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2 NEW YORK STATE

3 DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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6 PROPOSED AMENDMENTS TO THE STATE ENVIRONMENTAL

7 QUALITY REVIEW ACT REVIEW ACT (SEQR)

8 REGULATIONS

9

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April 13, 2017  
6:02 p.m.  
Suffolk County Water Authority  
260 Motor Parkway  
Hauppauge, New York

13

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B E F O R E:

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MICHAEL CARUSO, ALJ  
625 Broadway, First Floor  
Albany, New York 12233-1550

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Reported by:  
Corina Flood

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Proceedings

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ADMINISTRATIVE LAW JUDGE: We are

4 As I said before, if you want to  
5 speak, you need to fill out a speaker card  
6 at the front desk.

7 Good evening ladies and gentlemen.  
8 Before we begin, I ask that you silence  
9 your cell phones. Thank you.

10 My name is Michael Caruso. I am an  
11 Administrative Law Judge with the New York  
12 State Department of Environmental  
13 Conservation.

14 It is separate from Counsel's Office,  
15 the various program units and the regional  
16 offices. The sole purpose of the Office  
17 of Hearings and Mediation Services is to  
18 conduct public hearings such as this one.

19 I've have been assigned to conduct  
20 today's legislative public hearing  
21 regarding the Department's proposal to  
22 amend regulations that implement the State  
23 Environmental Quality Review Act, known as  
24 SEQRA, under Title 6 of the Official  
25 Compilation of Codes, Rules and

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1 Proceedings  
2 Regulations of the State of New York  
3 (6NYCRR) Part 617.

4 The Department has prepared a draft, a  
5 generic Environmental Impact Statement to  
6 discuss the objectives and the rationale  
7 for the proposed amendments.



13 Statement.

14 This hearing is not a question and  
15 answer session. If you have any questions  
16 for DEC Staff, however, you can raise them  
17 with Jim Eldred and Larry Weintraub after  
18 the hearing, time permitting.

19 If you do not wish to make an oral  
20 statement, you may submit a written  
21 statement.

22 Department staff has forms available  
23 for you to submit a written comment this  
24 evening or you may submit them in writing  
25 by May 19, 2017.

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1 Proceedings

2 The Department has information at the  
3 registration table outside the auditorium  
4 and on the DEC website on how you can  
5 submit comments on the rulemaking. All  
6 comments must be received by the  
7 Department by May 19, 2017 to be  
8 considered.

9 If you have written comments with you  
10 tonight that you would like to submit and  
11 you are not speaking, you may put your  
12 comments in the comment box by the  
13 registration table outside the auditorium.

14 If you are speaking and have prepared  
15 written comments that you will be reading  
16 from, we would appreciate it if you would

17 provide a copy of the comments to the  
18 stenographer at the front of the room  
19 after you finish speaking.

20 As stated before we went on the  
21 record, anyone who wishes to make a  
22 comment this evening must fill out a  
23 speaker card.

24 Numbered speaker cards are available  
25 at the DEC registration table located

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1 Proceedings

2 outside the auditorium.

3 If you have not yet completed a card  
4 and wish to speak, please fill out a card  
5 at the registration table. Speakers will  
6 be taken in order by the number on the  
7 speaker cards, starting with elected  
8 officials and then members of the public.

9 I will call your names. Right now, I  
10 have two speaker cards. I will call the  
11 names in order. Let me apologize if I do  
12 mispronounce your name, please correct me.

13 As I call your name, please come  
14 forward to the microphone at the podium.  
15 State your name for the record, and if you  
16 are speaking on behalf of someone please  
17 identify who that is that you are  
18 representing.

19 When you make a statement, please  
20 speak loudly, slowly and clearly. All

21 comments are being recorded by the court

22 stenographer.

23 If we cannot hear you, if the court

24 reporter or I raise our hands, you please

25 pause because we may need you to speak up

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1 Proceedings

2 or correct a technical issue. I also

3 request silence when a speaker is talking,

4 so that they can get the same respect when

5 you are speaking.

