

COUNTY OF ORLEANS

TOWN OF SHELBY

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In the Matter of Frontier Stone, LLC

PUBLIC HEARING

April 30th, 2014  
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A transcript of the proceeding held at Shelby Town Hall,  
1062 Salt Works Road, Medina, New York on April 30th, 2014 at  
5:30 p.m.

PRESENTER: Molly T. McBride, Administrative Law Judge

ALSO PRESENT:

SCOTT SHEELEY, Regional Permit Administrator  
KEVIN J. BROWN, ESQ., Attorney for Frontier Stone, LLC

REPORTED BY: RHODA COLLINS, Court Reporter

1 MS. MCBRIDE: Good evening, everyone. My name  
2 is Molly McBride and I'm an Administrative Law  
3 Judge with the New York State Department of  
4 Environmental Conservation and I will be presiding  
5 over this evening's legislative public hearing.

6 As you can see, this room is very crowded. I  
7 was told the capacity of the room is 220 and we are  
8 at approximately 205 right now -- we are at 218.  
9 What we will do is have a representative of the  
10 Department out in the hallway. And we will let  
11 people know who are able to come into the room that  
12 we are going to take a break at 7:30 p.m., and at  
13 that point I'm going to ask everyone who has made a  
14 comment if they could make way in the room for  
15 other people, if they could leave after making a  
16 statement and then we will let other people come in  
17 the room starting at 7:30 p.m. Hopefully that will  
18 accommodate everyone.

19 Obviously, if we are not able to accommodate  
20 everyone this evening, a request will certainly be  
21 made to the Department for an additional hearing.  
22 I'm assuming from comments that people have made  
23 here this evening, that request may be made.

24 We are now on the record in regards to this  
25 hearing. The purpose of tonight's hearing is so

1 the public can make comments regarding the  
2 application of Frontier Stone, LLC. Frontier  
3 Stone, LLC has proposed to build a new 215.5-acre  
4 dolomite/limestone quarry on a 269.45-acre parcel  
5 of land located in the Town of Shelby, Orleans  
6 County.

7 Notice of this hearing was published in the  
8 Department's Environmental Notice Bulletin on  
9 April 2, 2014. Notice was also published in the  
10 Batavia Daily News on April 3, 2014.

11 As I said, the purpose of this hearing is to  
12 receive unsworn statements from the public  
13 regarding this application. The public comment  
14 period for this matter runs until May 12, 2014.  
15 All comments must be received by May 12, 2014 to be  
16 considered. Comments should be mailed to the  
17 Department's Region 8 office, to the attention of  
18 Scott Sheeley. The Region 8 office address is  
19 6274 Avon-Lima Road, Avon, New York 14414-9519. We  
20 will also have that information available for you  
21 after the hearing if you would like it.

22 Anyone wishing to make a statement on the  
23 record here today must fill out one of the white  
24 speaker cards. Cards are available on the table in  
25 front of me. If you would like to make a statement

1 and you have not yet filled out a card, please do  
2 so. If you would like to make a written statement,  
3 you may do so this evening as well. We have sheets  
4 on the table with the speaker cards. You may fill  
5 out that sheet and leave it here with us this  
6 evening or you may mail in your comments. And,  
7 again, they must be received by the Department by  
8 May 12th.

9 Due to the number of people we have this  
10 evening, I'm going to ask everyone to be  
11 considerate of the speakers. It's going to be  
12 difficult to hear everyone if people start  
13 commenting during the speaker's comments. I  
14 realize this is an important issue for all of you.  
15 We appreciate you taking the time to come here this  
16 evening.

17 What I would ask is that you please show  
18 respect for the speaker whether you agree with  
19 their comments or not. And please refrain from  
20 applause or any comments during the speaker. If I  
21 cannot hear their comments, we will not have an  
22 accurate record of their comments. That's very  
23 important this evening that we have an accurate  
24 record.

25 I will call your name when it is your turn to

1 speak. I apologize if I mispronounce your name,  
2 please correct me. When I call your name, come  
3 forward to the podium and state your full name for  
4 the record. If you are representing a group,  
5 please identify the group you represent. If you  
6 are reading your comments, please hand them up  
7 after you have read them into the record, that will  
8 assist the Court Reporter in preparing her  
9 transcript.

10 This comment session is for members of the  
11 public to make their comments on the record. This  
12 is not a question and answer session. However, a  
13 representative from the DEC staff has agreed to  
14 remain after the hearing this evening to answer any  
15 questions, if you have any for them. You may also  
16 contact them after this evening with any questions  
17 you may have.

18 When you make your comments, please speak  
19 loudly, slowly and clearly, again, so the Court  
20 Reporter is able to take down all of your comments.

21 If you do not wish to remain to the end of the  
22 hearing and your card has not been called, again,  
23 written comments are given the same weight as oral  
24 comments. So, if you don't wish to stay until your  
25 card is called, feel free to submit your comments

1 in writing, equal weight is given to both.

2 Before I begin taking comments, we are going  
3 to hear from Scott Sheeley from the Department. He  
4 will give a brief presentation and then Kevin Brown  
5 will give a brief presentation from Frontier Stone,  
6 LLC.

7 And also, the fire exits are to my left, to  
8 your right. There is one down the hallway where  
9 the court clerk sign is and there is another one in  
10 the back of the room should anything happen here  
11 this evening. Thank you.

12 Mr. Sheeley.

13 MR. SHEELEY: Thank you, Your Honor. My name  
14 is Scott Sheeley and I am the Region 8 Regional  
15 Permit Administrator, and I am managing the review  
16 of the Draft EIS and permit applications before the  
17 Department. Thank you for attending tonight's  
18 hearing.

19 Other Department staff present tonight  
20 involved in the review of the proposal are Steve  
21 Army in the Division of Mineral Resources in the  
22 blue shirt sitting where I was sitting. And Dudley  
23 Loew, Office of General Counsel in the white shirt  
24 and purple tie. Also assisting tonight is Peggy  
25 Norry at the registration table. She is also with

1 the Division of Environmental Permits.

2 First, I will give a summary of the key steps  
3 in the review, then a brief proposal summary, and I  
4 will close with some information about the next  
5 steps in our review.

6 On March 14, 2006, the Department received an  
7 application for an Article 23, Mined Land  
8 Reclamation Permit, along with a State  
9 Environmental Quality Review Act Long Environmental  
10 Assessment Form, and we refer to the State  
11 Environmental Quality Review Act as SEQR. So if I  
12 say "SEQR," that is what I am referring to.

13 This application proposed a 215.5-acre quarry  
14 on the south side of Fletcher Chapel Road, east of  
15 the intersection with Sour Springs Road.

16 After classifying the action as a Type 1  
17 action under SEQR, the Department coordinated for  
18 lead agency status and was established as the SEQR  
19 Lead Agency on April 20, 2006. After review of the  
20 application and SEQR Environmental Assessment Form,  
21 the Department issued a SEQR Positive Declaration  
22 on June 5, 2006, requiring the preparation of a  
23 Draft Environmental Impact Statement, or as I will  
24 refer to it, the Draft EIS.

25 Also on June 5, 2006, the Department made

1 available for public review and comment, a Draft  
2 Scoping Document for the Draft EIS and a public  
3 hearing was held on the Draft Scoping Document here  
4 in this town hall on June 27th, 2006, to accept  
5 verbal comments; and written comments on the Draft  
6 Scoping Documents were accepted through August 14,  
7 2006.

8 The final scoping document was accepted and  
9 circulated on January 24th, 2007, and a Draft EIS  
10 was initially submitted to the Department on  
11 April 29th, 2008. After the review of several  
12 subsequent revisions, the Draft EIS was accepted  
13 for public review on March 28, 2014.

14 A combined notice was published in the  
15 April 2, 2014, Environmental Notice Bulletin,  
16 announcing the acceptance of the Draft EIS, the  
17 Notice of Complete Applications and this hearing  
18 tonight to accept public comments on the Draft EIS  
19 and complete applications.

20 The Notice also provided information about the  
21 availability of documents, both in electronic form  
22 online and in hard copy at the Town of Shelby Town  
23 Hall and the Lee-Wheadon Memorial Library in  
24 Medina. Those documents will remain available  
25 through the public comment period.



1           For any who are interested, I also have a  
2           limited number of CDs containing the Draft EIS  
3           documents with me tonight. And, as described in  
4           the Notice, we are accepting written comments on  
5           the EIS application through May 12, 2014.

6           As proposed, the quarry would consist of a new  
7           215.5-acre dolomite/limestone quarry on a  
8           269.45-acre parcel located about 3.7 miles south of  
9           the Village of Medina. The property is on the  
10          south side of Fletcher Chapel Road several hundred  
11          feet east of Sour Springs Road. A small portion of  
12          the site also fronts Sour Springs Road.

13          The proposed excavation area totals  
14          172.2 acres and mining would be divided into four  
15          phases over the estimated 75-year operational life  
16          of the mine.

17          The quarrying would be conducted by drill and  
18          blast technology with front-end loaders and  
19          excavators feeding a primary crusher with shot  
20          rock. A primary crusher will follow the advancing  
21          face and rock would be conveyed to an on-site  
22          processing plant by a field conveyor.

23          Mining is proposed below the water table and  
24          the project would involve dewatering of the quarry  
25          area. As proposed, the estimated maximum water

1 withdrawal for mine dewatering is 554,264 gallons  
2 per day, which would be discharged at the southwest  
3 corner of the site to an existing agricultural  
4 drainage ditch.

5 The reclamation objective proposed is to  
6 create open space with two lakes for recreation  
7 and/or wildlife habitat. The two lakes, separated  
8 by an existing utility line, would be approximately  
9 35.2 and 156.1 acres in size. According to the  
10 Mined Land Use Plan, each lake would be about  
11 145 feet deep, with the first 50 feet of shore  
12 below the water surface, approximately less than  
13 5 feet deep.

14 The proposed mine entrance is off Sour Springs  
15 Road, approximately 1,500 feet south of the  
16 intersection of Fletcher Chapel Road. Trucks  
17 leaving or arriving at the site are proposed to be  
18 routed to and from State Highway 63, via Sour  
19 Springs Road and Oak Orchard Road.

20 The information contained in the Draft EIS  
21 indicates that the proposed mine would generate a  
22 maximum of 30 truck trips per hour, that's  
23 15 entering and 15 leaving. And an average of up  
24 to 10 trucks per hour, 5 entering and 5 exiting.

25 The proposed hours of mining and processing

1 are from 6:00 a.m. to 6:00 p.m. Monday through  
2 Friday, and 6:00 a.m. to 12 noon on Saturdays. No  
3 Sunday or holiday mining and processing is  
4 proposed. According to the Draft EIS, blasting is  
5 proposed to be limited to weekdays only between  
6 9:00 a.m. and 4:00 p.m.

7 After receiving all of the comments and the  
8 hearing transcript of tonight's hearing, the  
9 Department will review the comments in light of our  
10 permit jurisdiction under the State Mined Land  
11 Reclamation Law, Water Resources Law and our role  
12 as the SEQOR lead agency under the State  
13 Environmental Quality Review Act.

14 The Department staff will be required to make  
15 a determination about whether the matter must be  
16 referred to an adjudicatory or a trial-type hearing  
17 before the DEC Office of Hearings & Mediation  
18 Services.

19 As the lead agency, the Department will also  
20 be required to develop a Final Environmental Impact  
21 Statement, including DEC's responses to all of the  
22 comments received and a Statement of Findings under  
23 the State Environmental Quality Review Act, that  
24 considers the relevant environmental impacts  
25 presented in the EIS; weighs and balances them with

1 social, economic and other essential  
2 considerations; certifies the requirements of SEQOR  
3 have been met; provides a basis for our final  
4 decision on the permit applications; and, certifies  
5 that environmental impacts have been avoided or  
6 minimized to the maximum extent practicable.

7 If no adjudicatory hearing is conducted, a  
8 final decision on the permit applications will be  
9 issued by staff without further public hearings  
10 upon completion of the SEQOR process.

