporate responsibility. I  
22 worked at Carborundum during the whole Love Canal  
23 scenario. That was a tragedy beyond tragedies and I can  
24 just see this thing being repeated, you know, and as  
25 someone said before, why can't we truck this stuff where

1           there are no people. You know how many thousands of  
2           acres of desolate land there is in this country.

3           You can drive through hundreds and hundreds of miles  
4           and there's nobody. Why don't we truck the stuff there.  
5           If you drive from the east coast to the west coast you'll  
6           go many, many hundreds of miles without seeing anybody.  
7           Why don't we take it there. This is ridiculous that it's  
8           so close to people, so, I mean, DEC stands for the  
9           Department of Environmental Conservation. Their goal is  
10          to conserve the environment. I hope that they really  
11          help us here by not approving this and deny this  
12          proposal. We really need your help, DEC. Thank you very  
13          much.

14         JUDGE O'CONNELL: I have three cards left. They are, however,  
15          from people who spoke this afternoon, so before I call  
16          these last three people, I want to check to make sure  
17          that there's no one else who would like to make a  
18          statement. So our next speaker will be Mr. Olsen.

19         NILS OLSEN: Hello. My name is still Nils Olsen and I still  
20          live at 650 Main Street in the Village of Youngstown.  
21          I'm a member of the faculty of the University of Buffalo  
22          Law School. I teach the environmental justice litigation  
23          clinic. I appeared this morning on behalf of our client,  
24          Residents for Responsible Government. I'll speak very  
25          briefly tonight about another client, the Lewiston-Porter

1 Central School District. The school district has agreed  
2 to be represented to seek party status in front of the  
3 Siting Board and to vigorously oppose the amendment to  
4 the site permit, the issuance of the certificate of  
5 environmental safety and public necessity and the  
6 construction of new landfill.

7 President of the School Board spoke quite eloquently  
8 about the issues that are presented. I want to highlight  
9 first of all the importance of having the school district  
10 seek party status. This is the critical -- the critical  
11 community resource that we have. Virtually every child  
12 in this area in the towns of Lewiston and Porter pass  
13 through this school. Many of them spent twelve or  
14 thirteen years here.

15 There are hundreds of teachers and employees who  
16 spent their entire career here. For instance, the School  
17 Board indicated there are significant problems the school  
18 district recognizes and is prepared to get out in front  
19 on and to participate in the public process. I won't go  
20 through those. She did a good job. I just want to  
21 emphasize to the Siting Board my strong convictions that  
22 -- why you're here and what process you should employ.  
23 And the district is well aware, and you've heard it again  
24 and again, best thing they ever did for us, they found  
25 consistent with the US EPA that there was a large surplus

1 of capacity for hazardous waste disposal and that there  
2 is no need for additional hazardous waste disposal in New  
3 York State to deal with waste that's produced here.

4 You'll hear a lot of talk about Brownfield. Don't  
5 believe it unless somebody can produce hard evidence that  
6 in fact CWM received significant Brownfield waste. To my  
7 knowledge they do not. Okay. The reason that you are  
8 here is because of us. The last hazardous waste facility  
9 Siting Board was conducted for RMU-1, the last landfill.  
10 We are virtually the only community that ever hosts this  
11 very odd and strange administrative process with all of  
12 you involved and that's because we have the only  
13 commercial hazardous waste landfill that continues to  
14 replicate itself every ten or twenty years seeking  
15 additional room. The reason that this was put in place  
16 is because the legislature in their wisdom denied this  
17 community their constitutional right to regulate  
18 hazardous waste landfilling within the community.

19 In place of that, we have you, so I'd like you to  
20 keep that in mind. We count on you because you're it.  
21 We don't have local control over this and the Court of  
22 Appeals says we can ban fracking, right, but we can't ban  
23 additional -- bringing in of an additional six hundred  
24 million tons of hazardous waste into our community.  
25 Okay. It's in your hands. As a result, I will implore

1 you to take these comments seriously, to accept the  
2 application for party status and qualify community  
3 entities, take them seriously. Okay. Hold the applicant  
4 to a heavy burden.

