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PUBLIC HEARING

On Proposed Amendments to SEQRA Regulations

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Proceedings in the Above-Titled Matter:

Held Before: Lisa M. Wilkinson,  
Administrative Law Judge

Location: RIT Inn and Conference Center  
5257 West Henrietta Road  
Rochester, New York 14623

Date: April 18, 2017

Time: 6:00 p.m.

Reported By: SANDRA C. HEWLETT, RPR  
Alliance Court Reporting, Inc.  
120 East Avenue, Suite 200  
Rochester, New York 14604

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A P P E A R A N C E S

Appearing on Behalf of the New York State Department  
of Environmental Conservation:

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New York State

Department of Environmental Conservation

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 TUESDAY, APRIL 18, 2017;

3 (Proceedings in the above-titled matter

4 commencing at 6:01 p.m.)  
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MS. WILKINSON: Good evening. Before we get started, I would ask that you please silence your cell phones. Thank you very much.

My name is Lisa Wilkinson and I'm an Administrative Law Judge with the New York State Department of Environmental Conservation. I will be presiding over tonight's public comment hearing regarding the Department's proposal to amend regulations that implement the State Environmental Quality Review Act known as SEQRA under Title 6 of the codes rules and regulations of the State of New York Part 617 NYCRR.

The Department has prepared a Draft Generic Environmental Impact Statement to discuss the objectives and the rationale for the proposed amendments. A notice of proposed rule-making and a notice of this Public Hearing was published on February 8th in the Department's Environmental Notice Bulletin and in New York State Register.

Additional notices appeared on February

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 22nd, February 15th, March 1st, March 8th, March 15th  
3 and March 22nd, 2017.

4 This is our fourth and final legislative  
5 hearing on the amendments. The Department held an  
6 information session earlier this evening. The purpose  
7 of this hearing is to provide an opportunity for the

8 public to comment on the proposed amendments to the  
9 SEQRA regulations and the Draft Generic Environmental  
10 Impact statement.

11 So this is not a question-and-answer  
12 session. If you do not wish to make an oral  
13 statement, you may submit a written statement. We  
14 have forms available for you to submit a written  
15 statement this evening or you may submit them in  
16 writing. We have information at the registration  
17 table outside the auditorium and on the DEC website on  
18 how you can submit comments on the rule-making. All  
19 comments must be received by the Department by May  
20 19th, 2017 to be considered.

21 If you have written comments with you  
22 tonight that you would like to submit and you are not  
23 speaking, you may put your comments in the comment box  
24 by the registration table.

25 If you are speaking, and you have prepared

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5

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 written comments that you will be reading from, we  
3 would appreciate it if you would provide a copy of the  
4 comments to the stenographer at the front of the room  
5 after you finish speaking.

6 I will call your name when it is your turn  
7 to speak. Let me apologize now if I mispronounce your  
8 name. If I do mispronounce your name, please correct  
9 me. After I have called your name, please come  
10 forward and speak into the microphone. Please begin  
11 with your name, and if you're speaking on behalf of

12 someone or some group of people, please identify who  
13 it is that you are representing.

14 When you make your statement, please speak  
15 loudly, clearly and slowly. All comments this evening  
16 are being recorded and if we cannot hear you, there is  
17 a risk that your statement will not be recorded  
18 accurately. If the court reporter or I raise our  
19 hand, please pause as we may need you to speak up or  
20 correct a technical issue.

21 Um, and just to remind you that, again, if  
22 you don't wish to make an oral statement, you may  
23 submit a written statement. Oral statements and  
24 written statements are given the same weight by  
25 department staff in their review. So it is your

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 choice.

3 And why don't we start with John Kasmer?  
4 Is that correct?

5 MR. KASTNER: Kastner.

6 MS. WILKINSON: Can spell your name for  
7 the record when you --

8 MR. KASTNER: Yes. My name is -- name is  
9 John Kastner. K-A-S-T-N-E-R.

10 Good evening, and thank you for this  
11 opportunity to speak on amendments to the State  
12 Environmental Quality Review Act.

13 I do not support the streamlining bridging  
14 or shortening of the State Environmental Quality

15 Review process and neither should the State of New  
16 York. I do not believe New Yorkers want less time to  
17 review the complex fine print specifications for new  
18 development projects that could have major impacts on  
19 their health, safety, quality of life and the value of  
20 their property.

21 Recent news is rife with stories  
22 describing how families' lives have been ruined by  
23 ill-conceived, inadequately studied and a hastily  
24 approved industrial development. Urban sprawl drains  
25 the life blood out of cities. Costly new

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 infrastructure is built with tax money at the expense  
3 of properly maintaining old infrastructure.