11 Again, thank you for attending tonight's  
12 hearing and I now turn it over to Kevin Brown.

13 MR. BROWN: Good evening, everyone. My name  
14 is Kevin Brown, I'm the attorney to the applicant,  
15 Frontier Stone, and I'm with the law firm of Brown,  
16 Sharlow, Duke & Fogel, P.C. out of Syracuse, New  
17 York.

18 What I want to do is briefly to touch on the  
19 review process in a little more detail, so you know  
20 what is in these documents and how it came to be  
21 there. I want to talk a little bit about the  
22 history of the company also.

23 Frontier Stone was originated in 2002 for the  
24 purpose of mining, processing and marketing  
25 high-quality construction aggregates. Those

1 materials are necessary for our roads, our bridges,  
2 our schools, our hospitals, our homes, our  
3 driveways, our sewers. Virtually all the man-built  
4 environment is dependant on this material.

5 It is also dependent on the high-quality  
6 material. It's easy to think that stone is  
7 everywhere and it's the right stone and it's  
8 accessible, but all that infrastructure that we  
9 need to keep rebuilding it wears and it has to be  
10 rebuilt. Any economic growth requires further  
11 construction and this need never goes away. It  
12 continues, it regenerates.

13 Every few years you have to redo your roads;  
14 you want to rebuild schools; you want to make sure  
15 sewer services are up and running. All that takes  
16 material and it takes a certain type of material  
17 that isn't everywhere.

18 The stone that's required for this has certain  
19 chemical and physical properties that will allow it  
20 to be effective in making concrete, both cement  
21 concrete and ready mix -- hot mix asphalt. Because  
22 of that, we have to find sources where they are.  
23 We have to find the right material and we have to  
24 find a place that is accessible.

25 Only certain formations of rock provide this

1 type of material and sometimes those formations are  
2 not accessible. They might be under too much stone  
3 that isn't the right type of material, so it is not  
4 economic to remove that material to get to the  
5 stone. There may be too much overburden, there may  
6 be natural resources constraints: Wetlands, water  
7 bodies, habitat for species, there may be  
8 cultural-built environment constraints. All those  
9 things affect where we can get this material. So  
10 it is really fairly limited where the right  
11 material -- where you can find it.

12 We are pretty lucky that Dave Mahar, who is  
13 here with us tonight with his wife, Joan, his  
14 background makes him the ideal man to run this  
15 company and this enterprise. Born and raised in  
16 Western New York, went to Cornell University, at  
17 the school, College of Agriculture and Life  
18 Sciences.

19 After school, he fulfilled his ROTC commitment  
20 with the Army and came back to Western New York and  
21 worked with Cornell Cooperative Extension. I'm  
22 sure many of you are familiar with the work they  
23 do. He was then in the dairy business for a while.

24 In the late '60s, early '70s, he became  
25 involved in the construction materials industry.

1           And he's worked in a number of sites in Niagara  
2           County and he has managed sites in Niagara County,  
3           so he understands the market and he understands the  
4           material that is necessary to provide safe roads,  
5           safe infrastructure and take care of the needs of  
6           the community while providing jobs.

7           With Dave, there's also John Hellert. He's  
8           our mining geologist and consultant and he's also  
9           the lead on the environmental reviews. Though  
10          we've brought a number of area experts, that I will  
11          talk about in a second, to handle specific issues.

12          John was born here in Shelby and raised here.  
13          And following his masters work at Ohio State, came  
14          back to New York and has been involved in the  
15          mining industry for the life of the Mined Land  
16          Reclamation Law, for the development of all the  
17          standards that DOT puts on aggregate materials.

18          His company is nationwide and we are fortunate  
19          to have him, and I will get into this in a minute,  
20          but the way the quarry has been designed actually  
21          mitigates many of the impacts.

22          When Dave was looking for a location to find  
23          this material -- I already talked about all of the  
24          constraints -- he worked with John and they spent  
25          time evaluating all of the resources in the area,

1 the way of the geology in Western New York.

2 John has probably worked on most of the  
3 quarries from Syracuse to Niagara Falls. He  
4 understands this formation, he understand how it  
5 behaves when you mine it, he understands how water  
6 behaves in it, he understands what type of material  
7 is necessary to provide all of the infrastructure  
8 spoken about.

9 When we started the review in 2006, we had the  
10 scoping done. Many of you were here. Following  
11 the scoping hearing, we had a number of comments  
12 and requests to extend the time to developed the  
13 format and scope for the EIS. That's supposed to  
14 be a 60-day process. With the applicant's consent,  
15 it became a 6-month process. It was fine with us,  
16 as we wanted a thorough and detailed scope.

17 We received comments from the DOT. We  
18 received comments from the Fish and Wildlife  
19 Service with regards to refuge. We received  
20 comments from many of you. We developed the scope  
21 that we think addresses all of the salient issues  
22 that have to do with this quarry and its potential  
23 impacts.

24 And then we spent 2 years, 2 years, doing  
25 studies, collecting data, analyzing that data,



1 preparing the report, submitted the report,  
2 received another set of comments, required further  
3 investigations, brought our experts out, our  
4 wildlife experts. By the end of the review had  
5 done 12 individual species surveys out there on the  
6 site and the neighboring areas.

7 The reason they had to do so many is you have  
8 to look for seasonal conditions for a species.  
9 They have different breeding times and times that  
10 migratory birds are in the area. They have to  
11 review the wildlife refuge, they have to review the  
12 site itself and the neighboring areas. Those  
13 reports you will able to find in the documents  
14 under environmental science. These guys have been  
15 around the same thing, 20/30 years with the  
16 wetlands, the regulations and the regulations for  
17 species came into effect.

18 The biggest issues that were identified was  
19 species, which we evaluated through them, and water  
20 issues. Either brown water issues that could  
21 possibly affect wells and then water issues related  
22 to the wetlands.

23 To address those, we have evolved over time  
24 the mitigation we would design. But even at the  
25 start, with John's experience in mine design, we

1 built the project to minimize the impacts on water,  
2 on ground water and on surface wells. The way that  
3 was designed was the first phase, Phase 1,  
4 11 acres. As that phase is mined out, it will  
5 become a reservoir. That reservoir will normalize  
6 flows out of the quarry. Also, because it is a  
7 smaller area in the capture basin, it will have  
8 very little effect on the flows to the wildlife  
9 refuge while it is being developed.

10 Once it is developed, it is a source of water.  
11 I know we received, I don't know, four/five comment  
12 letters from Fish and Wildlife, Department of the  
13 Interior, very detailed. We also had a USGS study  
14 of the potential dangers from the quarry, which we  
15 evaluated in the course of these studies.

16 The other part of the phasing that's in  
17 mitigation, as this opens up we will mine across  
18 over time, and the species that are on that site,  
19 which are most -- are all common species, they will  
20 have time to migrate because right now it's still  
21 farm field.

22 So it will be a 10-acre site for the first  
23 10 years or so, maybe a little less, it all depends  
24 on marketing demand. It will be about a 10-acre  
25 site.

1           At the end of that time, I think once we get  
2           through this process, I think both the wildlife  
3           refuge folks and all of you will realize that this  
4           is actually an asset. We can provide a reservoir  
5           to help them manage the wildlife refuge. I don't  
6           know that that's going to be the response right  
7           now, I think a lot of people in here are going to  
8           say the best place to get stone is from the moon.  
9           But I'm certain that eventually this will be  
10          treated as an asset.

11           As to the well water, we performed a number of  
12          studies. John, as I said, has worked on this  
13          formation, the Lockport formation, throughout  
14          Western New York. We know how it behaves under  
15          pumping. There's two aquifers here. There's a  
16          shallow aquifer, it's in the glacial overburdens,  
17          the clays. And on top of that there's a slightly  
18          fractured area in the top of the dolomite. That's  
19          the shallow aquifer.

20           Down 59 to 80 feet, there's a bedding plane of  
21          material under the sound rock. That's a  
22          transmission unit where most of the ground water we  
23          will intercept comes from. We performed a thing  
24          call a pump study, that gives us a set of numbers.  
25          It gives us a worst-case set of numbers, because at

1           this time that aquifer, that lower aquifer, is  
2           confined, so it produces water more quickly than it  
3           will once we open up the quarry.

4           So we looked at the worst-case scenario for  
5           the cone of depression. The fact is, that this  
6           formation in the dozen quarries in Western New  
7           York, in this area, that cone of depression doesn't  
8           go very far. It goes a few hundred feet at the  
9           most, I believe. And that's the actual, what we  
10          expect to happen when we designed the mitigation  
11          for the worst case.

12          So what we've done is, this phase will open  
13          up, we've entered into agreements with the  
14          homeowners here (indicating). Should we affect  
15          their wells, we will replace the water and we will  
16          run -- either deepen the wells or run lines down,  
17          public lines down.

18          Those that are near, once this fills it  
19          wouldn't have a draw effect over there. We are  
20          also going to monitor as we start opening up, we  
21          are going to monitor these areas here. And if we  
22          seek the cone of influences larger than it is more  
23          towards that theoretical maximum, we haven't placed  
24          slot cuts that will go on the north, this side of  
25          the quarry that will prevent -- that will backfill

1           against the water and prevent the draining of  
2           wells.

3           Beyond that, we will have water replacement  
4           provisions. So we have kept four or five levels of  
5           security on that issue. I think if you work  
6           through this EIS, and if you honestly work through  
7           it and read the studies, their science, and you  
8           look at them and you really, really read them  
9           honestly, you will see that we have evaluated these  
10          impacts and this quarry is in the right place.

11          Now, there will be a lot more reviews. You  
12          folks will have a lot of comments and we will  
13          respond to all of them. That is part of the EIS  
14          process. We will also be in front of the Town  
15          Board and the Planning Board.

16          For the Planning Board, we will probably  
17          finalize the traffic flows, they have the  
18          jurisdiction for that. We have evaluated our  
19          preferred route, but we have also evaluated the  
20          other route to the north. There could be a mix of  
21          traffic to even it out, but it would be one way or  
22          the other. We anticipate that the Planning Board  
23          will -- people will have jurisdiction over traffic  
24          on local roads. We will do that part at the end of  
25          the review process.

1           So we will see you here again when we are  
2           further along. I don't know whether there's  
3           another hearing on this, or whether we have -- and  
4           I know we will have hearings before the Town Board  
5           and Planning Board. We welcome your comments, want  
6           you to take the time to read this and read it  
7           honestly and I think you will find we have  
8           addressed the impact. Thank you.

9           MS. MCBRIDE: Thank you. We are going to  
10          start calling the speakers. When I call your name,  
11          please come up to the podium and you can start your  
12          comments. Our first speaker is Charles Malcomb.

13          CHARLES MALCOMB: Thank you, Your Honor.

14          Good evening. My name is Charles Malcomb, I'm  
15          from the law firm of Hodgson Russ. Our firm serves  
16          as Special Counsel to the Town of Shelby with  
17          respect to the Frontier Stone's applications.

18          I wanted to begin by thanking DEC for setting  
19          up the public hearings so that the public's  
20          comments and concerns may be heard on this  
21          extremely important issue to this community.

22          I will also make the request on the record  
23          that if we have to turn people away at the door  
24          because of capacity, we will hold another public  
25          hearing. The Town feels that all of the residents

1           that wish to hear all comments should be able to do  
2           so.

3           We have conducted a review of the DEIS that  
4           has been accepted by the DEC for public review and  
5           has several comments about its adequacy and need  
6           for further study and analysis. First, I wanted to  
7           touch on Section 4.2.2 of the DEIS, which  
8           identifies and analyzes the potentially significant  
9           environmental impacts that are related to land use  
10          and zoning. And Section 1.2.2 which states that  
11          the proposed mine parcels, are located within the  
12          agricultural residential districts.

13          These sections indicate that mining is allowed  
14          upon petition to the Town Board and some  
15          clarification is necessary. Mining is only allowed  
16          in the Town's industrial district and only upon the  
17          creation of a mining excavation overlay district,  
18          which is available through application to the Town  
19          Board.

20          Mining excavation overlay districts may only  
21          be created within areas currently zoned industrial.  
22          As noted by the applicant, the property is  
23          currently located within the agriculture  
24          residential district. Frontier Stone's application  
25          for rezoning is not merely the creation of a mining

1 excavation overlay district, but a zoning change  
2 from the underlying zoning district classification  
3 from agricultural residential to industrial.