5 This facility, the application for this massive new  
6 landfill is not necessary. Who benefits? Chemical Waste  
7 Management, perhaps Waste Management. We've heard from  
8 employees at the site. They obviously have a strong  
9 interest in maintaining the site. They are not the  
10 public interest in this community. If you close this  
11 landfill down, many will still be employed. Okay. It's  
12 a mess out there that needs to be constantly monitored,  
13 as they say in the permit, forever. You know, forever is  
14 never forever, but hopefully it will at least last  
15 awhile. Okay.

16 You've heard the community's view of the value of  
17 this. Okay. This afternoon I'm just asking you to be  
18 realistic. All right. Would you move next to a  
19 commercial hazardous waste facility bringing in millions  
20 and millions of tons of hazardous waste when you have  
21 options to go elsewhere? Would you be risk adverse when  
22 you hear about these statistics with respect to health?  
23 Would you expect your investment in your home to increase  
24 and given the reality of this community? Those are  
25 questions that I think you need to ask. Those are

1 questions that directly bear on the public interest here.  
2 Perhaps the most important one -- there have been health  
3 studies done. Serious issues have been detected above  
4 what would be expected. There's no way to tell whether  
5 or not it's Chemical Waste Management or something else,  
6 but what is the difference? If there are problems here,  
7 why would you permit this massive importation and burying  
8 the hazardous waste? It's certainly not going to help  
9 the cancer rate. The fact that we can't prove it is just  
10 a fact of medical science. Okay. If it has -- if it's  
11 present here, we don't need more hazardous waste. That's  
12 a fact. Okay.

13 So the reason that I wanted to speak was to just  
14 drive home that point. You are here to serve our  
15 interests. Right? Until the legislature passed that  
16 amendment to the Environmental Conservation Law, zoning  
17 could have taken effect. Okay. The same time they took  
18 that away, they put you in place. You're not going to  
19 sit here anymore. I'm sorry more of you aren't from  
20 here. It's hard to get a perspective on what this  
21 community is about. I hope you've heard it tonight.

22 Thank you very much.

23 JUDGE O'CONNELL: Vincent Agnello.

24 VINCENT AGNELLO: Thank you for the opportunity to speak again  
25 tonight. I have a letter from the physicians of Niagara

1 Family Medicine that they've asked me to read. Dear Judge  
2 James O'Connell. As family physicians who live and  
3 practice in the Niagara Frontier, we feel it is important  
4 to speak out on an issue that may impact the health and  
5 well-being of our patients and our families.

6 As you are aware, CWM which has a toxic waste  
7 processing center in the Town of Porter and Western  
8 Niagara County is currently applying to expand its  
9 existing landfill. We vehemently oppose this for a  
10 number of reasons. The CWM site is located just a few  
11 miles from the shores of Lake Ontario which is part of  
12 the Great Lakes. It is the largest source of fresh water  
13 in North America. To place a toxic waste site there in  
14 the first place was a huge mistake.

15 To permit it to expand further only compounds the  
16 following: The main route for transporting toxic waste  
17 to CWM passes directly in front of Lewiston-Porter  
18 Central School which again sits just a few miles from the  
19 dump site. Heavy multiple trucks hauling hazardous waste  
20 materials daily with their potential to spill or even  
21 turn over poses a significant risk to the children who  
22 attend these schools. The school board of  
23 Lewiston-Porter has voiced their opposition to the  
24 expansion on several occasions. The New York State  
25 Department of Health has identified areas around

1 Ransomville due east or just down where there's CWM as  
2 having elevated incidents of certain cancers not likely  
3 due to chance. While there is no direct evidence that  
4 CWM plays a direct role in these increased incidents of  
5 cancer in our area, there is no doubt that continuing  
6 your current practice of transporting carcinogens into  
7 our fragile ecosystem is unwise.

8 In summary, the potential threats to our  
9 increasingly scarce fresh water supply, our school  
10 children and the health of our populace makes it  
11 important that the application through CWM expansion be  
12 denied. Sincerely, the Physicians of Niagara Family  
13 Medicine, who are Drs. Jerome Andres, Melvin Dyster,  
14 Maria Komin, Harold Reubens, Ashok Singh, Sonjoy Singh,  
15 Allison Wassan, and Daniel Zorich.