6 As I indicated, if you do not wish

7 to make an oral statement you can make a

8 written statement. There is information

9 at the desk on how to do so. Oral and

10 written statements are given the same

11 weight by the Department for review.

12 We will start with our first speaker,

13 David Perri.

14 MR. PERRI: My name is David Perri and

15 I live at 255 Fairfield Drive East,

16 Holbrook, New York.

17 I have been on two sides of the SEQRA

18 process, as a developer and as an

19 affected-involved party.

20 I agree that streamlining the SEQRA

21 process is a positive goal. This goal,

22 however, must not affect the purpose of

23 SEQRA, nor create loopholes that could

24 cause the opposite effect.

25 I have witnessed the shortcomings with



3 that the agency receiving the initial  
4 request for an action, inform all other  
5 agencies of the action and seek input for  
6 lead agency and the type of project it is.  
7 The DEC not doing this for the Green Rail  
8 Project created significant exposure to an  
9 Article 78 appeal, which would have been  
10 counter to goals of these amendments.  
11 This requirement would remove any  
12 discretion in determining which other  
13 agencies may have a role in the project  
14 and allow all parties and agencies to be  
15 on the same page with a designation of a  
16 project as Type 1 or 2.

17 Second, the following actions should  
18 specifically be classified as Type 1:

19 Waste Transfer facilities, Municipal  
20 Solid Waste Facilities, or any project  
21 that's involving handling or  
22 transportation of garbage. Commercial or  
23 industrial projects within a prescribed  
24 distance of residential neighborhoods.  
25 Actions involving rail transportation or

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1 Proceedings  
2 significant truck transportation. And  
3 actions that require a change of permit or  
4 a zoning change.

5 These types of actions may be able to  
6 conform to the strict wording of the  
7 amendments as a Type 2 action, but clearly

8 warrant a full review. This loophole  
9 should be closed.

10 Type 1 action should also specifically  
11 include: A public hearing held locally at  
12 a reasonable time for people to attend. A  
13 mandatory public participation plan. A  
14 provision that all other permits, zoning  
15 changes, authorizations required by  
16 agencies other than the lead agency be  
17 secured before findings are issued by the  
18 lead agency.

19 Modifications to Type 2 actions should  
20 consider the following:

21 Green infrastructure and sustainable  
22 development should specifically exclude  
23 projects that have potential environmental  
24 impacts disproportionate to the green  
25 attributes.

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1 Proceedings

2 For example, a garbage dump with a  
3 single solar panel should not be granted a  
4 Type 2 status. Temporary or Research and  
5 Development Permits should not  
6 automatically be a Type 2 action. The  
7 substance of the projects must be  
8 reviewed. This was a loophole that the  
9 Green Rail Project exploited by the  
10 sponsor, and the DEC seemed to accept.

11 SEORA should also mandate project

12 sponsors fund third-party consultants  
13 engaged by stakeholder groups. A  
14 reasonable funding level would be on the  
15 order of the 5 percent of the expected  
16 capital investment or 5 percent of the  
17 expected annual revenue. This would bring  
18 additional resources to a resource  
19 constrained Department.

20 I agree that mandatory scoping is  
21 appropriate; however, scoping for  
22 municipal-type projects like waste, water,  
23 gas, sewer, roads, etc., should include a  
24 broader alternatives analysis that  
25 includes options available to the

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1 Proceedings  
2 municipalities to accomplish similar  
3 objectives to the subject project.  
4 And finally, no permit process should  
5 be started if the applicant is not in good  
6 standing with the DEC or any other agency.  
7 Applications from applicants with  
8 violations, or that have non-conforming  
9 activities on their site, should  
10 immediately be disapproved until such time  
11 as the violations are resolved. Had this  
12 been done in the case of the Green Rail  
13 Project in Holbrook, significant time and  
14 efforts would have been saved by all  
15 parties which is the ultimate goal of the  
16 amendments proposed today.