4 In addition, the site plan approval and  
5 special use permit process would have to be  
6 followed, requires of an applicant at any time they  
7 request a rezoning. But the Town Board has the  
8 obligation to ensure compliance with the  
9 comprehensive plan, community character, public  
10 health safety and welfare and other reasonable  
11 considerations that may be relied upon by a  
12 legislative body. As an involved agency under  
13 SEQOR, the Town takes its responsibilities extremely  
14 seriously.

15 The impacts to the community, of the  
16 community's plans and goals and nearby land uses,  
17 including the wildlife refuge, are among the  
18 critical considerations that must be evaluated by  
19 the Town Board as part of its review process. The  
20 current zoning, agriculture residential, is  
21 compatible with the surrounding uses and with the  
22 wildlife refuge. The purpose of the residential  
23 agricultural district is set forth in Section 510  
24 of the Town Code and says as follows: It's to  
25 protect agricultural lands and uses from



1 incompatible uses and development, to maintain an  
2 open rural character of the community, to assure  
3 compatible types and densities of development, to  
4 provide for low density rural development and to  
5 protect the natural environment. So the proximity  
6 to the wildlife refuge is a critical issue that has  
7 to be considered.

8 The wildlife refuge serves primarily as a  
9 nesting, feeding, resting and staging area for  
10 migratory water fowl. The varied habitats support  
11 approximately 266 species of birds, 42 species of  
12 mammals, reptiles, fish, amphibians and insects.  
13 The refuge is also critical for recreation,  
14 hunting, fishing, bird watching and so forth.

15 In the vicinity of the project site, the  
16 Short-eared Owl, an endangered species, is found in  
17 the vicinity. Bald Eagle, Northern Harrier and  
18 Henslow's Sparrow are threatened species in the  
19 area.

20 The vegetation and the wildlife resources  
21 report an impact analysis that's attached as  
22 Appendix 6 of the DEIS, discusses the various  
23 endangered or threatened species within the  
24 vicinity of the project. And notes that the noise  
25 and vibrations that result from blasting and other

1 mining operations can potentially affect wildlife.

2 Wild, abrupt noises can startle animals,  
3 causing them to leave a foraging area or abandon  
4 their nests. The report evaluates the impacts on  
5 the Henslow's Sparrow, but doesn't contain  
6 sufficient analysis of the impacts on the  
7 Short-eared Owl or other threatened species that  
8 are known to nest or forage in the vicinity of the  
9 project. The DEIS knows that the Short-eared Owl  
10 nests on the ground or in grass, so vibrations from  
11 blasting would be especially critical to evaluate.

12 The wetlands in the wildlife refuge are an  
13 essential part of the habitat, concerns have been  
14 raised as to the effect of the quarry's dewatering  
15 and quarry discharges on the wetlands in the  
16 refuge.

17 The hydrogeologic report, attached is  
18 Appendix 4 to the DEIS, comes to the conclusion  
19 that no impact to wetlands or water bodies will  
20 occur on the site from the quarry development.  
21 Now, that conclusion is based on observations of  
22 water levels and the notation of the type of soil  
23 that underlies the area.

24 It's unclear if there's any other analysis  
25 that was undertaken or performed, other than to

1 note the water levels of the soil layer. Has the  
2 claimed isolation of wetlands been verified for all  
3 potentially impacted wetlands or just within a  
4 single area?

5 Given the importance of wetlands to the  
6 refuge, the critical habitat areas, and the  
7 community, additional study is warranted with  
8 respect to those impacts on the wetlands.  
9 Specifically, completion of an additional  
10 independent study or a peer review of the  
11 hydrogeologic report is warranted.

12 Another issue with respect to discharges from  
13 the quarry, the hydrogeologic analysis notes that  
14 the quarry discharges could reach 1,083 gallons per  
15 minute from the current 185.

16 Storm water and water from the quarry  
17 dewatering will come into contact with sediments,  
18 dust, pollutants, machinery, product, lubricants,  
19 petroleum, and will be discharged into the refuge.  
20 While some mitigation will definitely be achieved  
21 through a storm water pollution prevention plan and  
22 the design in the Mined Use Plan, attention should  
23 be paid to this impact since it will directly  
24 affect the refuge and wetland areas.

25 It is unclear whether these impacts will be

1           adequately mitigated, given the discharges go to  
2           the refuge. So further comments on the mitigation  
3           resulting from sediment, other pollutants, should  
4           be evaluated further.

5           I also want to note that the Iroquois Job Core  
6           Center is located within the refuge. And the  
7           ground water analysis noted that as a result of the  
8           dewatering, there will be approximately -- there  
9           will be a drawdown area out to approximately  
10          7,000 feet. The Job Core Center is well within the  
11          drawdown area, but it does not appear from a review  
12          of the DEIS that any specific analysis was  
13          performed with respect to the impact on their  
14          wells.

15          The Job Core Center utilizes approximately  
16          36,000 to 40,000 gallons per day of potable water  
17          to ground sources. There will be an impact as it  
18          is within the drawdown area. There's no practical  
19          way to achieve a public water source as was noted,  
20          a possibility of mitigation for other affected  
21          wells. And the mitigation plan appears to be  
22          inadequate here. Destruction of potable water  
23          availability would result in an imposition of  
24          significant cost to the Job Core Center and many  
25          students residing at the Job Core Center would have

1 to be relocated.

2 Recreation of the refuge is extremely  
3 important to the residents of the town and to the  
4 Town Board. Section 1.3.3.2 indicates that a map  
5 was created to facilitate discussion of impacts to  
6 wildlife and recreational users within the area of  
7 influence. The DEIS provides cursory discussion of  
8 the impacts to recreational use of the refuge. The  
9 only fishing and hiking are deemed to be outside of  
10 the area of influence so there was no discussion.

11 The section on bird watching provides that it  
12 will not be affected because bird watchers like to  
13 go elsewhere. Hunting is unclear. Hunting will be  
14 allowed in the area of influence. There will be  
15 overlap of hunting season and quarry season. That  
16 is denoted in the DEIS. And there's a cursory  
17 discussion that there is no potential for a  
18 significant impact to recreational hunting from  
19 development of the quarry because Mr. Zelazny has  
20 posted his property.

21 But one of the things that is of concern is:  
22 What about the effect of nearby hunting off the  
23 property in the refuge or nearby?

24 Finally, I want to touch up on the reclamation  
25 plan, which will essentially turn the site into two

1           rectangular lakes at the conclusion of the 75-year  
2           life of the mine. Presumably these will be used  
3           for recreation and wildlife at the end of the  
4           75-year life of the mine, the land will not be  
5           available for additional uses. While recreation is  
6           certainly important, the site will be lost to uses  
7           such as agriculture and residential, which is the  
8           current zoning, inconsistent with the Town's  
9           comprehensive plan.

10           The nature of the reclamation would preclude  
11           reclamation during the life of the mine, as is  
12           noted in the DEIS. What alternative reclamation  
13           options have been considered and why were they  
14           rejected? The DEIS in Section 7.1 mentions  
15           alternative design in only the most cursory way.  
16           Alternatives and reclamation design, which would  
17           prepare the site for secondary land use are few.  
18           That's a direct quote.

19           For any uses considered besides lakes, if so,  
20           they should be fully discussed in the DEIS. There  
21           appears that there was not full consideration of  
22           alternatives on this point.

23           The Town as an involved agency respectfully  
24           suggests that additional studies are required on  
25           these issues and the Town will be following up my

1           comments with additional written comments and the  
2           Town would also like to make an additional request  
3           on the record that the public comment period be  
4           extended an additional 30 days. Thank you.

5           MS. MCBRIDE: Thank you. Ken Printup is our  
6           next speaker.

7           KEN PRINTUP: First, I want to thank you for  
8           allowing me to come tonight and speak on this  
9           subject. It means a lot to a lot of us. My name  
10          is Ken Printup, my wife Shirley and I live at  
11          5097 Bigford Road, Medina, approximately a third of  
12          a mile from the proposed quarry site on Fletcher  
13          Chapel Road.

14          We have our concerns about our wells, the  
15          noise, the dust from the production of crushed  
16          stone being produced at the quarry. The main  
17          reason for my concern is in response to statements  
18          made by an environmental attorney at a Shelby Town  
19          Board meeting representing Frontier Stone, LLC. He  
20          said that new blasting technology helps focus the  
21          blast, reduce the noise and pinpointing the energy.  
22          That could still be pinpointed at my water source.  
23          This meeting took place on June 13th, 2006.

24          On January 2nd, 2007, at a Planning Board  
25          meeting, Mr. Mahar, principle owner of Frontier

1 Stone, LLC, also emphasized the need for new  
2 quarries to keep costs down from trucking stone and  
3 other building materials to fulfill the needs of  
4 road construction and building construction.

5 They talked about having to haul blacktop some  
6 30 miles to supply the need. I checked around and  
7 we have about 10 quarries within this 35-mile  
8 radius of the proposed quarry site. Nine of these  
9 are limestone quarries of which seven have asphalt  
10 plants, two just limestone, one is a sandstone  
11 quarry. Agricultural lime is also available at  
12 most of all of these quarries for the farmers. We  
13 also had seven active sand wash and gravel pits  
14 within a 10-mile radius of the proposed site.

15 In closing, I worry about this quarry going in  
16 and then being sold to a large company out of the  
17 state or even out of the country. Mr. Mahar  
18 considers Shelby his town and the people important  
19 to him. He is concerned about the Iroquois  
20 Wildlife Refuge. You are a businessman and I  
21 understand that. You sold your last quarry to a  
22 company headquartered in France, Lafarge. Lafarge  
23 of France just merged April 7, 2014, with a company  
24 called Holcim US of Switzerland, a \$50 billion  
25 merge.



1 Thank you so much.

2 MS. MCBRIDE: Thank you. David Hamling.

3 DAVID HAMLING: Good evening, my name is David  
4 Hamling. I'm president of the New York  
5 Construction Materials Association based in Albany,  
6 New York.

7 With statewide responsibilities, our members  
8 are comprised of producers of sand and gravel,  
9 crushed stone, ready mix concrete, hot mix asphalt.  
10 I'm here tonight to give a little broader overview  
11 of the industry as a whole, which is a \$5 billion  
12 industry in New York State, every year.

13 That translates to 175 million tons of  
14 aggregate produced annually in New York State,  
15 which is the equivalent of 10 tons for every man,  
16 woman and child in the state. It is a huge number  
17 and one that we take very seriously, because every  
18 construction project, as mentioned before, uses  
19 aggregates in some form or nature.

20 It is a nonrenewable resource. It is not a  
21 tree. We have the bumper sticker in my office that  
22 says: If it can't be grown, it has to be mined.  
23 It's very true. Nonrenewable resources are every  
24 bit as important as renewable resources that we are  
25 used to: Food, lumber and so forth.

1           Therefore, because of its non-renewability, it  
2           is incumbent on us as a society to plan for its  
3           future. Each quarry mentioned tonight is a  
4           consumptive use of a nonrenewable resource. When  
5           it's removed from that quarry, it's gone. It's  
6           being used in a road or a church or a building. So  
7           we have to identify new sources and that is a  
8           typical or very difficult process, and it was  
9           mentioned a little bit earlier.

10           But when you look at the entire state, there's  
11           five things we have to have in order to create a  
12           quarry. One of the resources, obviously, is the  
13           geology of New York State is very complex. We have  
14           to have the proper geology to develop an aggregate  
15           resource. That is the case here.

16           We have to have the appropriate quality of  
17           material. In the case at hand, the material called  
18           for is limestone, which is -- meets all of the  
19           stringent requirements put out by the DOT for road  
20           construction for use in concrete and in the use of  
21           hot mix asphalt.

22           You have to have the appropriate quantity of  
23           material. In this case that is also in place here.  
24           Without a large enough source, we specifically  
25           can't justify the 10 years, or whatever it has been

1 through the permitting process, all of the  
2 equipment studies and so forth that goes into  
3 mining. Mr. Mahar has extended all kinds of money  
4 thus far to try to get the permit to satisfy  
5 everyone here, yet there has been no revenue coming  
6 in. It's all at-risk, up-front capital.