4 Air and water quality, wildlife habitat  
5 and access to undetermined green space are all  
6 negatively affected by such poorly planned  
7 development. Precious, irreplaceable farmland is also  
8 destroyed.

9 It doesn't have to be that way. There are  
10 already huge tracts of abandoned urban space waiting  
11 for -- waiting for intelligent, carefully designed  
12 projects that meet the needs of communities and make  
13 money for developers. Projects that make use of  
14 existing infrastructure.

15 Residential space created with shops,  
16 services, groceries, galleries, public transportation,  
17 performing arts and green space that are all within  
18 walking distance. These are not pie-in-the-sky

19 utopias. They already exist or are being built in  
20 cities all over the world, including Charlotte, North  
21 Carolina; Albuquerque, New Mexico; Detroit, Michigan,  
22 right here in the U.S.

23 We live in a time of diminishing resources  
24 and expanding public demand for good housing, jobs,  
25 clean area, clean water and clean energy. Yet we're

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 seeing development of toxic industrial facilities and  
3 transport of hazardous materials right in the hearts  
4 of densely populated areas.

5 Good science, education and careful  
6 environmental supervision and management by government  
7 are being ridiculed and underfunded and even  
8 eliminated by an economy driven by elites who have a  
9 voracious appetite for quick profit no matter the  
10 consequences of their greed.

11 What we need now more than anything is  
12 more time for public input, more time for deliberate  
13 and wise scientific review of projects that aspire to  
14 build out a future children will have to live in.

15 I say no to streamlining SEQRA.

16 MS. WILKINSON: Thank you, Mr. Kastner.  
17 Sally Howard.

18 MS. HOWARD: Hi, Sally Howard, and I'm  
19 representing myself, but I am a member of several  
20 environmental organizations, and I'm also a big  
21 supporter of science.

22 I would like to suggest that in the SEQRA  
23 amendment that we need to remember that citizen input  
24 is not optional, that citizens are, as I have learned,  
25 when I took my first SEQRA workshop from a DEC

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 representative, citizens are the SEQRA police. That  
3 it is up to citizens -- they're responsible to enforce  
4 the regulations. That they don't do all of the parts  
5 of the SEQRA process, but they're the bottom line for  
6 saying, "Wait a minute, you missed a step" or, "You  
7 didn't look at this important concern."

8 And I believe that the amendments do have  
9 some increased protection for the environment and  
10 public health, but that they also have some less  
11 protection. Where I believe that they do improve  
12 protection of the environment and public health is  
13 that there are lower thresholds for some of the Type I  
14 reviews, which fill in gaps that were not anticipated  
15 back in 1975 and '78. Such as fewer parking spaces or  
16 fewer housing units to trigger the Type I limitations.

17 And I do agree with requiring scoping  
18 documents for all Environmental Impact Statements. I  
19 love the discussion we had earlier, looking at pros  
20 and cons of specific situations, and it does seem like  
21 that they are continuing to require scoping documents  
22 even when there is a supplemental Environmental Impact  
23 Statement, is the best avenue for looking at the  
24 situation again and not -- not opening old wounds, but  
25 reassessing the situation under the new information.

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 And getting public input.

3 And I also agree that climate change be  
4 considered in Environmental Impact Statements.

5 Where there is less protection, I'm  
6 concerned that there are 17 additional categories for  
7 Type II, and that makes a total of 54 categories of  
8 projects that do not require any public input, any  
9 scoping, no SEQRA review, no environmental impact  
10 study, and probably most concern of all, there is no  
11 written public documentation for this at all either.

12 Which means most people won't know  
13 anything about it, including those people with local  
14 wisdom who may know and -- and have a significant  
15 impact that no one else has brought up. So limiting  
16 also the -- I would suggest that many of these  
17 categories for Type II would be -- sail through the  
18 normal SEQRA process already because they're  
19 appropriate response, and if they had an Environmental  
20 Assessment Form filled out, even a short one would  
21 give the public some documentation to look at as well  
22 as allow time for all of the municipalities and the  
23 other affected agencies to learn about the project  
24 with enough time to do something about it.

25 And 60 days may not be enough time for

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11

2 affected agencies and adjacent municipalities to be  
3 able to learn about a project, have their meeting and  
4 then respond to that project.

5           And there is some continuing concerns  
6 about the process that I'm asking how are the new  
7 SEQRA rules going to impact this? Is it going to be  
8 better or the same or worse?

