

NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION - ALBANY

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PROPOSED AMENDMENTS TO THE STATE ENVIRONMENTAL QUALITY  
REVIEW ACT (SEQR) REGULATIONS

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March 31, 2017  
1:00 p.m.  
NYS DEC  
625 Broadway, Room 129  
Albany, New York

BEFORE: LISA WILKINSON, ALJ

1 ALJ WILKINSON: If everyone could take  
2 a seat, we'll get started here with the comments.

3 Just a public service announcement before  
4 we begin, if everyone could turn off their cell  
5 phones or put them on vibrate, we would appreciate  
6 it, especially the court reporter.

7 Good afternoon, my name is Lisa Wilkinson,  
8 and I'm an administrative law judge with the New  
9 York State Department of Environmental  
10 Conservation. I will be presiding over today's  
11 public comment hearing regarding the Department's  
12 proposal to amend regulations that implement the  
13 State Environmental Quality Review Act, known as  
14 SEQR, under Title 6 of the Codes, Rules and  
15 Regulations of the State of New York, 6 NYCRR Part  
16 617.

17 The Department has prepared a Draft Generic  
18 Environmental Impact Statement to discuss the  
19 objectives and the rationale for the proposed  
20 amendments. A notice of the proposed rule-making  
21 and a notice of this public hearing was published  
22 on February 8, 2017 in the Department's  
23 Environmental Notice Bulletin and in the New York  
24 State Register, and another notice was published in  
25 the State Register on February 22, 2017.

1 Additional notices of this legislative public  
2 hearing were published in the New York State  
3 Register on February 15, February 22, March 1,  
4 March 8, March 15 and March 22, 2017. On March 22,  
5 2017, a notice of additional legislative public  
6 hearings and public information sessions on the  
7 proposed amendments was published in the New York  
8 State Register and Environmental Notice Bulletin.

9 Information on the proposed rule-making and  
10 related documents is available on the registration  
11 table and on DEC's website. There is a fact sheet  
12 here which is available outside, if you don't  
13 already have one.

14 This hearing is to provide an opportunity  
15 for the public to comment on the proposed  
16 amendments to the SEQR regulations and the Draft  
17 Generic Environmental Impact Statement. This is  
18 not a question-and-answer session. If you have  
19 questions for DEC staff, however, you can raise  
20 them with Jim Eldred and Larry Weintraub after the  
21 hearing, time permitting. And Larry and Jim, they  
22 will be here after the hearing.

23 If you do not wish to make an oral  
24 statement, you may submit your comments in writing.  
25 We have forms available for you to submit a written

1 comment this afternoon, or you may submit them in  
2 writing by May 19, 2017. The Department has  
3 information at the registration table outside the  
4 auditorium and on the DEC website on how you can  
5 submit comments on the rule-making. All comments,  
6 again, have to be received by May 19, 2017 to be  
7 considered.

8 If you have written comments with you today  
9 that you would like to submit and you are not  
10 speaking, you may put your comments in the comment  
11 box outside here. If you are speaking and have  
12 prepared written comments that you will be reading  
13 from, we ask that you provide a copy of the  
14 comments to the stenographer here in the front of  
15 the room.

16 When it is your turn to speak, I will call  
17 your name. Let me apologize ahead of time if I  
18 mispronounce your name, and if I do that please  
19 correct me. After I've called your name, please  
20 come forward and speak into the microphone here in  
21 the front of the room. Please begin with your  
22 name, and if you're speaking on behalf of someone  
23 or some group, please identify exactly who it is  
24 that you are representing.

25 When you make your statement we ask that



1 the officials for this opportunity to speak today.  
2 I have a folder with materials pertinent to the  
3 public hearing today, and I will just go through  
4 the items one by one. I have a letter to  
5 Commissioner Seggos which follows.

6 My name is Albert A. Annunziata, and I'm  
7 the executive director of the Builders Institute  
8 and Building and Realty Institute of Westchester  
9 County. The institute is a trade association  
10 representing over a thousand member firms in all  
11 facets of residential and commercial building,  
12 construction, property management and related  
13 industries and disciplines in Westchester. We have  
14 been in existence since 1946.

15 Over the past 16 years, I have represented  
16 the home building and commercial building industry  
17 here in Westchester along with many of my other  
18 builder-developer engineering and planning  
19 colleagues at numerous meetings with a long line of  
20 DEC commissioners and professional staff on how to  
21 make the SEQR process better.

22 As you can imagine, a considerable amount  
23 of correspondence, memoranda and written  
24 professional testimony and critiques have also been  
25 generated over these years on a need to reform the

1 SEQR review.

2           Clearly, the current DEC-proposed  
3 amendments to SEQR are, in and of themselves, an  
4 affirmation and recognition of the need to improve  
5 the SEQR review process, for the betterment of not  
6 only the State's environmental resources and  
7 heritage, but for the State's economic vitality as  
8 well.

9           As desirable as some of your current  
10 recommendations may be to some constituencies  
11 within the State, we strongly feel the current  
12 proposals do not address the major problems in the  
13 current SEQR process.

14           One of the main problems is the absence of  
15 binding timetables. The review process often  
16 extends for years, with the builder-developer  
17 having no recourse but to agree to extension after  
18 extension. For DEC's consideration, we submit the  
19 following suggestions:

20           The SEQR review process should be limited  
21 to a maximum of 18 months. If a 12-month review  
22 process is considered sufficient by the State to  
23 review a proposed power plant under Title X, then  
24 18 months should be sufficient for reviewing a  
25 proposed residential or commercial project. The

1 clock could start at the submission of a DEIS or  
2 EAF, depending on what's required. The lead agency  
3 may take the time it needs at each stage to review  
4 the DEIS, subsequent FEIS, and prepare a finding  
5 statement. If the finding statement is not  
6 approved within 18 months, the SEQOR process is  
7 deemed completed with a Negative Declaration.

8 Let me be clear at this point. The  
9 limitation to this reasonable and ample review time  
10 does not require municipal approval of the proposed  
11 project. The proposed project can be denied. If  
12 it is denied, the builder-developer at least knows  
13 where they stand and can mull their options --  
14 abandon the project, change the project, move to  
15 another state or take legal action.

16 Another area of concern within the SEQOR  
17 process is as-of-right development situations. The  
18 State could follow the lead of New York City, that  
19 if a proposed project is as-of-right, conforming to  
20 all current zoning and all existing and applicable  
21 regulations, it should be a Type-2 action, not  
22 requiring review under SEQOR.

23 There are several good reasons for such a  
24 commonsense approach; first, in adopting a zoning  
25 ordinance, in conformance with a comprehensive

1 plan, a municipality has determined that the land  
2 uses are appropriate for the areas designated.  
3 Issues, such as traffic generated and public school  
4 students generated by permitted uses, have already  
5 been determined to be acceptable in the home-rule  
6 process of approving the zoning.