7 We also have a fact we call mine ability,  
8 which the property has to be accessible to the  
9 equipment that is used in the development process.  
10 And it can't have other uses co-located at the  
11 property. We call that resource sterilization.

12 If there's a house or a church or a Walmart on  
13 the property, obviously we are not going to be able  
14 to mine that. That resource is sterilized forever,  
15 we can't get at that property.

16 And the last topic is the access to market.  
17 And it was noted that there are a number of  
18 quarries and sand and gravel pits in this area.  
19 That's because the market is stable and in some  
20 case, growing. You're going to be supplying  
21 potentially the Rochester to Buffalo marketplace by  
22 developing this quarry. That is an important  
23 resource on a regional basis, rather than just to  
24 the folks of Shelby. And we ask the DEC and Town  
25 consider that when they look at the quarry in

1 greater detail.

2 Property under consideration here meets all of  
3 those five criteria, which we have identified as  
4 being crucial to the development and stabilization  
5 of our industry. And we urge that it be carefully  
6 considered and those topics be carefully considered  
7 in moving forward. As a parting note, the State  
8 geologist's office of New York State prepared a  
9 mineral industry study from 2007 to 2010, which  
10 includes a number of economic factors, including  
11 the \$5 billion number I mentioned. I ask that that  
12 be entered into the record of tonight's proceeding,  
13 if I may.

14 Thank you for your time and attention.

15 MS. MCBRIDE: Thank you. Juanita King.

16 JUANITA KING: Hi, I'm Juanita King. I just  
17 wanted to say no. No mining permit, no new zoning  
18 permit, no rezoning. We like our farms.

19 Thank you.

20 MS. MCBRIDE: Mike Elam.

21 MIKE ELAM: My name is Mike Elam and I'm  
22 speaking as president of the Finger Lakes  
23 Conservation Council, representing 12,000 organized  
24 sportsmen in 11 counties of DEC Region 8. Our  
25 Council is aware of the importance of the aggregate

1 mining industry to development, construction,  
2 infrastructure and the economy. However, after  
3 reviewing the seven volumes of the Environmental  
4 Impact Study, our Council must oppose the proposed  
5 Frontier Stone quarry in the Town of Shelby.

6 The close proximity of two important New York  
7 State DEC Wildlife Management Areas and the  
8 Iroquois National Wildlife Refuge is our main  
9 concern. The approximately 21,000 acres of  
10 wetlands used by waterfowl for migration stops and  
11 resident breeding could be compromised.

12 These wetlands are also important to Eagles,  
13 Osprey, and many reptiles, amphibians, mammal and  
14 many species of shorebirds. The disruption in the  
15 area with drilling, blasting, stone crushing and  
16 traffic would have a negative effect on the peace  
17 and serenity necessary at the Federal Refuge and  
18 the State WMAs.

19 There are concerns for the aquifer that feeds  
20 the marshes and wetlands in the area and the Oak  
21 Orchard watershed from this quarry. Oak Orchard  
22 Creek is an important economic and recreational  
23 asset to Orleans County. The concern is with heavy  
24 sediment in the runoff and discharge during the  
25 construction of the quarry. Another concern is the

1 quarry's need to discharge up to 550,000 gallons of  
2 water each day to operate and what effect that  
3 would have on the surrounding wetlands and  
4 watershed during its estimated 75-year life.  
5 Therefore, the FLCC feels a quarry at this location  
6 is not worth the potential risks to the  
7 environment.

8 The FLCC would like to go on record as  
9 strongly opposed to the proposed Frontier Stone  
10 quarry in the Town of Shelby.

11 MS. MCBRIDE: Thank you. Wendy Pencille.

12 WENDY PENCILLE: My name is Wendy Pencille and  
13 I live at 11207 Lime Road in the Town of Shelby  
14 with my husband and two children. I also represent  
15 the citizens of Shelby Preservation.

16 At the outset of this process in 2006, one of  
17 my neighbor's said that we should let the science  
18 and the data determine whether the quarry is a good  
19 idea or not. I agreed. The science has been  
20 presented in the DEIS and unfortunately, it is the  
21 science according to Continental Plaster and  
22 Frontier Stone, and the science is flawed. Facts  
23 have been misrepresented, facts have been omitted  
24 and facts have been ignored. Without good data,  
25 good decisions cannot be made.

1           Frontier lied about the economic benefits of  
2           the quarry. They ignored the financial impact to  
3           the Town regarding the construction cost to rebuild  
4           the roads to accommodate their trucks. They  
5           withheld for eight years the number of trucks that  
6           would pass through the neighborhood and the true  
7           amount of water that would be drained into the farm  
8           ditch in the spring.

9           They ignored the effects of the massive  
10          amounts of contaminated water they would be dumping  
11          into the refuge and into the Oak Orchard River.  
12          They failed to address the treatment of the water,  
13          except for particulate contamination. They cherry  
14          picked information about the cone of depression and  
15          the zone of influence, and the surplus of  
16          guidelines and the availability of local stone.  
17          They lied about the wildlife.

18          But the DEC requires legally defensible  
19          arguments to deny a permit of this type, so here  
20          they are:

21          Number 1, Frontier has failed to show a need  
22          for more mining in the area. They stated there is  
23          a need, but in doing so they ignored the current  
24          amount of stone at the other local quarries and the  
25          life span of those quarries.

1           Number 2, Frontier has failed to identify  
2           viable alternative locations for this quarry. They  
3           only examined locations north and south of the  
4           proposed site on either 63 or 77. They never  
5           examined locations east and west. The Lockport  
6           formations span an area from Michigan to Rome, New  
7           York. Along that route are several state roads  
8           that have access to the New York State thruway.

9           Number 3, Frontier has not sufficiently  
10          addressed the endangered species that will be  
11          impacted by the quarry. Frontier has deliberately  
12          lied multiple times in the DEIS and in their  
13          evaluation of the Short-eared Owl with respect to  
14          mines and quarries. They cited Holt and Leisure  
15          2006 several times stating that Short-eared Owls  
16          frequent mines and quarries. They failed to  
17          explain that the original reference is from a study  
18          done in 1975 on owls in quarries that were closed.  
19          They were out of operation.

20          It is this kind of fact manipulation that has  
21          us very concerned that the DEC is not exercising  
22          due diligence in examining the validity of the  
23          science presented by Frontier Stone.

24          Number 4, Frontier has fabricated the amount  
25          of water they will be discharging daily in the



1           spring into the drainage ditch and the subsequent  
2           surrounding area. Frontier's calculation of a  
3           maximum of 500 gallons per minute is blatantly  
4           inaccurate. Two local quarries in the Lockport  
5           formation as well are discharging approximately  
6           1200 gallons per minute from their quarries in the  
7           spring. Those quarries are less than half the  
8           depth that Frontier plans at full build out.  
9           Therefore, the actual amount of water Frontier will  
10          discharge is much closer to at least twice that  
11          amount of the quarries that are currently in  
12          operation. Approximately 2400 gallons per minute,  
13          which is about 3.5 million gallons a day.

14                 Number 5, Frontier ignored the environment  
15          with respect to flooding the wildlife refuge and  
16          the Oak Orchard River with contaminated water.  
17          Frontier ignored the fact that the water from the  
18          quarry would be black water. It's not called Sour  
19          Springs Road for nothing. Extremely high levels of  
20          minerals, iron and sulfur are present in that  
21          water. And Frontier only mentions they would --  
22          that the sulfur would dissipate. They never  
23          mention any of the other contaminates.

24                 The farm ditch will not be able to contain  
25          that large quantity of contaminated water every

1           spring, it will overflow into the refuge and the  
2           river. The effects of this massive amount of  
3           contaminated discharge water on species of plants  
4           and animals, including the salmon, has not been  
5           evaluated.

6           Number 6, Frontier's DEIS should be null and  
7           void as it has been produced by John Heller, who  
8           has both financial and familial connections to  
9           Frontier Stone. His contributions constitute an  
10          extremae conflict of interest and he has  
11          demonstrated that he is incapable of being  
12          objective in his research and presenting his  
13          findings. I ask that the DEC commissioner act in  
14          accordance with Environmental Conservation Law  
15          Section 3-0301 and deny the final permit on the  
16          grounds that it has failed to assure the  
17          protection, enhancements, provisions, allocations  
18          and balance utilization of this land consistent  
19          with the environmental policy of the State.

20          And, further, that this quarry proposal failed  
21          to take into account the cumulative impact upon all  
22          such resources. I ask that the DEC commissioners  
23          deny this permit on the grounds that it fails to  
24          provide for the propagation, protection and  
25          management of fish and other aquatic life and

1 wildlife and fails to preserve the endangered and  
2 protected species of the State of New York.

3 I ask that the DEC commissioner deny this  
4 mining permit on the grounds that it doesn't  
5 prevent and abate all water, land and air  
6 pollution, including but not limited to, that  
7 related to: Hazard substances, particulates,  
8 gases, dust, vapors, noise, radiation, odors,  
9 nutrients and heated liquids.

10 I ask that the DEC Commissioner deny this  
11 permit because it's the right thing to do. There  
12 are other locations for mining limestone in New  
13 York State that do not pose a threat to the  
14 environment, to sensitive wildlife species and to  
15 the community.

16 This project is also a very real threat to the  
17 proposed STAMP project that New York State just  
18 committed \$33 million to. Ground water alterations  
19 and blasting inherent in the quarry will threaten  
20 the very nature of the land that was so desirable  
21 for the STAMP project location. Once the damage is  
22 done, there will be no going back. We will lose  
23 the STAMP project.

24 I realize that the DEC has never turned down a  
25 mining permit. However, the facts in this case,

1 the potential for environmental damage and the lack  
2 of objective data from Frontier Stone require that  
3 you exercise your responsibility and deny this  
4 permit. Thank you.

5 MS. MCBRIDE: Karen Jones.

6 KAREN JONES: Good evening, Your Honor. Thank  
7 you for holding this hearing for us tonight. I'm  
8 not going to speak on every single point in my  
9 letter, I will give it to you in writing, but some  
10 of the points I do want to make that haven't been  
11 mentioned tonight, yet.

12 The first involving the wells. In their  
13 studies Frontier explained that a residential well  
14 survey was distributed door to door for local  
15 residents. Seventeen surveys were distributed to  
16 those closest to the project, but only three were  
17 returned.

18 Our request that the DEC mitigate this  
19 deficiency by commissioning their own survey of the  
20 residents of Shelby whose wells might be affected.  
21 Especially the issues of trust or lack thereof,  
22 were clearly factored in the lack of returned  
23 surveys. Residents were skeptical of Frontier's  
24 end game and were reluctant to provide anything  
25 they thought might be used against them later.

1           However, if residents knew that an outside  
2           agency was doing the survey they would be more  
3           likely to comply, thus providing more accurate  
4           information.

5           I'm also requesting the DEC cast a wider net,  
6           so to speak, of residents who might be affected by  
7           the 17 that were identified. Many feel that much  
8           more of a circle will be affected.

9           Another point I wanted to bring up in regard  
10          to this is also in regards to the importance of  
11          protecting cultural resources. In your letter to  
12          Mr. John Heller, you said that once the  
13          archeological survey had been completed, you  
14          would -- or they would then consult with the New  
15          York State Historical Preservation Office to  
16          determine if additional work or mitigation was  
17          needed to ensure protection of cultural resources.  
18          They did include a letter from that office, but it  
19          only mentions Phase 1.

20          In Volume 5, there's an archeological report  
21          prepared by Kirk Butterbaugh of Butterbaugh  
22          Archeological Consultants. In it he explains the  
23          cultural and historical significance of the area,  
24          and explains in 1656 it was controlled by the  
25          Seneca Nation. They write themselves that the

1 OPRHP site files shows four prehistoric or  
2 proto-historic sites within 1.6km of the project  
3 area. None are near the project area. They went  
4 on to explain that 16 historical archeological  
5 sites were reported within 1 mile of the project  
6 area. None are near the project area.