16 I have one additional comment. This afternoon I saw  
17 our Town Supervisor from the Town of Porter, Merton  
18 Wiepert. He did not speak to the Siting Board or speak  
19 here. He did not speak because the Town of Porter is  
20 prohibited from speaking on CWM. This was part of a  
21 settlement back in the 1990s when CWM wanted to put in an  
22 incinerator and ended up cutting a deal that my town  
23 cannot speak on behalf of or against CWM. I find that  
24 outrageous as a citizen of the Town of Porter, that no  
25 one from the Town of Porter can speak on behalf of the

1 residents who represent us. I wanted you to know that as  
2 the Siting Board to understand why the Town of Porter was  
3 not here.

4 JUDGE O'CONNELL: The last speaker this evening is Amy  
5 Witryol.

6 AMY WITRYOL: What I didn't get to this afternoon, and I'm  
7 just going to summarize a Siting Board power point and  
8 that is that I was shocked that the CAC was on the Siting  
9 Board agenda. If you read the statute and you know  
10 anything about this community, the CAC is not convened  
11 unless a facility has been sited. So it was no surprise  
12 that Mr. Benoit took charge as instructed in the memo  
13 from the CWM attorney when dealing with regulators and  
14 asked about the county convening the CAC. There are no  
15 conditions to negotiate. There are no conditions under  
16 which any of the unrestricted municipalities want to be  
17 hosting a toxic waste dump. So I hope that that is the  
18 last we hear. There will be no RMU-2, therefore there  
19 will be no CAC ever formally constituted.

20 Now, finally, the last comment of the evening on the  
21 cumulative impacts that I referred to before when I  
22 talked about that boron traveling four miles in twenty  
23 years. Karen is going to play a power point for us and I  
24 also offer it in the memory of Donna and Al Roth, of Bill  
25 Roland and of Ryan Henderson. Karen.

1 JUDGE O'CONNELL: May I make a suggestion, please. Could we  
2 go off the record and then you can work on the technical  
3 issue. Thank you.

4  
5 (Discussion held off the record.)

6  
7 (Whereupon power point is being shown.)

8  
9 JUDGE O'CONNELL: Ms. Witryol, any other comments?

10 AMY WITRYOL: No thank you.

11 JUDGE O'CONNELL: Any other speakers for tonight? Just a few  
12 reminders. First of all, I'd like to thank the  
13 Lewiston-Porter School District for allowing us to use  
14 this facility this afternoon and this evening. It's been  
15 a very big help for us and I appreciate that. Thank you.  
16 Also as a reminder, that at the current time the deadline  
17 for public comment is September 5th and you can mail them  
18 by regular mail to the office of Hearings and Mediation  
19 Services, the New York State Department of Environmental  
20 Conservation, 625 Broadway, 1st Floor, Albany, New York  
21 12233-1550 and the e-mail address is  
22 cwmmu2@gw.dec.state.ny.us and then finally, petitions  
23 for party status, which is part of the second phase of  
24 the adjudicatory hearing are due on September 30th, 2014.  
25 It should be addressed to my attention, please, at the

1 same address that I've just given you for the Office of  
2 Hearings. Thank you. We are adjourned.

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1 STATE OF NEW YORK )

2 SS:

3 COUNTY OF ERIE )

4

5 I, VERA DUJOVIC, a Notary Public in and for  
6 the State of New York, County of Erie, DO HEREBY  
7 CERTIFY that the proceedings were taken down by me in  
8 a verbatim manner by means of Machine Shorthand. That  
9 the deposition was then reduced in writing under my  
10 direction. That the deposition was taken to be used  
11 in the above-entitled action. That the said  
12 deponent, before examination, was duly sworn by me to  
13 testify to the truth, the whole truth and nothing but  
14 the truth, relative to said action.

15 I further CERTIFY that the above-described  
16 transcript constitutes a true  
17 and accurate and complete transcript of the testimony.

18

19

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25

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