7 Second, while each individual project will  
8 undoubtedly have site-specific issues -- there  
9 almost always are -- these issues are thoroughly  
10 reviewed during the site plan and subdivision  
11 review process for project approval or disapproval  
12 by the municipality and does not need a duplicate  
13 review process under SEQR.

14 There is yet another area where the current  
15 SEQR process is wanting. There are instances  
16 during the review process when issues arise in  
17 which the lead agency and builder-developer are in  
18 disagreement; it could be over requirements in the  
19 scoping document, the review of the DEIS or FEIS,  
20 or if the lead agency is taking an inordinate  
21 amount of time throughout.

22 A SEQR review board within the DEC could  
23 hear appeals from any disputes related to the SEQR  
24 process. The compelling public purpose of such an  
25 appeals process would be for DEC to provide the

1 technical review of specific dispute situations,  
2 removed from the local politics that often  
3 insidiously and unfairly but inevitably inject  
4 themselves into the SEQR process.

5 This would form a kind of binding  
6 arbitration to move the process along, if needs be.  
7 As for cost, the SEQR Review Board's cost could be  
8 paid by the party making the appeal to the SEQR  
9 review board.

10 The SEQR statute already recognizes DEC's  
11 role in the designation of a lead agency when there  
12 is a dispute over such a designation. A review  
13 board could hear appeals from the developer or  
14 existing lead agency, with all pertinent input from  
15 valid third-party stakeholders, and then render a  
16 ruling which would be binding.

17 There is nothing unreasonable about our  
18 recommendations to improve the SEQR process. There  
19 are no shortcuts if everyone does their proper job  
20 and meets the responsibilities under SEQR. The  
21 process is not short changed, but rather liberated  
22 to do what it was always meant to do. These  
23 reforms would free the SEQR process from local  
24 politics and nimbyism that often turns what was  
25 always meant to be an environmental review process

1 into an ugly, long, drawn-out battle designed to  
2 repel even as-of-right projects, with local  
3 governments avoiding their responsibility to  
4 formally and officially accept or reject a  
5 proposal.

6 And this is respectfully submitted on this  
7 day at DEC headquarters in Albany by yours truly.

8 In the packet that I have submitted to DEC,  
9 in addition -- oh, there is one thing I wanted to  
10 bring to DEC's attention. I have a letter from  
11 Assemblyman Michael Simanowitz, also directed to  
12 Commissioner Seggos, in which the assemblyman is  
13 acknowledging some of the areas where SEQR can be  
14 improved. And I will read this very quickly. It's  
15 a short letter.

16 Commissioner Seggos, it has come to my  
17 attention that New York State Department of  
18 Environmental Conservation is making its first  
19 update to SEQR regulations in more than 20 years.  
20 I would like to draw your attention to my  
21 legislation to ensure that the state and  
22 environmental reviews are completed in a timely  
23 manner, as embodied in A.1176. This legislation  
24 adds to the appropriate sections of the  
25 Environmental Conservation Law that time periods

1 for review that will be mandatory and not subject  
2 to extension unless the applicant or the project  
3 sponsor agrees to a period of extension.

4 And it goes on to explain a little bit more  
5 about the legislation, so I will also -- I  
6 neglected to put a copy of this. I have only one  
7 copy, so if I may, I will submit this --

8 ALJ WILKINSON: Thank you.

9 MR. ANNUNZIATA: -- for the record  
10 also.

11 Finally, in your packets I have an  
12 extensive commentary about your current proposals,  
13 and we put out a builder newspaper, builder and  
14 real estate newspaper, so it's in the packet here.  
15 I have extras, extra packets for you and staff on  
16 the proposed SEQR regs.

17 And, finally, I have a -- I know it sounds  
18 a little foolish, but I have an article that  
19 appeared in the Journal News in Westchester County  
20 on February 22, 2006 -- 11 years ago -- about the  
21 effective SEQR on one developer's efforts to build  
22 an 11-lot subdivision in northern Westchester. And  
23 after 11 years, 11 years up to this point, in 2006  
24 he still had been grappling with a seemingly  
25 unending process in SEQR to get this subdivision

1 approved. Ironically, it's been 11 years since  
2 this, and I think he's still having -- so this may  
3 have been finally approved after so long a time.  
4 By putting this here as an example of a very real  
5 situation, albeit in 2006, that still remains, you  
6 know, a reality for many builders today. And that  
7 concludes my comments.

8 ALJ WILKINSON: Thank you very much.  
9 Do we have your written comments here in this  
10 packet?

11 MR. ANNUNZIATA: Yes, they're all in  
12 that packet, and I have additional for staff.

13 ALJ WILKINSON: Your oral comments as  
14 well?

15 MR. ANNUNZIATA: Yes.

16 ALJ WILKINSON: Okay, thank you.

17 MR. ANNUNZIATA: May I leave these  
18 with you for staff or -- okay.

19 ALJ WILKINSON: Okay, the next up is  
20 Nat Parish.

21 MR. PARISH: Thank you. I appreciate  
22 the opportunity to make these comments. My name is  
23 Nathaniel Parish, normally called Nat. I am a  
24 professional engineer in the state of New York, and  
25 I'm a full member of the American Institute of

1 Certified Planners. I'm speaking today as a  
2 consultant for the Builders Institute. You've just  
3 heard from our executive director, Albert  
4 Annunziata. I advise the institute on a number of  
5 planning and environmental impact issues.

6 I think I've given my professional resume  
7 for the record, but I've been working on a SEQOR  
8 process since the date that SEQOR was first enacted  
9 in the 1970s. And I remember my first trip  
10 commenting on the regulations; it was a meeting  
11 like this in Hauppauge, and I said that the process  
12 that you were proposing was overly complicated,  
13 extend the process, and so on. Nobody listened to  
14 me. After the meeting Bob Weebold, who was then  
15 the Department of State, and was shepherding that  
16 legislation through, said to me, Hey, Nat, you  
17 know, you're going to get a lot of business out of  
18 this, you know. And then he looked at me, he said,  
19 But, of course, they're not going to take care of  
20 your comments. I said, Right. And that's the  
21 situation today.

22 I will be presenting a paper with a  
23 detailed discussion of the particular members here,  
24 but the comments that I am making are based on my  
25 professional experience. I should say I have acted

1 as consultant to developers and prepared  
2 Environmental Impact Statements, over a hundred of  
3 them in many parts of the state of New York. I  
4 have done review services for lead agencies, and  
5 I've also served as consultant to property groups,  
6 community groups that have concerns about the  
7 project. So I, really, have looked at the  
8 regulations and experienced them from all of the  
9 views of stakeholders. And I think, without  
10 question, Albert has talked about all of the  
11 improvements that are needed that are not addressed  
12 in these regulations. I won't extend those except  
13 to say that, having participated in over the four  
14 years of meetings on these proposals, that I am  
15 personally very disappointed that I, and a whole  
16 bunch of other people, testified and made a whole  
17 bunch of recommendations, all of which have been  
18 ignored in the proposals that are here today. But  
19 nevertheless, I will discuss those that are here  
20 today.