17 Thank you.

18 ADMINISTRATIVE LAW JUDGE: Thank you,  
19 Mr. Perri. Next speaking is Daniel  
20 Karpen.

21 MR. KARPEN: My name is Daniel Karpen,  
22 K-A-R-P-E-N, I reside at 3 Harbor Hill  
23 Drive, Huntington, New York 11743.

24 I have not had a lot of time to review  
25 these comments, and I will send material

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1 Proceedings

2 in in writing.

3 My comments are as follows: Page 17  
4 of the expressed terms, item 18,  
5 subdivisions are defined as minor under  
6 adoptable subdivision regulations, and  
7 there is a note about within five years of  
8 the date of the application for plat  
9 approval.

10 That cause is a loophole for a  
11 tremendous amount of sedimentation that  
12 developers who are greedy, who say I will  
13 just subdivide now and then subdivide  
14 later, and it's expressly prohibited under  
15 sedimentation clauses in SEQRA and also  
16 under the Onondaga Landfills case versus  
17 Flack, which I will include and mail to  
18 you a copy of it so you understand what  
19 that involved.

20 So if you want to change the date

21 here, change this to 1979 when SEORA  
22 became effective. So if it was subdivided  
23 before 1979, then we can subdivide again.  
24 Once the subdivision is done, no more. No  
25 more at all. Tell them, no.

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1 Proceedings

2 Next comment, item 45, acquisition to  
3 less than 100 acres of park land. Take  
4 out the words "less than 100 acres," just  
5 take that out.

6 Acquisition of park land should be  
7 changed to a type 2 action. Take out the  
8 100 acres. Suppose someone wants to  
9 acquire 101 acres, we have to go through  
10 the whole EIS process.

11 Next comment, item 47, sales of real  
12 property by public auction. Sometimes  
13 agencies auction off environmentally  
14 significant property.

15 This 47 should be totally stricken  
16 from the regulations, because we should  
17 make sales on advance of real property by  
18 public auction subject to EIS every year  
19 by the agency involved. It is getting rid  
20 of the property. If we have to go through  
21 the properties one by one, see which one  
22 is environmentally sensitive and which are  
23 not. And hit it that way.

24 Comment on 52, item 52, actions, page  
25 21, requiring a Certificate of



3 ex post facto and in violation of the  
4 Constitution of the United States and the  
5 Constitution of the State of New York.

6 The effective date should be changed to  
7 the date when you want these regulations  
8 to totally go into effect.

9 I doubt that you will get them done  
10 before January 1st of 2018, knowing how  
11 slow their government red tape proceeds.  
12 So we might as well change the date to  
13 make it in compliance with the  
14 Constitution of the State of New York and  
15 the Federal Constitution.

16 So those are the extent of my comments  
17 at the present time.

18 ADMINISTRATIVE LAW JUDGE: Thank you,  
19 Mr. Karpen.

20 MR. KARPEN: Thank you.

21 ADMINISTRATIVE LAW JUDGE: I only had  
22 two speaker cards. So hearing nothing  
23 else, I want to remind everyone that the  
24 public commentary closes on May 19, 2017,  
25 and the Department will be hosting one

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1 Proceedings  
2 more comment hearing of the proposed SEQRA  
3 regulations on April 18th in Rochester,  
4 New York to commence at 6 p.m.  
5 Information is available at the  
6 registration desk.

7 Thank you all for coming today. This  
Page 14

8 hearing is now closed.  
 9 (Time noted: 6:20 p.m.)  
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 2 C E R T I F I C A T E  
 3 STATE OF NEW YORK )  
 4 : ss.  
 5 COUNTY OF NEW YORK )  
 6  
 7 I, CORINA FLOOD, a Notary Public within  
 8 and for the State of New York, do hereby  
 9 certify that the within is a true and accurate  
 10 transcript of the proceedings taken on April  
 11 13, 2017.

12 I further certify that I am not related  
13 to any of the parties to this action by blood  
14 or marriage; and that I am in no way  
15 interested in the outcome of this  
16 matter.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this 13 day of April, 2017.

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CORINA FLOOD

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