9           For example, the fact that approved  
10 Environmental Impact Statements do not ever expire,  
11 that impacts all sorts of other projects and decisions  
12 and property values in the municipality. Maybe they  
13 should expire. I would suggest they should. And all  
14 of the documentation for the environmental impact --  
15 for all of the SEQRA documentation I believe it should  
16 stay online, on a website where it can be viewed for  
17 no less than one year from the end of the SEQRA  
18 approval process. That could be the responsibility of  
19 the project sponsor. It does not have to be kept on  
20 the DEC website, but it's -- should be -- for public  
21 knowledge and clarity, it should be posted for that  
22 length of time, no less than one year after the  
23 approval.

24           My other question is, how does the -- do  
25 the new SEQRA rules address the mitigation of adverse

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 environmental impact that right now money can be paid  
3 to local agencies or -- or organizations in  
4 compensation for negative environmental impact;

5 whereas, the original, I believe, purpose of this  
6 en -- the -- in identifying adverse environmental  
7 impact was to allow the project designers to then  
8 redesign the project somewhat to reduce environmental  
9 impact which can't be undone, but instead of basically  
10 paying a we're-sorry fee.

11           And the -- the other impact is the amount  
12 of time that local governments need to spend on  
13 looking at difficult projects that have negative  
14 environmental impact, that is actually a taxpayer  
15 borne expense because our local governments are paid  
16 for by taxpayers, and they're doing all of this work  
17 trying to gather all of the information and organize  
18 the -- the hearings for the -- for a poorly design  
19 project that has a negative environmental impact and  
20 then on top of it, if it gets approved, then it's also  
21 again citizens that need to pay for litigation to stop  
22 a project that is going to have a negative impact on  
23 the community.

24           So even though it's -- it may seem like  
25 it's the developer's cost and burden, it is actually a

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 taxpayer burden even more so.

3           Thanks.

4           MS. WILKINSON: Thank you very much.

5           Alice Sokolow?

6           MS. SOKOLOW: The proposals were developed  
7 through an expensive stakeholder outreach effort is

8 how you start your GEIS. The problem is, um, I have  
9 been monitoring the ENB since 17 years ago. And  
10 besides the new EAF forms, I don't remember this being  
11 on the ENB until January of this year.

12 So I understand that in your GEIS you  
13 referred to in 2009 with the mid-Hudson group, where  
14 you evaluated the SEQRA issues, and also again in 2011  
15 with the Empire Center group that brought in  
16 constituents, that was, I thought, to address the EAF  
17 which was the part of your whole process. But what  
18 happened from 2012 when the new EAF came out 'til 2017  
19 and how does that data with the new EAF that you've  
20 acquired over those five years -- how was that  
21 applied, because I can't find it in the GEIS? Okay.

22 Then recently, Empire Center came out with  
23 a paper on streamlining SEQRA and their conclusion was  
24 very upsetting -- unsettling. The proposed reformed  
25 outlined above assumes that the underlining SEQRA

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 statute is not changed, but the issues cited here also  
3 point to a bigger question. Given the many other  
4 environmental protection and land use laws enforced at  
5 the federal, State and local levels is SEQRA really  
6 essential?

7 And I go to part 2.0 of the GEIS, and the  
8 one line says that SEQRA is aligned with the  
9 environmental policies and goals of the State by  
10 incentivizing entirely exempt and additional list of  
11 activities. Well, SEQRA doesn't incentivize. By

12 definition, it never incentivizes. And throughout the  
13 whole GEIS, about 20 times, it's mentioned that SEQRA  
14 incentivizes. Solar it incentivizes. Renewables it  
15 incentivizes. Development, it doesn't. That's not  
16 the definition of SEQRA.

17 It's a balance of the environment and each  
18 situation is different. When you come to  
19 incentivizing, you think of the Department of State or  
20 some of the things that should be looked at by the PSC  
21 as I said under solar, and cell towers and  
22 transformers and impact on the grid, which you can't  
23 determine.

24 One of the items under solar is that -- it  
25 is actually a benefit. It -- it's not necessarily a

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 benefit. In fact, there are fire hazards when it's  
3 placed on old buildings and roofs where firemen can't  
4 get through the solar panels. And the Department of  
5 State brings that up under their guidance, too. So I  
6 would like to know, how coordinated this review is  
7 with the other agencies involved and is this the shoe  
8 that -- while the DEC has to do with the  
9 sustainability and renewability, does it utilize SEQRA  
10 for that purpose? Because it's not constituted that  
11 way.