21 In general, I and the Builders Institute  
22 support those amendments that are intended to  
23 assist in carrying out the sustainable development  
24 of clean energy activities and some of the  
25 municipal activities, and I won't go through all of

1 the changes, but certainly we support those. The  
2 institute supports absolutely sustainable  
3 development of clean energy activities.

4 But, sadly, there is a lack of the  
5 regulation changes that we need and that the SEQR  
6 process should address and all too often those  
7 create, and certainly in Westchester, particularly  
8 in northern Westchester, road blocks for not just  
9 economic development, not just for housing but also  
10 for affordable housing, non-profit and for-profit.  
11 We have developers who try to build affordable  
12 housing, have to run this impossible gauntlet that  
13 often deals with issues that go far beyond the  
14 original intent of the environmental law.

15 In terms of these particular amendments,  
16 the only amendment that's of some help to our  
17 members of home builders is the addition of the  
18 small subdivision to the Type II list. That is  
19 helpful, and we certainly support that.

20 We suspect the others comment on those that  
21 are of particular interest to our organization. We  
22 certainly agree, as I mentioned, a small  
23 subdivision addition to the Type II action.

24 We also think the additions to the Type II  
25 list of the reuse of commercial or residential

1 structures in the section 617.5 amendment is  
2 helpful to some property owners but probably of  
3 very little help to most of the members, builder  
4 members in Westchester County who are doing  
5 projects that don't fall into those categories.

6 The 617.9 (A)(II) and also the one that --  
7 the next one, that's AII, with two Roman numerals,  
8 on the preparation contact impact statements, those  
9 particular proposals are very helpful, I think,  
10 certainly in making clear what the Draft review  
11 should be. But I think they raise an issue about  
12 whether they might be interpreted as contradicting  
13 some of the language that's now in the SEQR  
14 handbook, which talks about reviews of DEIS,  
15 particularly on page 131 of the SEQR handbook, DEC  
16 SEQR handbook, Section D2; there are clauses, and  
17 I'm going to quote.

18 The review -- here's the quote -- should  
19 neither expect or require a perfect or exhausting  
20 document on environmental issues.

21 Then there is another quote in that  
22 section. The Draft of EIS will not necessarily  
23 provide a resolution of any issues.

24 Now, those two statements, which are in the  
25 handbook, may or may not be consistent with the

1 regulation language that you're now proposing for  
2 the review of the DEIS. I suggest that you  
3 consider adding that language, or language along  
4 those lines, to the particular sections here so  
5 that, A, it's not considered to be contrary and, B,  
6 to reinforce what the DEC handbook now provides.  
7 It's one of the few tools that we have to push  
8 along the DEIS review process, which I should tell  
9 you is one of the big road blocks when you have a  
10 whole series of reviews of the Draft, DEIS. I had  
11 one project that went on for about two years with  
12 iterations of the review of the Draft, DEIS, and  
13 the review consultants keep writing little comments  
14 on numerous issues that are discovered after the  
15 first iteration, second and third and fourth. It  
16 went on forever. So I think, first, your language  
17 is good but, more importantly, it could be  
18 supplemented by adding the language in the DEC  
19 handbook.

20 Your proposal on fees and costs, I should  
21 kind of -- I support it. I support the language,  
22 but it is currently standard practice, so you're  
23 not really adding anything, but adding the language  
24 I guess is okay. But the real problem is that an  
25 applicant gets copies of invoice statements but he

1 has no recourse if the costs are deemed to be  
2 unreasonable. And I think there needs to be  
3 some -- if it's the arbitration that Albert  
4 Annunziata suggested or some other thing or maybe  
5 requiring a lump sum agreement in each case so  
6 that's it's not an open-ended review process. And  
7 I say this, by the way, as a person who does those  
8 reviews, and I've always felt that both the  
9 applicant, the lead agency are more comfortable if  
10 I give the lead agency a lump sum proposal to what  
11 my services are going to be so there is no question  
12 later that they get invoices that are unreasonable.  
13 And I suggest to my clients that they ask for that  
14 now, even though there is no rule or regulation  
15 that requires it.

16 With respect to several items that are of  
17 absolutely no help and negative, really, are the  
18 changes to the Type I actions for municipal  
19 populations, where you go from 250 to 200 units and  
20 a thousand to 500, that's Section 617.4, and then  
21 we'll add to that 617.4 where you discuss the  
22 number of parking spaces. I read your SEQR  
23 analysis of why these are being proposed, and I  
24 don't find that there's any substantial reason.  
25 They simply increase the number of units, the

1 number of projects that are subject to Type I  
2 review, and I don't know any reason for that. We  
3 want to go in the opposition direction, and this  
4 goes in the wrong direction.

5 I think the Section 617.5 Type II action  
6 also includes certain small projects on previously  
7 disturbed sites. We certainly support that, but  
8 it's hardly going to help any of the projects, most  
9 of the projects that we have to do in Westchester,  
10 particularly in mid and northern Westchester.

11 And the same thing is true with 617.5 where  
12 you're adding the reuse of a commercial or  
13 residential structure which is consistent with  
14 current zoning law. Again, it's somewhat helpful  
15 but hardly ever going to be helpful.

16 We have questions about the whole business  
17 of making scoping mandatory. At the moment, and  
18 since the beginning of, I think, the first  
19 regulation, scoping has been optional. Either the  
20 applicant could opt for scoping or the lead agency  
21 could opt for scoping or both could agree to the  
22 scoping process, and it's worked pretty well. In  
23 most instances recently, or in recent years,  
24 scoping has been acknowledged as the way to go by  
25 both the applicant and the lead agency. But in

1           some instances where certain factors, and there is  
2           no need for scoping to extend forever, the  
3           developers have opted to come in with a DEIS  
4           without scoping. That's permitted under the law.  
5           It's not going to happen all that often, but I know  
6           of absolutely no reason that that should not be  
7           continued to be permitted. I don't know of any  
8           good reason. There is no good reason established  
9           in the SEQR DEIS, the DEIS that's in the record,  
10          for making it mandatory. I mean it's a good idea.  
11          It works in some instances. I should say to those  
12          who are fans of scoping, it has its drawbacks.  
13          It's not just the wonderful -- yeah, you can cite a  
14          lot of good, wonderful, in theory, reasons why  
15          scoping is great. But, first of all, in some  
16          instances you have a number of iterations of  
17          scoping meetings and amended scoping documents and  
18          another amendment and another amendment. There are  
19          some horror stories for how long the scoping  
20          process is going on, despite the fact that it does  
21          have in their regulations a theoretical timeline  
22          that just gets ignored.