7 Just a little over a mile away are 20 sites  
8 that have been recorded over the years and it is  
9 deemed not near the sites? When I went looking  
10 into Attachment 7 of that document, I found a human  
11 skull. According to Attachment 7 of their own  
12 report, there were a number of findings and one of  
13 them a human skull; Page 277 of Volume 5.

14 The archeological survey done on the proposed  
15 site was two rows, 50 feet apart, 10 feet wide.  
16 Nowhere, however, in any of the reports do they  
17 explain how deeply they dug. Additionally, since  
18 they did the study on December 22, 27, and 28  
19 of 2006, how deeply could they have dug? Wasn't  
20 the ground frozen?

21 They end their report by saying that since the  
22 work was conduct by qualified personnel following  
23 certain guidelines, they recommend the project will  
24 not impact any property and the project may  
25 proceed. Just because they follow formatting

1 guidelines doesn't mean the results should make the  
2 project a go. Especially when only one phase has  
3 been analyzed and as such was so superficial.

4 It's my understanding that the Department of  
5 Conservation has an internal X's and O's map of the  
6 project where certain archeological treasures might  
7 be. Though the OPRHP might not have yet reported a  
8 valuable artifact or cultural treasure does not  
9 mean there aren't any. And by treasure, I speak  
10 specifically to those of cultural significance,  
11 such as Native American, some of them artifacts,  
12 possibly even human remains. Especially as a human  
13 skull has already been sighted just 1 mile away.

14 The area under discussion has not been greatly  
15 disturbed over the centuries, beyond that of a  
16 typical agricultural disturbance, such as by  
17 plowing, not overly deep. And particularly in the  
18 area that was under control of the Senecas, it is  
19 an important question worthy of digging deeper,  
20 literally as well as figuratively.

21 I request the DEC mitigate Frontier Stone's  
22 deficiency in their DEIS by studying and analyzing  
23 the area in question. Using their own internal  
24 archeology projections to discern the area's true  
25 value prior to any mining permit ever being issued.

1 I also request the DEC to provide a thorough  
2 archeological study through each phase of  
3 construction, not just Phase 1. And to require  
4 them to cease and desist all further stages if  
5 anything of historical value is found. I know that  
6 Shelby is well known for its rich Native American  
7 history. And I know that more appropriate agencies  
8 would be better equipped to determine the site's  
9 value.

10 I ask once again the DEC mitigate Frontier's  
11 severe deficiencies and their archeological report,  
12 or supervising a multi-agency review. I know  
13 Frontier Stone very much wants this to happen, but  
14 one company's investment at the expense of an  
15 entire community's position is not acceptable.

16 Examine all of the issues I have outlined and  
17 those I'm sure my peers and neighbors will do. I  
18 ask you to remember what you have been tasked to  
19 do: To preserve, to protect the wildlife and the  
20 environment of this great state. It is your duty  
21 just as I'm certain it's your calling.

22 With all of the compelling data that everyone  
23 here will provide, the answer is clear: This is  
24 the one to deny.

25 MS. MCBRIDE: Carl Zenger.



1           CARL ZENGER: Good evening, Your Honor, Town  
2 of Shelby officials, DEC representatives and  
3 friends.

4           My name is Carl Zenger, I live in Lockport,  
5 New York. I have been a volunteer at the Iroquois  
6 National Wildlife Refuge for 16 years. I'm also a  
7 past president of Friends of Iroquois National  
8 Wildlife Refuge and I support as many projects and  
9 activities on the refuge.

10           As a friend and taxpaying citizen, I am  
11 strongly opposed to placing a stone quarry within  
12 300 feet of the refuge boundary. The refuge has  
13 35- to 50,000 visits a year from hunters, nature  
14 photographers, fishermen, sightseers, nature  
15 lovers, college interns, school groups and many  
16 others.

17           The creation of a stone quarry this close to  
18 the refuge would significantly decrease this  
19 visitation number and reduce the tourism dollars in  
20 this area. An unsolicited statement by the Public  
21 Employees for Environmental Responsibilities, known  
22 as PEER, out of Washington, DC, has listed Iroquois  
23 among the top threatened refuges in the United  
24 States.

25           This is not a recognition that we can be happy

1 about or proud of. The Department of Interior  
2 estimates the refuge contributes an average of  
3 \$4.89 for the economic output for every dollar  
4 appropriated. This is over three times the value  
5 that the DEIS states the quarry would have. The  
6 decision to allow this positive economic impact of  
7 the refuge to be lost in this area is obviously a  
8 bad decision.

9 I see no advantage to having a stone quarry in  
10 this location and can see many disadvantages to  
11 having it. Items like heavy truck traffic,  
12 480 trips per day, 6 days a week, starting before  
13 6:00 a.m. in the morning and going through  
14 6:00 p.m. at night. This is a truck every  
15 75 seconds.

16 The blasting, ground vibrations, noise, light  
17 pollution, dust in the air and covering the  
18 surrounding area and the roads. Sever alterations  
19 to the water supply, pollution to the impoundments  
20 on the refuge, contamination to the ditches and  
21 fields where the water is pumped, major road  
22 construction and maintenance, and the list just  
23 goes on and on.

24 The Forrestell Flats where the water would be  
25 pumped, it is estimated 554,000 gallons a day, is a

1 habitat for many ground nesting birds which are in  
2 serious decline in New York State and in North  
3 America.

4 This contamination, plus the required altered  
5 habitat maintenance on the refuge would be  
6 additional steps to reducing their population and  
7 contribute to them becoming threatened or  
8 endangered species. This would lead to costing all  
9 of us tax dollars in an effort to try to prevent  
10 this from happening.

11 It is requested that the DEIS more clearly  
12 define the contaminants in the discharge water and  
13 how the maximum limit of all of the contaminants  
14 will be measured and controlled.

15 The National Audubon Society declared Iroquois  
16 National Wildlife Refuge and the adjacent state  
17 lands as an important bird area. This is the  
18 second one in New York State. This was done to the  
19 important birds that migrate, feed and breed on  
20 these lands. This quarry would threaten a major  
21 portion of this land.

22 If anyone thinks the stone quarry is a good  
23 thing to have in their neighborhood, I suggest they  
24 talk to some of the residents on Hinman Road in  
25 Lockport, New York. None of these people are happy

1 about it and this is the same company, Frontier  
2 Stone, proposing to open this quarry in the Town of  
3 Shelby.

4 I strongly urge the Town of Shelby officials,  
5 New York State government officials, the DEC and  
6 all others who make decisions on this proposed  
7 quarry to not allow it to be approved. I also  
8 request that the DEC extend the written comment  
9 period beyond May 12th. With a proposal with over  
10 1,000 pages -- look at all of the volumes -- and  
11 having such a major negative impact on the refuge,  
12 the Town of Shelby, the surrounding area, more time  
13 is necessary to properly respond to the Draft  
14 Environmental Impact Statement.

15 All of these issues will be included in my  
16 written response as well as many other issues and  
17 will include more detail and supporting  
18 information.

19 I will also be working with Iroquois Job  
20 Corps, which is located one-half mile south of the  
21 proposed quarry, to prepare their written  
22 statement. This impacts 200 to 250 students and  
23 over 100 jobs. Would be a major loss to this area  
24 if they are forced to relocate.

25 Thank you for your time and consideration.

1           And for those responsible, please vote no on  
2           allowing this quarry to be authorized at this  
3           location.

4           MS. MCBRIDE: Sarah Mendel.

5           SANDRA MENDEL: Good evening, Your Honor.  
6           It's Sandra Mendel and I am the current president  
7           of the Friends of Iroquois National Wildlife  
8           Refuge.

9           I would like to make a few comments at  
10          tonight's meeting and please note that the Friends  
11          of Iroquois National Wildlife Refuge will be  
12          submitting additional comments in writing by the  
13          determined requested deadline date.

14          The Iroquois National Wildlife Refuge is a  
15          10,828-acre refuge located in Orleans and Genesee  
16          County in Western New York, established in 1958,  
17          under the Migratory Bird Conservation Act as an  
18          inviolable sanctuary for migratory birds.

19          Refuge habitats consist of 4,190 acres of  
20          uplands and over 6,600 acres of wetlands. The  
21          refuge has recorded more than 300 bird species,  
22          42 mammals, 29 amphibians and reptiles, and  
23          504 plants. The refuge is also home to two nesting  
24          pairs of Bald Eagles. All of which are potentially  
25          affected by the establishment of a stone quarry

1 located along the northern border of the refuge.

2 Oak Orchard Creek meanders through the refuge  
3 and is designated as a National Natural Landmark.  
4 It is also vulnerable to negative impact. In the  
5 Town of Shelby, Iroquois National Wildlife Refuge  
6 encompasses 5,374 acres, which is about 50 percent  
7 of the refuge land and about 18 percent of the  
8 Town's land base. Refuge wetland acres comprise  
9 about 44 percent of the wetlands in the Town of  
10 Shelby.

11 Along with providing habitat for wildlife, the  
12 refuge also provides wildlife-dependent  
13 recreational opportunities like hunting, fishing,  
14 wildlife observation, wildlife photography, and  
15 environmental education and interpretation  
16 opportunities. Many of these recreational  
17 opportunities are dependent upon wetlands.

18 The popularity of the refuge's wildlife  
19 recreational opportunities is important to the  
20 local community, as well as folks who travel to the  
21 area to visit the refuge. As noted, between 35,000  
22 and 50,000 people visit the refuge each year.

23 At a public meeting in December of 2007, here  
24 in Shelby, it was mentioned that the U.S. Fish and  
25 Wildlife Service released a report on the economic

1 benefits to local communities near national  
2 wildlife refuges. This report indicated that  
3 87 percent of refuge visitors were non-residents.  
4 That is, living greater than 30 miles away from the  
5 refuge.

6 This report also showed the refuges return  
7 approximately \$4 in economic activity at that time,  
8 on average for every dollar the government spends.  
9 In an updated report of economic benefits to local  
10 communities near national wildlife refuges,  
11 released by the U.S. Secretary of the Interior in  
12 November 2013, it was shown that refuges contribute  
13 an average of \$4.89, a total economic output for  
14 every dollar appropriated. Quite a significant  
15 difference than the \$1.58 return for every dollar  
16 spent by aggregate industries, noted in Volume 1,  
17 Page 17 of the DEIS.

18 Additionally, the Friends of Iroquois National  
19 Wildlife Refuge annually contribute over \$20,000 to  
20 support activities at the Iroquois National  
21 Wildlife Refuge, which doesn't include the  
22 countless hours that volunteers contribute to these  
23 programs.

24 Please let me draw attention to the following  
25 statement: Almost the entire southern sector of

1           the Town, reference to Shelby, contains the  
2           Iroquois National Wildlife Refuge, a significant  
3           natural resource, containing wetlands and wildlife  
4           habitat. The refuge provides the region with  
5           education and recreational opportunities as well,  
6           including hiking and wildlife observation. This  
7           statement was taken from Volume 1, Page 84 of the  
8           DEIS and is presented as justification as to why  
9           the location of the quarry meets the Town of  
10          Shelby's Number 3 requirement for most favorable  
11          locations for mining, stating that: Cultural,  
12          community, and natural resources are minimally or  
13          not at all impacted.

14                 The proposed quarry will, under the best of  
15          circumstances, negatively impact environmental  
16          quality, and thereby jeopardize both the health of  
17          the citizens of Shelby and the critical  
18          conservation efforts of the refuge.

19                 The dust and noise of blasting, the huge water  
20          displacement, water and light contamination,  
21          substantial increase in truck traffic with  
22          attendant air pollution and road wear are the  
23          expected and unavoidable consequences of a quarry  
24          operation. Such consequences will most certainly  
25          degrade the quality of the environment in the



1 nearby refuge. Any degradation in air, water, and  
2 soil, compounds the already difficult mission of  
3 the refuge. And, what is not good for the wild  
4 things in the refuge can't be good for the citizens  
5 of Shelby.