12 Again, under the -- the part two, when it  
13 comes to ag land protection, there is none, yet we  
14 talk about sustainability. And SEQRA is not there for

15 sustainability. That is not their job. There are  
16 seven regions in New York State that have their  
17 guidance for sustainability. And in -- if they were  
18 going to take on sustainability, then they would have  
19 to take on agricultural land because we would know we  
20 have to protect our ag land and that would be  
21 overstepping the bounds. I don't want to weaken SEQRA  
22 by legally having cases tried to question its  
23 validity.

24 Um, parking lots, I'm glad it was lowered.  
25 I -- I have a problem with segmentation more when I

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 see case after case that goes on -- what happens with  
3 a brownfield, it goes from one developer, transfers  
4 over to another developer, but that developer is only  
5 in charge of maybe restaurants. Another one is in  
6 charge of the houses. Another one is in charge of the  
7 parking lot. And what happens is there is overt  
8 segmentation.

9 And when I question it, they tell me, "Oh,  
10 it's a different owner."

11 I said, "No, you don't understand the  
12 definition of segmentation."

13 So, therefore, somehow, your guidance  
14 document online should be added to the definition of  
15 segmentation to clarify that in terms of ownership.

16 Okay. In terms of 2.3 in the GEIS, again,  
17 there was incentivizing environmental capability and  
18 encouraging development. SEQRA does not encourage

19 development.

20 Solar, I went through. That was also part  
21 of that.

22 I'm trying to make -- shorten it. Okay?

23 2.4, scope. Mandatory. Yes. But the  
24 days that are required may vary because educational --  
25 educating the public on a very large project that is

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 multi-agency and multi-disciplinarian is very  
3 difficult to do in a short period of time and first to  
4 get through the SEQRA regulations, and -- and I really  
5 think that we should have the ENB electronically  
6 available ASAP, as well as on the site of the  
7 municipality that is posting it. And it should stay  
8 up there along with the scope. And the scope should  
9 overlap the EIS.

10 What happens is they take the scope down  
11 when the EIS goes up and then you can't compare what  
12 has been covered.

13 The interagency coordination is sometimes  
14 lacking, and so what happens is, um, a municipality  
15 that is adjacent to the project that will be impacted  
16 because of the proximity to it, um, are -- isn't  
17 notified. And so they don't have -- so what happens  
18 then? Should start back over again at zero, that the  
19 scope should start over the EIS?

20 Oftentimes it's not until the general  
21 municipal rule and the County are involved that the

22 other town knows about it. So I don't know how to  
23 take care of that situation. That's a chronic one  
24 also.

25 Okay. Electronic scope and the EIS should

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 remain available until one year or 18 months after all  
3 post construction studies are completed. That means  
4 they would have to develop it. And they would have to  
5 pay for the time that it is electronically up there,  
6 because I know projects that have gone on for 17 years  
7 or more. And they still aren't developed because  
8 they're waiting just for the right subsidy to come  
9 along. And that's really not there for the  
10 communities.

11 And coastal storm water -- coastal and  
12 storm water situations in 2.8, I'm not sure again if  
13 that should be under SEQRA or it should fall under  
14 insurance and Department of State and municipality.  
15 If you have a mandated Comprehensive Plan which is --  
16 does not exist right now, correct? It is still not  
17 mandated. If it were, and there were overlay  
18 protection districts, then the situation could be  
19 handled that way instead under land use and not muddy  
20 up the waters for the SEQRA process.

21 And I think I covered that one. Okay.  
22 Thank you.

23 MS. WILKINSON: Thank you.

24 Um, I apologize. I may mispronounce this  
25 name. Joe Bernosky.

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING

2 MR. BERNOSKY: Perfect.

3 MS. WILKINSON: Did I say that correctly?

4 MR. BERNOSKY: Exactly perfect.

5 MS. WILKINSON: Okay. Thank you.

6 MR. BERNOSKY: Hello. My name is Joel  
7 Bernosky and I'm here representing Buffalo Niagara  
8 Riverkeeper. We thank you for the opportunity to make  
9 these comments.

10 We appreciate the DEC's commitment to  
11 going through and updating SEQRA and the regulations  
12 associated with it. However, we do have some  
13 concerns. I will keep this fairly broad as we are  
14 submitting our formal comments later in the form of a  
15 written comment.