23                        Secondly, often items are put -- people  
24                        come to a scoping meeting, the lead agency sits  
25                        there. The realty is nice people come up and say

1 Oh, you should study this, that or the other thing,  
2 and they write it down and add it, even though the  
3 applicant says, Well, wait a second, it has no  
4 relevance here. You're talking about an  
5 intersection that's a mile away that we will have  
6 two percent, one percent of our small traffic is  
7 going to go there. Why do we have to do a whole  
8 traffic study and look at it? There are things  
9 like that that get added to it, but the applicant,  
10 once it's added and put there, has no recourse.  
11 Who does the applicant go to, to say, wait, this is  
12 unreasonable? Nowhere.

13 ALJ WILKINSON: Mr. Parish, if you  
14 could wrap up your comments?

15 MR. PARISH: Yeah, I'm about to.

16 ALJ WILKINSON: If we have time, we  
17 can get back to you, but we have other speakers.  
18 Thank you.

19 MR. PARISH: Okay, I'm about to.  
20 Thank you.

21 So in that case, in any event, I ask for a  
22 particular review of that particular thing.

23 I have a few other comments, but I'll leave  
24 them for the written document that I will be  
25 submitting before May 19. Thank you.

1 ALJ WILKINSON: Thank you very much.  
2 Kenneth Finger.

3 MR. FINGER: Good afternoon. Thank  
4 you for the time. My name is Kenneth Finger. I'm  
5 the general counsel to the Building and Realty  
6 Institute of Westchester and the Mid Hudson Region.  
7 I would just like to make just a couple of  
8 comments.

9 We submit that the Draft regulations do not  
10 deal with the real issues here. The purpose of  
11 SEQOR has been corrupted over the years by opponents  
12 of reasonable and sensitive construction,  
13 particularly as to affordable housing by delays  
14 upon delays upon delays, so that the paraphrase,  
15 the cliché, construction delayed is housing denied.

16 Moreover, many developers in our region  
17 have just packed up and moved out of the State to  
18 put their housing elsewhere. The BRI is for  
19 environmentally sensitive development, and I second  
20 the remarks of Nat Parish and Albert Annunziata and  
21 ask that you amend the proposed regulations to  
22 incorporate their suggestions. Thank you very  
23 much.

24 ALJ WILKINSON: The next speaker will  
25 be William Cooke.

1                   MR. COOKE: Good afternoon. William  
2                   Cooke, Citizens Campaign for the Environment. We  
3                   will be providing written testimony at a later date  
4                   that will be more detailed than what I'm sharing  
5                   today. I have some written comments.

6                   I certainly want to applaud and recognize  
7                   that the Department has a significant number of  
8                   very professional staff who attempt to do the best  
9                   they can within the parameters that they're allowed  
10                  to operate.

11                  We also want to acknowledge that there are  
12                  some proposed changes that will provide  
13                  environmental and public health benefits, and we  
14                  applaud the Department on that.

15                  I want to just mention the importance of  
16                  the Department, given that the EPA now stands for  
17                  Eliminating Protection of America, and it leaves  
18                  the states in a position where they're all we have.  
19                  How long that is going to last, who knows? Perhaps  
20                  forever.

21                  There are some significant parts of this  
22                  proposal that we find to be unacceptable and  
23                  consider a rollback. With the federal  
24                  administration and where it's going, protection of  
25                  the public health in New York falls squarely on

1 state agencies. DEC has proposed that all of the  
2 issues of concern must be raised in scoping and,  
3 thus, cannot alter the EIS after scoping is done.

4 What does that mean? Well, what it means  
5 to lawyers, it's really great news, because SEQR is  
6 going to become SEQR through litigation; that's a  
7 mistake.

8 The other issue is it takes away discretion  
9 from the lead agency to address critical issues  
10 that may come up during the process. This would  
11 certainly hurt the public's ability to provide  
12 meaningful input. If members of the public are  
13 unaware of a potential issue during the early  
14 stages scoping, they would lose the ability to  
15 address it later.

16 Additionally, making this worse, there  
17 would be a proposed 60-day limit on scoping. Now,  
18 some folks would consider 60 days very reasonable,  
19 and if the Department had enough staff, it might  
20 be, but the truth is the Department does not have  
21 enough staff and, therefore, to put in a limit of  
22 60 days is just woefully inappropriate.

23 We applaud the Department making an effort  
24 to address SEQR, but this is not going to work. We  
25 believe that any changes to this must be

1 accompanied by a significant increase in staff  
2 resources made available. To work at a department  
3 that has the same number of people as when it was  
4 created but three times as much work, folks, it's  
5 really hard to figure out how that is going to work  
6 out for the people. Now, we understand developers.  
7 We understand what they do, and they like to do it  
8 as fast as possible with loose control, probably  
9 with no controls, but that is not in the interest  
10 of the people of the state of New York. DEC is not  
11 supposed to disappoint every citizen or down play  
12 every concern. DEC is not supposed to stand for  
13 Don't Expect Conservation. DEC is supposed to be  
14 Doing Everything Conceivable.

15 We will provide detailed written comments,  
16 but we urge the Department leadership, those above  
17 the professional staff, to recognize that what  
18 they're proposing isn't going to work. We are not  
19 interested in a full employment act for lawyers.  
20 No disrespect to lawyers. We think this is about  
21 protecting the environment, protecting the people  
22 and protecting the future.

23 Thank you for the opportunity to provide a  
24 comment today.

25 ALJ WILKINSON: Thank you, Mr. Cooke.

1 The next speaker is going to be Kevin C-H-L-A-D.

2 MR. CHLAD: Chlad.

3 ALJ WILKINSON: Chlad. Thank you, Mr.  
4 Chlad.

5 MR. CHLAD: Thank you very much for  
6 the opportunity to comment. I'll be very brief.  
7 My name is Kevin Chlad, director of government  
8 relations for the Adirondack Council.

9 Let me just start by saying that in the  
10 Adirondacks we are so fortunate to have the  
11 Adirondack Park Agency Act and its pursuant rules  
12 and regulations, which carry a more protective set  
13 of SEQR regulations than the rest of the state.

14 On a global stage, the Adirondacks has long  
15 been considered a model for others when it comes to  
16 environmental protections. What may be overlooked  
17 is that the APA regulations can be a model to the  
18 rest of the state.

19 As the State considers public comment and  
20 moves forward with this process, I challenge the  
21 DEC to look to the APA SEQR regs to see what they  
22 could emulate statewide.

23 Just one technical comment that I would  
24 like to touch on for now, and at a later date I'll  
25 provide written comments. Given the fact that the

1 Department's SEQR regulations, particularly  
2 Subdivision 617.4, Section A, Subsection II,  
3 currently prohibits any agency from designating any  
4 Type II actions listed in DEC SEQR regulations as  
5 Type I. We are concerned and have questions about  
6 the proposed additions of the new Subdivision  
7 617.5, Section C, Subsection 7, which is, it reads:

8           Installation of fiber optic or other  
9 broadband cable technology and existing highway or  
10 utility rights-of-way.