6 The Friends of the Iroquois National Wildlife  
7 Refuge believe that opening a quarry operation near  
8 the Iroquois National Wildlife Refuge is a threat  
9 to the mission of the refuge, and to the community  
10 of which it is an integral part. We, therefore,  
11 stand in opposition to the proposed quarry.

12 Thank you for the opportunity to address this  
13 forum.

14 MS. MCBRIDE: Thank you. Holly Roush.

15 HOLLY ROUSH: Good evening, my name is Holly  
16 Roush and I'm a resident of Fletcher Chapel Road.  
17 I live within one-half mile of the proposed quarry.

18 I will submit in writing my objections to the  
19 quarry as planed for the corner of Fletcher Chapel  
20 Road and Sour Springs Road. I urge you to deny  
21 this request. I'm going to go over my objections  
22 in summary, it will be more detailed in the  
23 writing.

24 I object on three different areas. First, the  
25 economic. The proposed quarry is stated to add up

1 to 15 jobs to the economy. Aside from the jobs,  
2 assuming they are new jobs and not the jobs taken  
3 away from other local quarries, the Town has little  
4 benefit from this. They, however, will have an  
5 additional cost in the form of additional highway  
6 expenses to maintain the roads due to increased  
7 traffic.

8 Also, there will be lower amount of taxes  
9 collected by the homeowners around the quarry as  
10 their home values decrease. There are a number of  
11 other costs that will affect the Town.

12 This will also affect the STAMP project, as it  
13 is coming in just across the Genesee/Orleans  
14 border. That project will have a greater effect on  
15 our town than the quarry.

16 The environmental concern. The Iroquois  
17 National Wildlife Refuge is a treasure to all that  
18 know it. To have the edge of the refuge border the  
19 south side of the quarry seems disastrous. The  
20 report states that as the proposed project goes to  
21 the different phases, the animals will have the  
22 ability to relocate and adapt to a new habitat.

23 You cannot easily recreate the wetlands and  
24 the neighboring habitat, the refuge. Once it is  
25 destroyed or contaminant, the refuge will be

1 unattractive to those who currently enjoy it.

2 The DEIS also states that the private wells of  
3 the citizens of the Town of Shelby is not a  
4 concern, as many have access to public water. What  
5 about the homes that are hooked up to private  
6 water, but still use their private wells for other  
7 uses, such as watering animals, gardening,  
8 et cetera? Just because someone has access to  
9 something does not mean they are interested in  
10 receiving it.

11 The third issue I have is quality of life. If  
12 you look up the makeup of our community, you see  
13 families who have settled here for generations, all  
14 living close by. I'm relatively new to the area,  
15 but decided to reside here for a number of reasons,  
16 reasons that will not be here if the quarry is  
17 allowed, and probably the same reasons why these  
18 families stay.

19 The location in relation to the refuge and the  
20 wildlife I am able to observe from my home. I can  
21 look out my windows, within that I see Sour Springs  
22 Road. With the quarry in the berms, my view will  
23 be obstructed. The noise and dust and operations  
24 and the traffic will have a negative impact on my  
25 quality of life.

1 I'm surrounded by the agricultural fields. I  
2 understand the agricultural zoning, I grew up on a  
3 farm. I may be disturbed, in quotes, by the  
4 farmers a few times a year as they work the ground.  
5 But this is different from the constant murmur of  
6 the stone quarry operations and the truck traffic.

7 Living directly east of the quarry the wind  
8 will carry the noise and the dust to my residence.  
9 I'm concerned of the health of my young children  
10 and any impact the quarry may have on them.

11 I object to the quarry for these reasons, as  
12 well as many others that my neighbors have pointed  
13 out for your consideration and review.

14 I strongly believe that once all of the facts  
15 have been reviewed the DEC will have no other  
16 position then to deny the permit, due to the  
17 negative impact it has on the Town of Shelby.  
18 Thank you.

19 MS. MCBRIDE: Mike Fuller.

20 MIKE FULLER: Good evening, I'm Mike Fuller.  
21 I'm a resident of the Town of Shelby. I'm against  
22 the stone quarry because it's too close to the  
23 refuge. Not only will it affect the Wildlife  
24 Refuge and its inhabitants, it will also cause  
25 severe damage to the roads from quarry truck

1 traffic.

2 As highway superintendent of the Town of  
3 Shelby, I'm very aware of the costly expense to  
4 build and maintain these roads for the stone  
5 quarry. Thank you.

6 MS. MCBRIDE: Thank you. Marcy Boyce.

7 MARCY BOYCE: My name is Marcy Boyce and with  
8 my two children, we live on South Gravel Road in  
9 the Town of Shelby, less than a mile from the  
10 proposed stone quarry.

11 I will try to keep this short and to the  
12 point. I would like to address the Town Board and  
13 the representatives for the DEC. I oppose this  
14 quarry and I oppose this quarry for many reasons.  
15 A stone quarry this close to the wildlife refuge  
16 and to my family, friends and treasured neighbors  
17 is troubling to me.

18 First of all, the environmental impact this  
19 quarry will have on the surrounding area will  
20 affect generations to come. The wildlife that uses  
21 this land is only half of what the DEC is serving  
22 to protect. The other is the environment we all  
23 share.

24 The Iroquois National Wildlife Refuge was  
25 established as a sanctuary for our wildlife and as

1 a safe haven for all to enjoy. If this quarry is  
2 established, wouldn't that be counterproductive to  
3 the refuge? Aren't we, as a society, allowing  
4 destructive activity the refuge was set up to  
5 protect the wildlife and environment against?

6 Oak Orchard Ride Road is the proposed trucking  
7 route for the quarry. Currently that road is used  
8 as one of the entry points to the northern end of  
9 the refuge. It is used by families taking a  
10 leisurely drive, bird watchers watching the trees  
11 and not the time, and by people who sincerely enjoy  
12 the peace and quiet the refuge provides to all who  
13 visit there.

14 If this quarry is approved, this road will be  
15 taken over by various fast-moving trucks of all  
16 sizes and weight carrying tons of stone. This  
17 undoubtedly is a safety issue to an already narrow  
18 no-shoulder road with bends, curves and blind  
19 areas. Can you see what I see? I have never  
20 driven one, but I have been around enough to know  
21 the probability of a survival rate after a  
22 collision with one is pretty low.

23 Why do we take a chance with people's lives,  
24 not to mention the issues that will arise from  
25 having trucks exiting Route 63 and turning onto

1           Route 63 from Oak Orchard Ridge Road. As a  
2           resident of Shelby, a taxpayer and frequent visitor  
3           to the refuge, it makes me sad to think of such a  
4           local treasure being diminished by a mining  
5           project. Our environment and quality of life will  
6           undoubtedly be affected by the quarry if it comes  
7           through. You can't predict Mother Nature and  
8           there's no way of telling how this will affect the  
9           streams and ponds.

10           I was brought up three doors down from where I  
11           currently live. My parents still reside there. In  
12           1984, my dad and grandfather had that pond dug. I  
13           am proud to say that is one of the most beautiful  
14           ponds for miles around. It is home to three  
15           species of fish, wood ducks, Hooded Mergansers,  
16           Mallards and visiting Canadian Geese. This  
17           beautiful spring-fed pond is what could be  
18           attributed to my family's quality of life year  
19           round.

20           Fishing, swimming, ice skating, a pond-side  
21           wedding ceremony have all taken place here. The  
22           possibility that this quarry could end this for not  
23           only my family but the tons of neighborhoods and  
24           neighbors kids that use that pond is all too real.  
25           This would be devastating for our family.

1           So please deny the permit and find Frontier  
2           Stone's Environmental Impact Statement to be  
3           lacking in sufficient research and incorrect data.  
4           When the negatives outweigh the positives,  
5           shouldn't it be an easy decision?

6           To my friends and neighbors on the Town of  
7           Shelby Board, food for thought: And who does this  
8           quarry benefit -- thank you -- in the long run?  
9           Obviously, the seller of the property to Frontier  
10          Stone; the owner of Frontier Stone; and the very  
11          few employees that it will employ; and of course,  
12          the Town of Shelby.

13          Now the projected income for the Town of  
14          Shelby from this proposed quarry is equivalent to  
15          that of the taxes of three homes in Shelby a year.  
16          Let's put that in the back of our minds for a  
17          minute and skip forward to the STAMP project.

18          The STAMP project comes in bringing thousands  
19          of new jobs just miles down the road. Where do  
20          those thousands of new employees live? How about  
21          Shelby. Shelby is a great little town, a great  
22          little rural town close to so much. Miles away  
23          from work and beautiful building land.

24          Well, who would want to invest in land so  
25          close to a stone quarry? Blasting all times of the



1 day, dust flying, truck traffic and possibly  
2 cracked foundations. The possibility is there.  
3 The taxes from new homes being built in Shelby will  
4 surpass the income you could receive in taxes from  
5 the quarry.

6 First, we have to keep Shelby as a desired  
7 place to live. Let's keep Shelby a nice, quiet,  
8 heathy residential place to live in. Shelby is my  
9 home and home to many people here tonight. I am  
10 here to ask you to turn down the quarry. Keep the  
11 land ag/residential and not industrial. You can  
12 see we care about our town and we are willing to  
13 fight for it. Let's not deter the STAMP project,  
14 let's welcome it and the possibility of that  
15 project helping out our community. We are to show  
16 them our little town is worth its weight in gold  
17 and not in stone. Thank you.

18 MS. MCBRIDE: Thank you. Eleanor Strickland.

19 ELEANOR STRICKLAND: Good evening, my name is  
20 Eleanor Strickland and I live on Dunlap Road. I'm  
21 a resident of the Town of Shelby and I'm opposed to  
22 the DEC granting this mining permit and I'm opposed  
23 to the rezoning of this land to industrial. Thank  
24 you.

25 MS. MCBRIDE: Thank you. James Strickland.

1                   JAMES STRICKLAND: My name is James Strickland  
2                   and I am a resident of the Town of Shelby. We live  
3                   right on Route 63, we are approximately 1.2 miles  
4                   from the proposed quarry. And I'm definitely  
5                   opposed to the DEC granting this mining permit and  
6                   I'm opposed to rezoning of this land to industrial.  
7                   Thank you.

8                   MS. MCBRIDE: Thank you. Richard Maurer.

9                   RICHARD MAURER: Good evening, my name is  
10                  Richard Maurer and my wife and I live at  
11                  4795 Bigford Road in the Town of Shelby.

12                 Your Honor, Mr. Sheeley, representatives of  
13                 the DEC, we have come here this evening in regards  
14                 to the pending permit application filed by Frontier  
15                 Stone to operate a quarry on Fletcher Chapel Road  
16                 in the Town of Shelby, Orleans County. We are not  
17                 in favor of this permit being granted for a number  
18                 of reasons, the most important of which I will  
19                 briefly outline tonight.

20                 Many of us in the immediate proximately of the  
21                 proposed quarry site depend on private wells for  
22                 our water supply. Allowing a quarry in this area  
23                 would very likely endanger the quantity and quality  
24                 of water in our wells. Previous studies by the  
25                 U.S. Geological Survey indicate that the cone of

1 depression created by a quarry of this size could  
2 extended over a rather large area.

3 The Iroquois National Wildlife Refuge is  
4 situated almost immediately south of the proposed  
5 quarry. Putting a quarry on the edge of the  
6 wildlife refuge simply doesn't make sense, no  
7 matter what statements are offered in the DEIS to  
8 the contrary.

9 The refuge is where it is because of the  
10 isolation, lack of residential, commercial and  
11 industrial factors. The water pumped out of the  
12 quarry will most certainly change the dynamics of  
13 the refuge and Oak Orchard Creek along its entire  
14 length, affecting this widely recognized salmon and  
15 sport fishing habitat.

16 Additionally, the traffic and noise associated  
17 with the proposed quarry, especially blasting, will  
18 destroy the habitat and environment for many  
19 species of wildlife.

20 The economic benefits cited in the DEIS are  
21 negligible when compared to the negative impacts  
22 the quarry is likely to foist upon our area. There  
23 are only four to five jobs indicated in the  
24 original 2006 application, now there are 15 in the  
25 DEIS. Where are the extra jobs? It really doesn't

1           make a lot of sense, even if there are 15 jobs, are  
2           they worth the other negative issues we have to  
3           contend with?