16 But a lot of our comments have to do with  
17 clarification. Especially in the definition section.  
18 When SEQRA is talking about things like municipal  
19 center, it's very overly broad where I -- I believe  
20 that in situations of coastal cities, the municipal  
21 center can be construed as anything up to the  
22 shoreline. We think that should be exempted from a  
23 municipal center, especially related to development.  
24 So we would just like to see some sort of  
25 clarification as to what exactly a municipal center

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2 is, where the thresholds are for cutting off, and  
3 where a coastal management plan or something like that  
4 would come into effect.

5           Additionally, 18 additions to the Type II  
6 list is fairly long. Just going through some of them  
7 very quickly seems like they're very pro development  
8 rather than protecting environmental considerations  
9 and/or specifically targeting State initiatives so we  
10 just caution DEC from including specific State  
11 initiatives such as providing bio fuel to State  
12 vehicles in the form of generation of anaerobic  
13 digesters at waste water treatment plants.

14           Because again, many of the treatment  
15 plants are in coastal areas and coastal waters, so  
16 they may not be intrinsically bad, if they're  
17 regulated properly, they could be good, but we just  
18 want -- we're wondering why these things are additions  
19 to the Type II list.

20           So in the session previously right before  
21 this, we got in a little suggestion about  
22 substantially contiguous areas. I know there was some  
23 back and forth on that definition. Specifically for  
24 subdivisions, minor subdivisions, number 18 on the  
25 additions of the Type II list, substantially

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 contiguous areas to critical environmental areas is  
3 the key word here. We would like to see that  
4 definition extended to any State or federal

5 environmental areas.

6 We work with a lot of municipalities that  
7 don't have the resources or the time or sometimes even  
8 the willingness to get designated as a critical  
9 environmental area, which is something very specific.  
10 So we would just like that to be extended a little bit  
11 to be more protective.

12 Thank you for your time.

13 MS. WILKINSON: Thank you very much.

14 Shawn Logue? L-O-G-U-E? Representing MRB  
15 Group?

16 I apologize I -- please come up. And  
17 please tell me how to pronounce your name if you could  
18 spell it for the record.

19 MR. LOGUE: Sure. My name -- last name is  
20 L-O-G-U-E, Logue.

21 And I actually, um -- I did not have any  
22 comments. I'm just kind of here for the information  
23 piece.

24 MS. WILKINSON: Okay. Because you filled  
25 out a comment card. So you don't have to speak.

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING

2 MR. LOGUE: My apologies.

3 MS. WILKINSON: That's fine. That's fine.

4 Nancy Kasper.

5 MS. KASPER: Good evening. Thank you for  
6 holding this hearing.

7 I'm approaching this from a broad view. I

8 am a shall organic farmer who on a day like today took  
9 time out to -- off the tractor, out of the field to  
10 get cleaned up and I did that because this is  
11 important.

12 DEC, I understand, in recent past has  
13 undergone staffing cuts, budget cuts. Whenever I have  
14 had to call DEC on a very -- on a variety of issues,  
15 um, burning -- open burning, um, field runoff -- I  
16 live obviously in an Agricultural District -- I have  
17 never been able to get an officer to respond or -- or  
18 to answer the call. Never.

19 I've called the Water Division and  
20 actually been laughed at because they are -- you know,  
21 they're at their wits' end. I understand that DEC is  
22 stretched thin.

23 I'm -- I'm imaging that most DEC employees  
24 came into this field of work because they care about  
25 the environment. This is the environmental, you

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 know -- equivalent of the Protection Agency. Speaking  
3 of which, the federal EPA right now is being  
4 compromised in a big way, and I think if our State  
5 regulatory agencies are going to streamline and  
6 further compromise the regulations, it's -- it's  
7 vitally important now to cover the bases that our  
8 federal government is now missing and going AWOL on.

9 We have global climate change. We've got  
10 industrialization of farming. Um, our environment is  
11 already suffering. And life is not sustainable at

12 this current pace of contamination of water, air and  
13 land.

14 We cannot afford to further degrade our --  
15 our environment. Any deregulation, any modification  
16 to the current SEQRA rules is going to cause damage  
17 that we cannot afford. I -- I am deeply concerned for  
18 our children's future, for the planet, the health of  
19 the planet, and it's -- it is just absolutely the  
20 wrong time for our State DEC to be cutting back in any  
21 way on regulations that are supposed to protect our  
22 environment for, you know, present people and other  
23 beings, creatures and for future generations.

24 Um, my job -- again, I'm a small organic  
25 farmer and a minister. I also teach organic farming

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 and sustainability. And, you know, I do this with a  
3 passion, and with hope that there's actually going to  
4 be something to give for our children -- to our  
5 children for the future. And New York State has done  
6 some wonderful things. They have been fracking and a  
7 big hooray to that. I don't think it's any time to  
8 backslide.