11           With our state legislature currently  
12 considering the passage of a constitutional  
13 amendment that would permit the installation of  
14 broadband and right-of-ways that lie on the forest  
15 preserve, protected by Article 14 of our state's  
16 constitution, there has been an explicit  
17 expectation throughout that process to develop that  
18 amendment, that any and all subsequent  
19 environmental reviews for such projects would  
20 provide the needed additional layers of protection  
21 for the sensitive nature of this work. This  
22 proposed action severely risks threatening the  
23 ability of certain stakeholders to remain  
24 comfortable with the amendment currently being  
25 considered. And because of that, we strongly urge

1 the Department to exercise caution in advancing  
2 this particular regulatory amendment. And thank  
3 you so much.

4 ALJ WILKINSON: Thank you very much.  
5 The next speaker is Alison King.

6 MS. KING: Good afternoon, and thank  
7 you for your time. I'll begin by making a  
8 statement on behalf of the League of Women Voters  
9 of New York State.

10 The League of Women Voters of New York  
11 State support transparency and optimizing public  
12 engagement throughout the environmental review  
13 process. The League also supports a review process  
14 that includes assessments by impartial experts of  
15 actual and potential environmental impacts on both  
16 our natural resources and human health. In  
17 addition, the League supports consistent  
18 enforcement to ensure compliance with the outcome  
19 of the review process.

20 The next set of questions I am making as an  
21 individual, a health policy analyst and a  
22 toxicologist. I came up from Cortland County in  
23 the hope that the people up here in Albany might  
24 take steps to repair the SEQR process so that  
25 reality at the local level reflects the letter and

1 intent of state law and regulation.

2 The stated purpose of an environmental  
3 quality review is to incorporate consideration of  
4 environmental factors into government agency  
5 planning and decision-making at the earliest  
6 possible time. Tapping public input early and  
7 constructively through mandatory public scoping has  
8 potential to increase SEQR efficiency. A robust  
9 SEQR process must also be responsive to substantive  
10 new information and ensure participation of people  
11 qualified to evaluate critical impacts.

12 Furthermore, incentives are needed to translate  
13 SEQR policy and to retain practice at the local  
14 level and to avoid conflicts of interests, as I  
15 will discuss.

16 The DEC's proposal to mandate public  
17 scoping is a positive step; however, for public  
18 scoping to produce meaningful improvements in local  
19 SEQR practices, clarification of scoping  
20 requirements is also needed. The following  
21 specific suggestions are intended to better ensure  
22 that government officials understand scoping  
23 requirements, that adequate time is allotted to  
24 evaluate public comments and lead agencies  
25 incorporate relevant, substantive comments into the

1 final scope, thus, strengthening the evaluation of  
2 environmental impact, so here are some specific  
3 suggestions.

4 First revise the definition of scoping in  
5 617.2 to ensure consistency with Section 617.8 by  
6 referring readers to the scoping requirements of  
7 Section 617.8F, and here I'm referring to the  
8 current law sections.

9 Second, amend section 617.8 to state that  
10 the lead agency must provide a period of time for  
11 the public to review and provide written comments  
12 on a draft scope; must, not may. Also, insert that  
13 the final written scope shall incorporate public  
14 comments on topics in Section 617.8F 1 through 6  
15 unless the comments are determined to be  
16 unreasonable or irrelevant. This addition is  
17 intended to ensure that someone reads the public  
18 scoping comments, evaluates the comments and acts  
19 upon them.

20 Third, in Section 617.8, where it states  
21 that the final scope must include the reasonable  
22 alternatives to be considered, insert including  
23 social, economic and other essential  
24 considerations.

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1 Law states that, quote, agencies shall act and  
2 choose alternatives which, consistent with social,  
3 economic and other essential considerations, to the  
4 maximum extent practicable, minimize or avoid  
5 adverse and environmental effects, including  
6 effects revealed in the Environmental Impact  
7 Statement process. To evaluate alternatives, for  
8 example, our local decision-makers need to evaluate  
9 economic impact of those alternatives. That needs  
10 to be included. The expectation should be  
11 established up front in the scoping, in the DEIS,  
12 and this information should be publicly available.

13 To enable response to public comments on  
14 the Draft scope, SEQOR should increase the time for  
15 the lead agency to provide a final written scope to  
16 at least 90 days from receipt of the Draft, but  
17 also allow for extension of this time period, when  
18 necessary, consistent with regions provided in the  
19 current Section 617.9 AF2.

20 Public participation is important  
21 throughout the SEQOR process. It is unrealistic to  
22 expect full public participation at the initial  
23 scoping stage when project awareness may be low.  
24 The SEQOR process should be responsive to  
25 substantive new information. The proposed

1 restriction of DEIS content to information included  
2 in the final scope is counterproductive and  
3 unreasonable. The proposed amendment to section  
4 618.8h should be removed. It would inappropriately  
5 curtail the authority of the lead agency to judge  
6 content of the DEIS.

7 The proposed SEQR amendments do not address  
8 a serious flaw that undermines the integrity of  
9 SEQR. Local governments, as we all know, operate  
10 with very limited discretionary budgets and staff.  
11 Involved agencies and their agents often lack  
12 personnel who are qualified to evaluate health  
13 impacts and other complex issues. Local government  
14 officials, the decision-makers, may not know what  
15 questions to ask. An engineering firm retained to  
16 prepare an EIS may have little incentive to hire  
17 health experts or to clue the decision-makers in on  
18 what these real issues are.

19 Amendments to SEQR regulations should  
20 establish a process and resources for evaluation of  
21 health risks. One potential remedy is designation  
22 of trained staff within the Department of Health as  
23 SEQR consultants and evaluators of EIS adequacy.  
24 Likewise, investment in DEC staff and resources  
25 might enable oversight to assess whether basic SEQR

1 standards are met.

2 Numerous provisions in SEQR regulations,  
3 including regulatory time frames, are based on a  
4 scenario where the lead agency, project sponsor and  
5 applicant are separate entities; however, in cases  
6 where a proposed governmental action triggers  
7 SEQR -- for instance, siting a new jail -- there is  
8 an inherent conflict of interest if the project's  
9 proponent is also designated as a lead agency.  
10 SEQR amendments are needed to minimize impact of  
11 such conflicts which may inappropriately delay  
12 initiation of SEQR and bias the SEQR process.

13 At a local level, SEQR missteps are common.  
14 Type I actions are miscategorized as unlisted or  
15 Type II. Projects are advanced with substantial  
16 expenditure of public funds before initiation of  
17 SEQR. Public comments are dismissed with little  
18 consideration and no consequence. To illustrate,  
19 the appendix, the written comments I will submit,  
20 documents problems in the conduct of SEQR for solid  
21 waste projects.

22 Changing SEQR practices at the village,  
23 town and county level requires not only education  
24 but also a substantial shift in expectations. The  
25 impact of SEQR amendments is likely to be modest

1 without enforcement through incentives, penalties  
2 for non-compliance or both.