4           The amount of property and sales taxes the  
5           quarry will pay is not significant. Three or four  
6           houses would pay about the same in property taxes.  
7           The majority of the stone used to build roads will  
8           be sold to agencies that are tax exempt. Sales  
9           from this proposed quarry would be likely to take  
10          business away from other quarries in the area.

11          There's no real benefit to this. We have  
12          enough stone and agricultural lime. Perhaps more  
13          important in economic terms, allowing a quarry in a  
14          proposed area just north of the wildlife refuge has  
15          the potential to jeopardize the future growth and  
16          development of the science and technology park,  
17          which the Genesee County Economic Development  
18          Center is coordinating. This 1250-acre development  
19          site known as STAMP is only a few miles south of  
20          the proposed quarry location. And it's intended to  
21          attract nanotechnology companies from around the  
22          world that are involved in the manufacture of tiny  
23          computer and electronic devices using very  
24          sensitive equipment. One reason this site was  
25          chosen is because of its relative stability with

1           respect to seismic vibrations that are detrimental  
2           to the manufacturing process.

3           Allowing the quarry to set up operations only  
4           a few miles away and blast for rock would be very  
5           short sighted considering the potential these  
6           nanotechnology companies have to offer in terms of  
7           employment and economic expansion for both Genesee  
8           and Orleans County.

9           The State has already committed \$33 million in  
10          a new budget towards the infrastructure of the  
11          technology park, which could employ as many as  
12          10,000 people when it is fully developed. Let's  
13          make sure we don't trade this off for a quarry that  
14          might create 15 jobs.

15          There are simply too many potentially negative  
16          impacts involved in allowing a quarry to operate in  
17          a location Frontier Stone has proposed. Only a  
18          handful of people will benefit if this permit is  
19          approved at the expense of a community at large.

20          As a community of concerned citizens, we urge  
21          the DEC to decline this permit application and take  
22          the necessary action to ensure that the  
23          environmental and economic future of our region is  
24          not sacrificed. Thank you.

25          MS. MCBRIDE: I'd like to take a very quick

1 break so that we can allow some people who have  
2 been waiting in the hallway to come in. If you  
3 have made your statement and you are willing to let  
4 other people come in and have your seat, I would  
5 appreciate that.

6 (There is a short pause in the proceedings.)

7 MS. MCBRIDE: If everyone can take their seats  
8 please, we will get started again.

9 Our next speaker is Gary Kent.

10 GARY KENT: My name is Gary Kent. Your Honor,  
11 as a member of the Orleans County Federation of  
12 Sportsmen Clubs, the National Wild Turkey  
13 Federation, and Ducks Unlimited, as well as the  
14 President of the Orleans Bluebird Society, it is my  
15 informed view that there is certain to be an  
16 adverse impact that will be felt by endangered and  
17 threatened species, and species of concern, by  
18 developing a stone quarry in such proximity as it  
19 is to the Iroquois National Wildlife Refuge.

20 Activity associated with a significant stone  
21 quarry operation is likely to negatively impact the  
22 breeding, nesting and foraging of numerous bird  
23 species, resident and migratory. It goes without  
24 saying that Orleans County is a crucial stopover  
25 and resting place for migratory birds using the

1 Atlantic flyaway. Habitat is lost in bits and  
2 pieces faster than it is being created on a daily  
3 basis in Orleans County. One need only drive  
4 barely 2 miles north on Route 63 to get an  
5 indication of how economic pressure is affecting  
6 one of Orleans County's principle assets: Habitat  
7 diversity.

8 Putting both the environmental and economic  
9 values associated with the Iroquois National  
10 Wildlife Refuge at risk, when there are numerous,  
11 less environmentally sensitive locations for such  
12 an operation in Orleans and Niagara Counties. It  
13 maybe convenient, but it is also imprudent.

14 Normal, indicated in your 2001 book, *Birding*  
15 *in Central and Western New York*, that approximately  
16 100,000 visitors use the Iroquois National Wildlife  
17 Refuge annually. While I am more inclined to  
18 accept Carl Zenger's 35- to 50,000, the departure  
19 of one pair of nesting Bald Eagles would be a major  
20 blow to the ability of the refuge to attract  
21 visitors.

22 The people in this room span the political  
23 spectrum from left to right, but they are  
24 overwhelmingly divided on this issue. I suspect  
25 most are here because they oppose granting a stone

1 quarry permit. They are an indication that Orleans  
2 County residents, regardless of political  
3 affiliation, appreciate and value Orleans County's  
4 place in furthering the interest of wildlife  
5 diversity.

6 It is my hope that your take away from the  
7 input you receive is that this is an idea that is:

8 Number 1, it is ill conceived; and Number 2,  
9 it doesn't have the support of Orleans County  
10 residents. Thank you.

11 MS. MCBRIDE: Thank you. Gail Miller.

12 GAIL MILLER: My name is Gail Miller. I'm  
13 going to just summarize my document. I have  
14 already handed it in to you and many of the points  
15 have been covered, but I would like to state that I  
16 am opposed to the Frontier Stone application to be  
17 developed close to the Iroquois National Wildlife  
18 Refuge. I am opposed because of the environmental  
19 impact to the wildlife refuge and many of those  
20 points have already been covered.

21 The quality of life and the tax burden to the  
22 Shelby residents is going to increase if the quarry  
23 is approved. One thing in particular that I'm  
24 concerned about is the state of the roads in the  
25 area. They were not designed to carry this heavy



1 traffic and obviously someone, if this is approved,  
2 is going to have to pay for that. It will be the  
3 taxpayers, of which it doesn't appear that many  
4 people would like to have that.

5 Another item to be concerned about is the  
6 STAMP project that's been mentioned. And obviously  
7 that will bring much more money and many benefits  
8 and better jobs to the area rather than the quarry.

9 I would like to recommend for additional study  
10 that the proposed quarry needs to have an unusually  
11 high level of scrutiny, based on the sensitive  
12 location, additional studies should be required in  
13 at least the following areas: The effects on the  
14 Iroquois National Wildlife Refuge and the Oak  
15 Orchard River, of dust, water quality and quantity  
16 effects accumulating over the 50 to 75-year life of  
17 the quarry must be carefully studied. Vibration  
18 due to blasting and increased local heavy truck  
19 traffic should be more thoroughly studied,  
20 preferably by a company with experience in the  
21 requirement of nanotech manufacturing.

22 There are many more environmental issues,  
23 quality of life issues and economic issues that  
24 could be listed. It is important that the Iroquois  
25 National Wildlife Refuge remain a good home to all

1 of the wildlife within and around its boundaries.  
2 The pictures on the Shelby Town Board website show  
3 what our Town wants to be know for: A great  
4 history, the abundant wildlife, a healthy farming  
5 community, and a progressive community watching out  
6 for the welfare of its citizens. Thank you.

7 MS. MCBRIDE: Thank you. Francis Domoy.

8 FRANCIS DOMOY: Thank you, Your Honor. Let me  
9 introduce myself, first I'm Francis Domoy and I'm  
10 partner in the Domoy Farms LLC, with my wife Diane  
11 and my son Brett.

12 We are one-half mile from the stone quarry  
13 site. My background, I have a PhD in resource  
14 economics from Michigan State University. I teach  
15 a course in natural resources and infrastructure  
16 development. I have been on contract overseas in  
17 various countries, with mining projects as one of  
18 the examples of teaching. I've worked on benefit  
19 cost analysis for those countries, especially with  
20 government leaders.

21 Mining, in many cases, I have looked at mining  
22 from lead, cobalt, nickle, limestone, aggregate,  
23 copper and aluminium. And we have found in these  
24 countries, limestone aggregate moves globally. The  
25 supply of aggregate comes from the world through

1 ocean shipping, via rail. And in many cases, the  
2 economics per ton mile to deliver a ton of  
3 aggregate sometimes is cheaper than from the local  
4 mining operation where we have to go through  
5 blasting, we have to go through processing, we have  
6 to go through distribution of the aggregate to  
7 various locations.

8 So having a local mine, in some cases, really  
9 is not economically beneficial to the community.  
10 In benefit cost analysis in mining, the winners  
11 are: The leasing companies for the large  
12 equipment, such as for CAT, Komatsu. These are the  
13 large industrial pieces of equipment used for  
14 mining.

15 Very few individuals -- whether the government  
16 owns, then the government wins; if it is a private  
17 individual, the private individual wins, along with  
18 key investors in the mine. The community loses.

19 These numbers have been repeated often. Now,  
20 unless you are mining gold, it's a different story.  
21 But if you are mining aggregate, there's really not  
22 a lot of winners in the local community. So these  
23 are things that I wanted to share with you, not  
24 because I have a PhD. But the reality is, I have  
25 worked overseas for a U.S. agency for international

1 development. These are the projects I have been  
2 assigned. And in many cases, there is 30 to  
3 40 percent unemployment in those countries.

4 When this project first started in 2006, we  
5 were in the middle of a recession, unemployment was  
6 very high and probably we could use any job we  
7 could get. But since 2006, we have added about  
8 180 full-time FTE's because of the yogurt plants in  
9 Genesee County. And now we stand to produce much  
10 more high-tech jobs because of the new project  
11 going on in the Town of Alabama, which is roughly  
12 three air miles from this project.

13 That nano park requires two key things: Pure  
14 air, no dust particles. Because clean room  
15 technology is the requirement for chip  
16 manufacturing. The second thing, no vibrations.  
17 When you build a chip, you need an electronic  
18 microscope many, many times the power to actually  
19 build circulatory on a chip that is so  
20 infinitesimally small. Mining and nanotechnology  
21 does not go together.

22 Now if everyone was poor -- and we are not  
23 poor, we are very fortunate to be in this country.  
24 In other countries it's the only answer they have  
25 within their community. So these are things I want

1 to make sure that we understand. This is a global  
2 industry and there is plenty of supply of this  
3 product for this community and its growth. If we  
4 run out of stone, that's a good thing, because that  
5 means we have great economic activity developing  
6 here. I'm deathly opposed to this particular  
7 project for a lot of different reasons. Thank you.

8 MS. MCBRIDE: Thank you. Stephen Seitz.

9 STEPHEN SEITZ: My name is Steve Seitz and I'm  
10 from the Town of Shelby. I was kind of wondering  
11 if the DEC has contacted the Iroquois National  
12 Wildlife Refuge on rebuilding the roads here in the  
13 Town of Shelby. Like our highway superintendent  
14 said, the cost factor will be great. Well, I was  
15 wondering if they had contacted them because they  
16 would have to widen out the roads. The road is  
17 just a paved road that needs to be redone and  
18 widened out and shoulders put on it and that would  
19 be a cost to us as taxpayers in the Town.

20 And as Marcy Boyce said, I believe too that  
21 she's right about the people driving down the roads  
22 and just bird watching and stuff like that. The  
23 truck traffic would be heavy and something like  
24 that is going to have to be taken care of. The  
25 speed limits probably, I would think. That was my

1 concern.

2 MS. MCBRIDE: Thank you. Debbie White.

3 DEBBIE WHITE: Good evening, my name is Debbie  
4 White and I'm a resident of the Town of Shelby  
5 living in close proximity to the proposed quarry  
6 site. I also live very close to the refuge across  
7 the street. I will be forwarding a letter to  
8 express my opposition. But in summary, to the DEC  
9 I say: Please deny the permit to the proposed  
10 quarry that's next to our National Wildlife Refuge.  
11 There are still too many unanswered questions and  
12 established untruths.

13 To the Town Board, please oppose any rezoning  
14 of the lands next to the wildlife refuge to  
15 industrial. Thank you.

16 MS. MCBRIDE: Thank you. Lorraine Davis.

17 LORRAINE DAVIS: Thank you, Your Honor. My  
18 name is Lorraine Davis and I live at 4775 Bigford  
19 Road in the Town of Shelby. I live approximately  
20 1.7 miles from the proposed site. And I would like  
21 to express my oppositions to this stone quarry.  
22 They have mentioned many things this evening and I  
23 certainly concur with most of the statements that  
24 have been stated.