9 We can stand up, we can be a model of  
10 sustainability and integrity at a time where it's --  
11 it's absolutely important, vital for the health of  
12 human kind and for the planet.

13 I guess that's really what I want to say.  
14 I speak from my heart with great passion and great

15 care and I trust the DEC in their hearts believe that  
16 they want to take care of our environment, too, and I  
17 strongly recommend that we strengthen environmental  
18 regulations. We need to do that at this time. The  
19 cumulative effect over years, over decades, um, well,  
20 has had its impact and so we can't add to that now.  
21 We -- we have got to get more strict and have  
22 integrity.

23 So thank you for allowing this time and  
24 space to come in.

25 MS. WILKINSON: Thank you, Ms. Kasper.

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING

2 Paul Flansburg.

3 MR. FLANSBURG: Hi. My name is Paul  
4 Flansburg, and I'm representing myself and I live in  
5 Henrietta. I would like to -- my comments to kind of  
6 piggy-back on a couple previously mentioned.

7 Sally Howard has made a comment relevant  
8 to public input, and Al Sokolow has made a comment  
9 relative to segmentation.

10 Regarding the first comment, if it's true  
11 that it's the public that has to be the watch dogs,  
12 it's kind of like saying the squeaky wheel gets the  
13 grease. So I want -- I want to look at that in rel --  
14 in relation to another comment by -- by an attorney  
15 and his published comments. I can't remember his name  
16 right off the tip of my head. "By substantially  
17 increasing the types of projects on the Type II  
18 actions list, the DEC's proposed SEQRA regulations

19 substantially increase the" -- "substantially decrease  
20 the information available to the public as well as  
21 government decision makers."

22           So these amendments make -- essentially  
23 make development projects less successful to the  
24 public. So I guess one way to deal with the squeaky  
25 wheel is to grease it. The other one is just not to

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 have any wheels.

3           Then Al Sokolow has mentioned  
4 segmentation. And people who have studied  
5 environments know that particularly in pipeline  
6 development projects, segmentation is a way to avoid  
7 environmental impacts, the record of environmental  
8 impacts by breaking up a pipeline into smaller  
9 segments that do not fit the criterion for written  
10 review. That has to be evaluated by the State.

11           And so I'm thinking to myself, why not  
12 improve SEQRA recommendations to disallow  
13 segmentation? It only makes sense. Instead, we're  
14 looking at adding things that don't get scrutinized?  
15 It's -- it's a mockery of a process which is supposed  
16 to protect the environment and the people that rely on  
17 it.

18           Thank you very much.

19           MS. WILKINSON: Thank you very much.

20           Kevin Gallagher.

21           MR. GALLAGHER: I will forego the spoken

22

part and provide a written.

23

MS. WILKINSON: Thank you, Mr. Gallagher.

24

Okay. I apologize ahead of time. Mirabai

25

Marquardt?

♀

27

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING

2

MS. MARQUARDT: Marquardt.

3

MS. WILKINSON: My apologies.

4

MS. MARQUARDT: No problems.

5

MS. WILKINSON: If you could just spell

6

your name for the record, thank you.

7

MS. MARQUARDT: My last name?

8

MS. WILKINSON: Yes.

9

MS. MARQUARDT: M-A-R-Q-U-A-R-D-T.

10

MS. WILKINSON: Thank you.

11

MS. MARQUARDT: Thank you for this

12

opportunity. I'm speaking from my heart much like

13

Nancy Kasper. I have to say, I am 62 years old and I

14

have never done anything like this in my life.

15

I participated in the first Earth Day. I

16

am the head of a mystery school in a small, rural town

17

in Wayne County. I own seven acres. Students come to

18

my land to commune with nature and to experience nature

19

and the earth.

20

So I'm speaking for my community. I'm

21

speaking for myself. I have to admit, I know very

22

little about the rules and regulations that are being

23

discussed here, but I will tell you that I've lived in

24

New York for over 30 years and at various times in my

25

life, much earlier, I have been a trapper and a hunter

♀

28

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 and followed very closely the DEC regulations, had  
3 great respect for the regulations because I understood  
4 intrinsically that the laws that we were following,  
5 the regulations that we were following were for the  
6 good of the whole.