3 Currently the recourse for citizens seeking  
4 SEQR enforcement is expensive, an Article 78  
5 proceeding. New York's stewardship of the  
6 environment is broken if citizens must sue to get  
7 the system to work. The environmental protection  
8 of New York State will improve if local government  
9 officials understand SEQR requirements and act  
10 responsibly without litigation. Thank you.

11 ALJ WILKINSON: Thank you very much.  
12 Just a reminder that if you are speaking and can  
13 provide your comments to the stenographer, we would  
14 appreciate it.

15 Next up is Grace Nichols.

16 MS. NICHOLS: I want to thank you for  
17 the opportunity to speak today and speak for the  
18 grass roots environmental community.

19 My name is Grace Nichols. I am with  
20 Bethlehem Eco Defense, and we're part of 140 group  
21 coalition that opposes the Northern Access Pipeline  
22 Project, the Dominion Project, the Pilgrim  
23 Pipelines Project, the Anchorage Project, the  
24 fossil fuel trains that rumble through the Port of  
25 Albany, the Aim Spectral Project. So when we're

1 looking at the SEQR process, we remind you what  
2 time it is.

3 In the current environment globally,  
4 Ireland just divested from fossil fuels; Kenya  
5 outlawed plastic bags, a petroleum project; much of  
6 Europe has phased out landfills reducing methane  
7 emissions, and much of Europe is moving towards  
8 carbon neutrality. China, just this week, called  
9 the United States selfish with respect to the Paris  
10 Agreement on Climate.

11 In this environment and in a time in which  
12 the public is losing their faith in the EPA -- it's  
13 protection for us -- I think it's a difficult time  
14 to change the most stable legislation the public  
15 has to comment on projects coming into our  
16 communities that have environmental impacts.

17 New Yorker's face an assault of fossil  
18 fuels on New York State and a fossil fuel  
19 infrastructure. We face pipelines in communities  
20 constructed by the same pipeline companies whose  
21 pipelines have blown up in Pennsylvania. We face  
22 health effects on our children's children who live  
23 near compressor stations. We are still finding  
24 pockets of rare cancers near landfills, and we are  
25 weathering a relentless onslaught by the fossil

1 fuel industry on New York State with the intent of  
2 exporting fossil fuels to Europe.

3 So if we were to actually consider changing  
4 the lead environmental legislation in the State of  
5 New York, we could do a few things. One of the  
6 things that we could do is say that all new  
7 projects in the State of New York must be carbon  
8 neutral, and if they are to emit any carbon dioxide  
9 or methane, they must purchase carbon credits in  
10 order to do so. We could change it, you know, and  
11 say that all fossil fuel projects that intend to  
12 transport fossil fuels throughout New York State,  
13 with the intent to export to Europe, are banned, so  
14 we don't have to review them at all.

15 Thank you very much. We could change this  
16 law in a way that would protect our environment,  
17 our atmosphere, our water and our land; we could do  
18 that. But if we were to fail that standard, and we  
19 are not going to drastically change this law in  
20 order to protect the environment, then the grass  
21 roots community will not support any amendment to  
22 this legislation. This is what we have to stand  
23 on, and we don't trust these amendments. We do not  
24 think that they're in our interest.

25 So with that in mind, I wanted to talk

1 about some environmental history. There have been  
2 other times in which the grass roots environmental  
3 community has felt that state regulation was not in  
4 their interest, and the time I can think about is  
5 in the late '80s in California when we felt that a  
6 loophole -- they didn't even change the laws; it  
7 was the California Department of Forestry. They  
8 were a rubber-stamp agency anyway. They didn't  
9 even change the law, but the lumber companies  
10 utilize a loophole, so once we had a temporary  
11 restraining order through the courts stopping the  
12 clear cut of all species growth, because that went  
13 into effect on a Monday and it was announced on a  
14 Friday, or Thursday, Wednesday, I'm not sure, there  
15 was something that we now call the Thanksgiving  
16 Massacre, in which the lumber company went in and  
17 clear cut all species growth. And because the  
18 environmental community had their heart strings  
19 wrapped around those trees -- and it was an old  
20 growth forest, prime old growth forest, redwoods  
21 and douglas fir -- we launched a campaign that was  
22 the largest civil disobedience campaign in the  
23 history on environmental struggle in the United  
24 States.

25 Five years later I was at a direct-action

1 training camp in northern California, and we locked  
2 down at a lumber company. And the police came, and  
3 they swabbed people's eyes with pepper spray, and  
4 the courts actually ruled that that was torture.  
5 So I was down south at an Earth First Event where  
6 we were going to discuss the court case, and I get  
7 the call, and it turns out that our fiend, Gypsy,  
8 has died in the woods because -- we have it on  
9 videotape -- because a lumber company employee  
10 felled a tree on him. And it was the first  
11 fatality in the entire Earth First Campaign to  
12 change the actions of the California Department of  
13 Forestry and the lumber companies. And that's when  
14 I quit. All right? I went to the press. I was  
15 the first one at the event. The press comes to me,  
16 and they want me to discuss the first fatality in  
17 the first campaign, which had been going on since  
18 redwood summer in 1911, and I said that the lumber  
19 companies', timber companies' practice in the woods  
20 was so criminal that it endangered the ecosystem,  
21 and it endangered the worker, such that it was the  
22 number two most dangerous industry in the U.S.  
23 behind mining and, these days, behind fracking, I  
24 would imagine. I did not say that a logger out  
25 there committed murder and we can prove it. And

1 the parents of Gypsy, David Chain, who is a  
2 24-year-old activist from Texas, also did not  
3 allege murder because we did not want a war between  
4 timber workers and environmentalists. We wanted to  
5 save the environment.

6 And I want to remind you that if I cannot  
7 convince my people that this legislation actually  
8 protects the environment and actually gives the  
9 same public comment weight that we currently have,  
10 or better -- we're not talking about me. Okay? To  
11 many people, I have not been arrested in 20 years.  
12 A lot of people thought that was impossible, but to  
13 my people, some people, I'm a sellout, I'm a  
14 liberal. I came to New York State, I got a science  
15 degree, and I decided to use SEQR to preserve land.

16 I know there's over a thousand species  
17 going extinct here on this planet, and I feel it's  
18 my moral obligation to do something, but I use the  
19 law, but if this law appears to be squishy in a  
20 time when communities are trying to fight for not  
21 even just the trees but, you know, the wellbeing of  
22 their children, I would say you might have an  
23 expensive struggle ahead of you. Thank you very  
24 much.

25 ALJ WILKINSON: Thank you very much.

1 The next speaker will be Mike Dulong.

2 MR. DULONG: Good afternoon. Judge  
3 Wilkinson, thank you for the opportunity to comment  
4 today. My name is Mike Dulong. I'm a staff  
5 attorney with Hudson River Keeper. We're a  
6 non-profit environmental watch dog organization  
7 dedicated to defending the Hudson River and  
8 protecting the drinking water supply of 9 million  
9 New York City and Hudson Valley residents.

10 We will submit detailed written comments  
11 covering a range of issues, but today I would like  
12 to take the opportunity to call the public's  
13 attention to a proposal that could shake the  
14 foundation of SEQR. Municipalities and lead  
15 agencies should focus on this issue, as they will  
16 be disempowered, and New Yorker's should have cause  
17 for concern, as this will limit public engagement  
18 in the SEQR process.

19 The issue is scoping. Now, mandatory  
20 scoping, as proposed by DEC, is a good idea.  
21 Involvement in the scoping process gets involvement  
22 in an early stage by as many people as possible, it  
23 helps share information, and it sets expectations  
24 for the rest of the process, so River Keeper would  
25 support that standing alone. However, what DEC is

1 attempting to do, or what DEC proposes to do, is to  
2 restrict the lead agency's ability to reject the  
3 Draft EIS based on information that comes to light  
4 after the SEQR process -- or after the scoping  
5 process is finished. In other words, communities,  
6 individuals or lead agencies raise new substantive  
7 issues, the lead agency would be prohibited from  
8 factoring those issues into whether a Draft EIS was  
9 sufficient or not. So there is a lot to unpack  
10 there. What is important is how this is going to  
11 affect lead agencies and communities.

12 Scoping is a good process, but it's not a  
13 perfect process, as we heard before. Despite the  
14 best intentions of the lead agencies, project  
15 developers of the community, not every issue is  
16 going to be raised at that stage. Some issues may  
17 only come to light after a Draft EIS has been  
18 completed, after the issues have been studied.

19 Moreover, changes to the project, or in the  
20 surrounding circumstances, are common. So the lead  
21 agency would be in a position of having to deal  
22 with all of those new things at the final EIS  
23 stage. And they would not have the benefit of a  
24 public comment process on those new issues.

25 So what a Draft EIS does is it serves as

1 sort of a litmus test of whether the Draft EIS,  
2 whether the final EIS is going to be sufficient.  
3 Subjected to public review, you get all of the  
4 objections. You see what the flaws may be,  
5 everything that might be wrong with it, and then  
6 you fix those, and you leave it up to the lead  
7 agency to determine whether a new draft test be  
8 issued to get further comment or whether they're  
9 comfortable with what is coming out and whether  
10 they're comfortable with the final.

11 If you're putting the lead agency in the  
12 unenviable position of finalizing EIS without  
13 public comments on new issues that may be raised,  
14 that's likely to increase litigation, and not all  
15 lead agencies are created alike. Some are  
16 depending on the public and on outside parties to  
17 raise these issues so that they can see what might  
18 be wrong with the Draft EIS.

19 Now, on the public side there's, again, no  
20 opportunity at the Draft EIS stage to review the  
21 treatment, the lead agency's treatment of issues in  
22 the Draft EIS. Now, that is the stage, the Draft  
23 EIS stage, of where the public learns how they're  
24 going to be effected and whether the study has been  
25 good or not, whether the lead agency has gone

1 through the paces and really shown everything that  
2 they could about an environmental impact.

3           Instead, the public is going to be focusing  
4 they're public comments at the scoping stage. And  
5 I hate to be the person to break this to DEC, but  
6 not everybody reads the EMB every week. There is  
7 not usually full public awareness of these issues  
8 at the scoping stage, and there certainly isn't a  
9 basis for everyone to read a document, read an  
10 Environmental Impact Statement and understand what  
11 those issues might be and what issues may be  
12 missing, what additional issues might be out there.  
13 And environmental justice communities are going to  
14 be hit worse by this. They are the ones that are  
15 least likely to have access to environmental  
16 professionals, the ones that are least likely to be  
17 informed that these environmental reviews are  
18 taking place.

19           Now, the upshot of all of this, really, is  
20 that something like fracking, the momentous  
21 fracking ban put in place by DEC, would never have  
22 happened if these regulations were put in place at  
23 the time. It was through the drafting process that  
24 the additional environmental impacts, the impacts  
25 of public health came to light, and those are the

1 issues that DEC and the Department of Health relied  
2 on to realize that this practice, this highly  
3 industrial practice could not take place in New  
4 York State. And I just think this is the wrong way  
5 to go, and I think this would be the wrong legacy  
6 to leave if we're talking about another 20 years of  
7 the SEQR process.

8 There is one other piece of the scoping  
9 process; that's the 60-day time limit on the  
10 scoping. That's not enough time to give a 30-day  
11 comment period for every lead agency, every town  
12 board across the State, every planning board to  
13 review those comments at that stage and move  
14 forward, especially if there is this new focus on  
15 public comment at the scoping stage.

16 So, look, SEQR is not a perfect process,  
17 but it's not broken, and this provision would be  
18 gifted developers at the expense of communities and  
19 lead agencies. Now, lead agencies should remain in  
20 control of their processes in terms of timing, and  
21 they're the ones that are ultimately responsible  
22 for the final decision, so they should be  
23 comfortable that the Draft documents are leading to  
24 the sufficient final review, one that will legally  
25 support their determination.

1           Thank very much for the opportunity to  
2           submit comments today. We look forward to working  
3           with the agency today on these really important  
4           regulations that will impact the future of human  
5           health and the environment in New York.

6           ALJ WILKINSON: Thank you very much.  
7           Roger Downs. And if you have comments, if you  
8           spoke today and have comments, we would appreciate  
9           them provided to the court reporter.

10          MR. DOWNS: Thank you. My name is  
11          Roger Downs. I'm the conservation director for the  
12          Sierra Club, Atlantic Chapter. We are a  
13          volunteer-led, environmental organization of 48,000  
14          members statewide, dedicated to protecting New  
15          York's air, water and remaining wild places.

16          We thank you for the opportunity to provide  
17          testimony. We will be providing more substantive  
18          comments by the May 19 deadline.

19          I would like to begin by saying that Sierra  
20          Club, fundamentally, rejects the notion that SEQ  
21          needs to be streamlined in order to find better  
22          balance between environmental protection and the  
23          needs of the development community. We believe  
24          there has always been a disproportionate focus upon  
25          the complaints of a small group of developers about

1           how SEQR is cumbersome and unnecessarily burdensome  
2           to business in New York. While thousands of  
3           development proposals sail through the process  
4           annually with little controversy or hardship, it is  
5           this minority of delayed, bad proposals that seems  
6           to be behind the effort to streamline the State  
7           Environmental Quality Review Act and subvert public  
8           participation protecting the environment. The  
9           Sierra Club has long argued that it is not SEQR at  
10          fault for lengthy delays to bad proposals, it is  
11          the poorly conceived proposals themselves that are  
12          to blame. We believe that the Department has to do  
13          a better job in portraying the EIS process as a  
14          valuable tool to developers and municipalities, as  
15          a means to build better and more harmonious  
16          communities rather than the pejorative messaging  
17          around streamlining.