7           So I don't hunt and I don't trap any more  
8 and I do still have a high regard for the DEC and  
9 environmental conservation. That speaks very deeply  
10 to me. So I guess from what I've picked up and the  
11 little bit that I have read and the little bit that I  
12 can understand -- I don't understand the lingo and the  
13 acronyms and that.

14           Again, I'm speaking from my heart. I  
15 would just ask the DEC, um, and state that this is not  
16 a time to be getting rid of services, getting rid of  
17 protection. It's a time to really buckle down and  
18 protect the environment and do what is really the --  
19 you know, the inherent good thing to do.

20           I understand that there are a lot of cuts  
21 in the DEC. I understand that as Nancy said,  
22 things -- people are being stretched very thin, and I  
23 just would like to say that I'm here because I know  
24 it's time to really step up to the plate.

25           Like I say, I have never done this before.

♀

29

2 So thank you for the opportunity. Thank you, DEC, for  
3 what you have done in the past and for doing what I  
4 know will be the right thing.

5 Thank you.

6 MS. WILKINSON: Thank you very much.

7 Thomas Harvey.

8 MR. HARVEY: Wow, I just walked in the  
9 door. Um, there -- I'm Thomas Harvey. I'm the  
10 Director of Planning for Ontario County. There is a  
11 lot of good stuff in the proposed revisions. Let me  
12 just run through a couple of concerns.

13 Under Section 617.5, the exemption for  
14 number 16 talks about exemptions for solar energy  
15 arrays on existing structures not listed on the State  
16 or National Register. Again, I think you should add  
17 some additional limitations. For example, um,  
18 projects that involve the placing solar arrays on top  
19 of a preexisting, nonconforming building or where  
20 installations would create nonconforming buildings,  
21 those probably should not be exempt.

22 The next section, 17, talks about area  
23 variances for single, two-family or three-family  
24 residences. Um, appears to grant an exemption for  
25 area variances not involving a change in allowable

♀

30

1 PROPOSED AMENDMENTS TO SEORA REGULATIONS PUBLIC HEARING  
2 density and lot line adjustments.

3 I really think you need to provide a  
4 definition of allowable density and what you mean by

5 lot line adjustments because some of the local zoning  
6 and subdivision regs will have various definitions and  
7 you -- you will want to make sure that you're using  
8 one common one that you agreed on.

9           You know, again, the concern is, you know,  
10 are we applying that standard to the number of  
11 dwelling units per acre, square feet of lot coverage  
12 for residential projects, amount of square footage for  
13 commercial. You know, what is -- does lot density  
14 mean in your parlance.

15           Um, does lot line adjustment mean a  
16 relocation of the lot line between two neighboring  
17 residential properties? Where a variance isn't  
18 involved? I think you need to be very specific in  
19 that. And again, so a municipality -- if you don't  
20 intend to exempt things that are commercial  
21 industrial, you make that clear or if you intend to  
22 create it, that's fine, but it should be under those  
23 specific parameters.

24           Section 18, number 18 in that same  
25 section, um, talks about again the ten acres or minor

♀

31

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 subdivision being four fewer lots involving ten acres  
3 or less would be exempt. I made comments but not  
4 officially on the record before, but the regulations  
5 seem to be contemplating a -- residential subdivisions  
6 and you guys should make that very clear that's the  
7 intention as opposed to a commercial or an industrial

8 subdivisi on, and I would suggest that, you might also  
9 want to include at that point exemptions for site plan  
10 review for single-family, detached residential on an  
11 approved lot with no variances, that comply with  
12 zoning.

13 Again, a lot of our municipalities have  
14 separate site plan requirements and if they go down,  
15 drill down to the single-family, residential level,  
16 those are the things on an approved lot that you  
17 should consider making exempt.

18 The next section, 19, um, establishes a  
19 residential or commercial projects involving less than  
20 8,000 square feet. Um, and it creates an exemption  
21 for that. Well, 8,000 square feet of what? The lot  
22 size? The building? The modifications? I think you  
23 need to put that delimiter in there as well to make it  
24 clear so people don't guess.

25 Number 23, that same section, um, I think

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1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 again you need to add a delimiter that it is not  
3 involving a use variance or expansion of a preexisting,  
4 nonconforming use because all you say in that section  
5 is consistent with zoning law or ordinance. I  
6 don't -- you don't want anybody arguing that just  
7 because it's a recognized preexisting, nonconforming  
8 use, that that somehow falls in this exemption.

9 And further, I think you want to say that  
10 a project involving a Special Use Permit, because  
11 that's a use of right, with special consideration,

12 should be included in -- very explicitly in that  
13 exemption.