18                 The most problematic aspect of the SEQR  
19          revisions, as I think Mike Dulong brilliantly laid  
20          out, are the changes to the effect that scoping has  
21          on the lead agency's ability to make sure that the  
22          Environmental Impact Statements are comprehensive  
23          and effective.

24                 We support the Department's decision to  
25          make scoping mandatory for all EIS's, but we cannot

1 let that early information-gathering process  
2 constrain the acceptance of important issues later  
3 in the environmental review. Scoping plays a  
4 critical role in not only identifying issues  
5 germane to an environmental review but also in  
6 enlisting public participation early in the  
7 process. In our experience, many issues of local  
8 significance are not raised during scoping because  
9 the public is still learning about the proposal  
10 before them. It is often months after scoping is  
11 finalized that a critical mass of public awareness  
12 developments and new and important information  
13 comes forward. By placing limitations on the  
14 introduction of new information, after the  
15 completion of the final written scope, is no longer  
16 a basis by which the lead agency can reject a Draft  
17 EIS as inadequate. The Department is unnecessarily  
18 weakening the thoroughness of reviews and creating  
19 an incentive for applicants to withhold concerning  
20 information about a project until after the final  
21 scoping document is complete. Facts that come to  
22 light afterwards will have a difficult time getting  
23 included in the Draft EIS. Suggesting that  
24 withheld information could be captured later in a  
25 supplemental EIS is simply not practical and

1 creates an undue burden for lead agencies and an  
2 uphill battle for citizen enforcement of SEQR in  
3 the courts.

4 We also believe that front loading the  
5 importance of scoping should not come with a  
6 constrained cap upon the length of the scoping  
7 period. If, indeed, all of the relevant review  
8 topics for an EIS must be identified during  
9 scoping, then the lead agency must be given the  
10 discretion to allow for longer scoping periods than  
11 60 days to ensure all essential information is  
12 allowed to come forward in a comfortable time  
13 frame.

14 Moving to the Type II list, additions to  
15 the Type II lists are certainly less problematic  
16 than what was originally proposed in 2013. The  
17 Sierra Club still has concerns with the philosophy  
18 that we can incentivize good projects by giving  
19 them exemptions from environmental reviews. We  
20 believe that environmentally advantageous  
21 development that has built-in smart growth  
22 principles, or utilizes green infrastructure,  
23 already has advantages over other developments that  
24 may languish in the review and implementation  
25 process because of whatever conflict they present

1 to the environment.

2 While, in general, most of the additions to  
3 the Type II list do not seem to present serious  
4 environmental impact, the Department has not made a  
5 compelling case that any of these additions are  
6 frequently stymied by unnecessary environmental  
7 reviews. We remain unconvinced that leaving the  
8 door open for a lead agency to use all of the tools  
9 of SEQR, even for green projects, is a bad idea.

10 One of the classifications of Type II  
11 additions that gives us some pause is the  
12 redevelopment of municipal centers, as the new Type  
13 II lists, list as 19, 20, 22 and 22, that all  
14 correspond with population density. While we find  
15 the guidance sentiment of urban redevelopment  
16 admirable, we have no confidence that the  
17 exemptions provided will have the desired effect  
18 upon driving development back into our city  
19 centers. Negating the possibility of an  
20 environmental review for relatively large  
21 developments in an under-defined municipal center  
22 of a city can lead to unmitigation issues of  
23 traffic, toxic exposure, noise, public health  
24 concerns and community character. We are concerned  
25 that this action will have a negative impact on

1 environmental justice communities that may want to  
2 use the SEQR process as a tool to positively shape  
3 development in their communities.

4 We request that the Department make an  
5 extra effort to reach out to each advocacy  
6 organization and communities of color to make sure  
7 these exemptions from SEQR are really something  
8 that they want.

9 I don't want to paint this as all bad. I  
10 think that there are, you know, good intentions  
11 behind what the Department is doing. We support  
12 the changes in the thresholds to the Type I lists  
13 as a means to capture more problematic developments  
14 in both housing and the expansion of parking lots.  
15 We appreciate the consideration of climate change  
16 and the fulfillment of EIS's in addressing issues  
17 of adaptation and mitigation. But even though we  
18 can see some benefit to these revisions, we don't  
19 see that there is balance, especially with the new  
20 and inappropriate way placed on scoping. We feel  
21 that New York's environment could be harmed if the  
22 SEQR streamline proposal is adopted, whole cloth.

23 Again, we will be submitting more  
24 substantial written comments, but our general  
25 sentiment is the DEC should take the no-action

1 alternative for this proposal in its entirety.

2 Thank you.

3 ALJ WILKINSON: Thank you very much.

4 And I have, as a last speaker, Peter Looker. If  
5 anyone else wants to speak today, please fill out a  
6 speaker card, and you will be welcome to speak.

7 MR. LOOKER: Thanks. My name is Peter  
8 Looker. I'm a citizen, business person, parent,  
9 part of our living ecosystem.

10 First off, I believe in KISS, Keep It  
11 Simple Stupid; however, those who create complex  
12 projects, create the need for complex and public  
13 examination of those projects.

14 I'm concerned with the idea of dramatically  
15 increasing Type II non-reviews. To not even to  
16 fill out an EAF takes away a simple requirement of  
17 project sponsors, our government, and the ability  
18 of we, the people, to examine the project impacts,  
19 alternatives and mitigation options.

20 I find a lot to be gained by examination by  
21 self and by others. I find, personally, a lot of  
22 projects, particularly at the local level where I'm  
23 most familiar, do not seem to care much about  
24 people, next generations, or our earth. To, at  
25 least, examine and make public the ecological seems

1 very important.

2 We, the people of the earth, need to strive  
3 to leave things better than we found them. I leave  
4 it to the people with more expertise than me and  
5 who care for the earth more than short-term profit  
6 to help work out the details. Thank you.

7 ALJ WILKINSON: Thank you very much.  
8 Is there anyone else who wishes to speak today?

9 Okay, so I just want to remind everybody  
10 that there are additional public hearings coming  
11 up. Next week there is a public hearing on April 6  
12 in New Paltz; the following week, April 13, in  
13 Hauppauge, New York; and on April 18 in Rochester,  
14 New York. All those hearings will commence at 6  
15 p.m.

16 And as a reminder, the public comment  
17 period will close on May 19, so if you want to  
18 submit written comments, please get them in by  
19 then. We have information on the registration  
20 table outside, and I thank everyone for coming.

21 (Whereupon, the matter, in the  
22 above-entitled proceeding, concluded at 2:11  
23 p.m.)  
24  
25

## C E R T I F I C A T E

I, Kyle Alexy, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing record taken by me is a true and accurate transcript of the same, to the best of my ability and belief.

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Kyle Alexy

DATE: April 5, 2017.

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