14 Um, dedication of parkland. Um, I think  
15 it's very well intended, but I think there -- it  
16 should be in compliance with the Town's comprehensive  
17 plan and/or a recreation plan that the Town has. 100  
18 acres or -- or -- is a considerable amount of property  
19 for some of our smaller municipalities to take on.

20 Um, and the -- and Section 45, it talks  
21 about up to 100 acres. And I think for a non-active  
22 use, a preservation use, a trail use, some things of  
23 those -- those types of parameters would be  
24 acceptable, but a blanket for parkland which could be  
25 anything from a marina to a golf course to something

♀

33

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 else, that this plan really shouldn't be exempt.

3 Um, Section 44, the dedication of -- of  
4 parkland. I think the parameters should be in that as  
5 part of an existing subdivision development or other  
6 development proposal. You want to limit it to that.  
7 Because a town usually would have in their subdivision  
8 regs, for example, so much parkland, so much space  
9 per -- per acre, and I would agree that the dedication  
10 of that has been thought out and if it is in  
11 compliance with the local municipal requirements, that  
12 makes sense to be exempt. So you need some more  
13 delimiters on that.

14 Item 46, in that same section, it talks

15 about conveyance of five acres or less by a  
16 municipality or public corporation for construction or  
17 rehabilitation of one-, two- or three-family housing.

18 Agree with that exemption, but again, it  
19 should be where the property is zoned for such use.  
20 Sometimes you have public corporations that aren't the  
21 municipality and you don't want to create a conflict  
22 between what they want to do and what the local zoning  
23 calls for.

24 Section 47 in that same section or  
25 paragraph, again, that's a kudo. It's long overdue.

♀

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING

2 The exemption for the sale of real properties seized  
3 through tax foreclosure being on the exempt list is a  
4 really good addition.

5 I think you should also consider adding  
6 exemption for the purchase of development rights in  
7 accordance with again the municipality's farmland  
8 protection land or a land conservation plan.

9 Another category that you should consider  
10 adding are exemptions for temporary access easements  
11 related to highway reconstruction. We go through that  
12 all of the time.

13 Another category that costs us a lot of  
14 time and effort that, you know, there is never a -- a  
15 negative connotation on, is the acceptance or transfer  
16 from New York State DOT of surplus property associated  
17 with a State right-of-way. They can't give it to the  
18 adjoining property owners. They abandon it to the

19 County. The County abandons it to the -- or transfers  
20 it to the adjoining property owners. For minor amount  
21 of property, an acre or less that -- that should be  
22 exempt. You know, we have gone through in Ontario  
23 County that numerous times in my 30-year career and we  
24 spent a lot of time doing a coordinated review on that  
25 and including DOT, and there is never a common area

♀

35

1 PROPOSED AMENDMENTS TO SEQRA REGULATIONS PUBLIC HEARING  
2 impact.

3 I would concur also in the sections that  
4 deal with the supplemental EIS and scoping of that.  
5 And I -- I think that should be -- an agree with it  
6 being mandatory for the initial Environmental Impact  
7 Statement, the Draft Environmental Impact Statement,  
8 but a supplemental EIS, I think that should be changed  
9 to being optional for -- at the lead agency's  
10 discretion.

11 And that's all I got.

12 MS. WILKINSON: Thank you very much.

13 Does anyone else wish to speak tonight?

14 We'll go off the record for a minute.

15 (There was a discussion off the record.)

16 MS. WILKINSON: Okay. I think that does  
17 it for this evening. We will adjourn the hearing.

18 I just want to remind everybody that  
19 written comments are due by May 19th, and there is  
20 information on the website and also out on the front  
21 table on how to submit written comments.

22 Thank you very much for coming in. We  
23 appreciate your comments.

24 (TIME: 6:51 p.m.)

25 \* \* \*

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

STATE OF NEW YORK:  
COUNTY OF MONROE:

I, SANDRA C. HEWLETT, RPR, do hereby  
certify that I reported in machine shorthand the  
above-styled cause; and that the foregoing pages were  
produced by computer-aided transcription (CAT) under  
my personal supervision and constitute a true and  
accurate record of the testimony in this proceeding;

I further certify that I am not an  
attorney or counsel of any parties, nor a relative or  
employee of any attorney or counsel connected with the  
action, nor financially interested in the action;

WITNESS my hand in the City of Rochester,  
County of Monroe, State of New York.

23 SANDRA C. HEWLETT, RPR  
24 Freelance Court Reporter and  
Notary Public No. 01HE5057286  
25 in and for Monroe County, New York