25 I would also like you to know that on my road

1 we have no alternate source of water supply,  
2 potable water, and if we were to lose our water we  
3 would have no other source. And while the attorney  
4 says that, you know, we would be -- we would have  
5 some sort of supply, they didn't include us. They  
6 only included that small group of people right  
7 around the site, but we aren't very far from it  
8 either. And while there is potable water available  
9 to the people on Fletcher Chapel Road, this is not  
10 extended to the people on Bigford Road. There are  
11 many families there that would be affected.

12 The negative impact of this fact is  
13 tremendous. Even if we can't prove that we lose  
14 our water because of the stone quarry, it might  
15 just be circumstantial, but the cost of being able  
16 to prove it, which would be our responsibility,  
17 would be impossible for us. Our homes would be  
18 worthless and our life in the community we chose  
19 wouldn't exist anymore.

20 The air quality, I came here because of the  
21 air quality because I have a medical condition. I  
22 wouldn't be able to live here anymore with the type  
23 of dust that would be created because of the stone  
24 quarry.

25 And I'm also concerned about the quality of

1           our roads. The road quality, especially this year,  
2           hasn't been very good anywhere, but our roads are  
3           not constructed for heavy truck traffic. Some of  
4           them don't even have a gravel base, they just have  
5           sand. Certainly the roads they are suggesting use  
6           of is just a sand base.

7           They're suggesting producing stone for these  
8           types of projects; roads and buildings. But  
9           they're not producing the roads to use for the  
10          project, we would have to do that. Our taxes are  
11          significant. I oppose to paying any more for  
12          supplying a business of this nature. It is not  
13          very popular with my friends and my neighborhoods  
14          or my family and myself. I would just like to  
15          state I am opposed to the project. Thank you very  
16          much.

17                 MS. MCBRIDE: Bill Keppler.

18                 BILL KEPPLER: Thank you, Your Honor. I feel  
19          somewhat privileged to get to speak here in front  
20          of everyone. One of the things that bother me the  
21          most about the project was seeing that the water  
22          was going to take an easy way out in heading out  
23          the southwest corner of the gravel pit and go  
24          through Forrestell Flats where it would seem -- and  
25          I'm not scientist, I'm not a real authoritarian --



1 but it would be better to go over to the east with  
2 water, down the Nullsville Road and aerate Oak  
3 Orchard Creek so that the water that did come out  
4 of the mine went to the swamp, where it may have  
5 come from originally, to maintain the water level  
6 of the swamp. Because if it goes out to the west  
7 and it is drained in the swamp to begin with, it is  
8 going to distort the water level in the swamp in a  
9 big way.

10 And it actually might be beneficial to the  
11 wildlife refuge to aerate the water for the  
12 wildlife, because aerated water is much better than  
13 stagnate water for the wildlife. And that might be  
14 a consideration that I think would, you know,  
15 really maybe even benefit the Wildlife Refuge. But  
16 I think it is taking the easy way out going out the  
17 southwest corner.

18 My other concern was that if this project  
19 started and a lot of bad things started to  
20 happened, there don't seem to be the assurances for  
21 the people of the community that the project could  
22 be stopped, because I think we have to think of the  
23 greater good of the people in general. And in  
24 general, the tech project up in Alabama is apt to  
25 create a lot more good for the community. And if

1 we can't stop it after it is started and there are  
2 not reassurances that we could, I think it could be  
3 very detrimental to the community. With that, I  
4 will close. Thank you.

5 MS. MCBRIDE: Thank you. Brian McCarty.

6 BRIAN MCCARTY: Good evening. I could  
7 reiterate a number of things that have already been  
8 mentioned, most particular is the truthfulness of  
9 the report. My son, an aspiring environmental  
10 attorney, takes notice with some of the things that  
11 have been said as being untrue.

12 Phase 1 in the archeological report -- I'm not  
13 as well-learned as he is, that's why I sent him to  
14 college -- states that prior to 1656 there is  
15 nothing on record as far as the Native inhabitants.  
16 That is an untrue statement. Oddly enough, a book  
17 that resources the fact that the Neutral Indians  
18 often supposedly stated Neuter, to which a sign is  
19 posted on Salt Works Road stated that they occupied  
20 this area.

21 They were not primitive stone throwers, they  
22 were an advanced group of individuals who dominated  
23 this area. Sour Springs Road is believed to have  
24 been named because of the Sour Springs. They were  
25 also not identified in the report. That

1 information was shared by the Native Indians that  
2 visit that area with the early Europeans. To that  
3 extent, all this needs to be investigated, because  
4 I have with me a book -- a couple of books written  
5 by Stan Vanderling (phonetic). And in his books,  
6 there is a number of them -- this will all be  
7 followed up with more well-written statements --  
8 and he spent his lifetime going around the area  
9 looking for artifacts and found numerous ones.  
10 Those resources were not cited in the 7,000 pages.  
11 As far as I'm concerned, it is a lot of dust.

12 The other day I stood in my yard -- I live on  
13 Dunlap Road. If you ever heard the expression the  
14 guy who lives in the valley and loves air? I'm  
15 that guy. We feel the vibrations from the quarries  
16 to the south. We will definitely feel the  
17 vibrations from the north, no doubt about it. I  
18 feel the blasts and the vibrations.

19 But as I stood in my back yard and I saw for  
20 the first time -- we have lived out there  
21 12 years -- an adult Bald Eagle. Debbie took a  
22 picture of it. What a wonderful sight. Closed my  
23 eyes and I heard the sound of this bird. It has a  
24 unique sound to it. And I ask you gentlemen:  
25 Where would the Eagles go when you start blasting?

1           There's a higher calling to which we are all  
2           stewards of this Earth to address. Where are the  
3           Eagles going to fly next? They won't be able to  
4           here. Thank you for your time.

5           MS. MCBRIDE: Thank you. Sandra Hellwig.

6           SANDRA HELLWIG: Thank you for having this  
7           forum. My name is Sandra Hellwig and I live at  
8           11152 Blair Road in the Town of Shelby.

9           As a resident and a taxpayer since 1997, I  
10          have first-hand experience on how blasting and  
11          drilling affect residential homes and our own  
12          wells.

13          My house shakes like a truck hit it. I live  
14          1.2 miles to the east of Shelby Crushed Stone.  
15          When we built our home in 1997, we drilled a well  
16          and on the first drilling we had beautiful water.  
17          We had plentiful water. We had the water tested by  
18          Orleans County and it was very good. It was very  
19          fine and safe to drink.

20          Sometime in the early 2000's as the Shelby  
21          stone quarry had to continue on down our road  
22          closer to my house, because that's what quarries  
23          have to do -- we saw in the drawings over there --  
24          my well water disappeared after these heavy  
25          blastings when my house shook.

1           Then, when it wasn't blasting season anymore,  
2           low and behold the water came back. This went on  
3           for years. Some of those falls and winters and  
4           early springs were dry. Not a lot of snow, not  
5           much rain, water came back. Then, summer would  
6           come -- or spring would come and they would start  
7           blasting, water would be gone.

8           I paid for two more wells to be drilled. The  
9           second one that was drilled was very unsafe. It  
10          had methane gas coming out of it. And some of you  
11          might remember when you drove by, my husband and I  
12          lit it and we called it the Hellwig torch. And  
13          that thing burned for weeks.

14          The third well we drilled, it gave us water on  
15          and off again, and it tested very poorly at Orleans  
16          County. It was unsafe for our family to drink and  
17          it really wasn't good to use. I had to truck water  
18          in. I bought the big farm animal tanks and spent  
19          thousands of dollars trucking water in after I had  
20          built a \$200,000 home that I have paid taxes on  
21          since 1997. I couldn't sell that house, are you  
22          kidding me? I had no water supply. There was no  
23          waterline down there.

24          So before something like this gets passed and  
25          it is after the fact, like everyone else shared

1 earlier, I want to tell you: Come talk to me.  
2 Because I'm living proof and living year on end  
3 with a husband and two kids and having all of that  
4 laundry and having to truck water, it was not fun.

5 So I want to go on the record to say that I'm  
6 strongly opposed to the issue of a permit by the  
7 DEC. And I'm also opposed to rezoning that area to  
8 industrial by the Shelby Town Board. And I also  
9 have environmental concerns, which are listed here.  
10 I wouldn't cover that because everyone has done a  
11 good job of that. Thank you.

12 MS. MCBRIDE: Thank you. Gerry Rising.

13 GERRY RISING: Your Honor, may I speak facing  
14 the audience?

15 MS. MCBRIDE: I want to be able to hear you.  
16 I'm afraid I would not be able to hear you that  
17 way.

18 GERRY RISING: All right. First, let me say  
19 that I bear no adamancy to Frontier Stone, nor to  
20 its owner, Mr. Mahar. And I honor him for his  
21 service to our country. I can do that because I  
22 too am a former service man. I spent  
23 three-and-a-half years in the United States Navy  
24 during World War II.

25 I have a brief statement. A two-year study of

1           this proposed quarry was carried out by the United  
2           States Geological Survey in 2009 and 2010. The  
3           report summarized, "The potential development of a  
4           bedrock quarry in the Lockport Dolomite bedrock  
5           along the northern border of the refuge may affect  
6           the nearby refuge wetlands. The extent of the  
7           drawdown needed to actively quarry the bedrock  
8           could change the local hydrology and affect  
9           groundwater flow directions and rates, primarily in  
10          the Lockport Dolomite bedrock and possibly the Oak  
11          Orchard Acid Springs area, farther to the south.

12           This project could, in other words, drain and  
13          destroy the value of over 10 square miles in  
14          marshlands of the Iroquois, Oak Orchard and  
15          Tonawanda refuges.

16           I offer two related comments. First, those  
17          who propose this quarry claim that the probability  
18          of draining the nearby refuge lakes and marshes is  
19          low. In probability, there's a concept called  
20          expectation. Expectation is the product of the  
21          probability of a result and the expected outcome of  
22          that result.

23           Thus, people are willing to play the lottery  
24          because, although the probability of winning is  
25          low, the prize is large. In this case, even if we

1           buy the proposers' low probability, the associated  
2           possible outcome is not just large and threatening  
3           but unacceptable.

4           It is also appropriate to bring historical  
5           evidence to bear on this situation. Has anything  
6           like this ever happened here in the past? Indeed  
7           it has. A few thousand years ago this entire area  
8           was covered in with the shallow water of Lake  
9           Tonawanda. Natural changes in the rock formations  
10          contributed to the drainage of that entire lake  
11          that once covered much of Niagara and Orleans  
12          Counties all the way east to Holley. Manmade  
13          changes can do the same today.

14          This proposed quarry has been rejected in the  
15          past. I urge that it be rejected once again.

16          MS. MCBRIDE: Thank you. Kathy Colley.

17          KATHY COLLEY: Thank you, Your Honor. My name  
18          is Kathy Colley. I live in Shelby in the village  
19          across the street from the ethanol plant, which we  
20          also talked about for a long time. And the  
21          environmental impact of that project is not what  
22          was told to us. And those of us who live near  
23          it -- there are not many of us, so we are not  
24          heard -- had our quality of life destroyed. And  
25          the impossibility of selling some houses, one of



1           which had to be sold for less than they paid for it  
2           when they built it. And of course there are no new  
3           houses on Zacher Drive.

4           Let me tell you a story, I'm one of those  
5           people that came from 30 miles away. I grew up in  
6           Wilson in Niagara County on Lake Ontario and every  
7           year my dad would say: Let's go see the geese.  
8           And every year we went to see the geese.

9           I moved to Barre and every year I would say to  
10          my kids: Let's go see the geese. Week after week,  
11          day after day, year after year, we're talking  
12          60 years or more we went to see the geese. We were  
13          the people that were bringing economic advantage to  
14          the community because it takes a lot of gas to do  
15          that. So that's your sales tax, even if you live  
16          here.

17          I want to tell you about cherry bombs because  
18          the idea of birds drive me crazy, that you would  
19          say that the birds will find other places. They  
20          have been coming here for over 60 years, so they  
21          are not the ones that should leave. But farmers  
22          use cherry bombs -- or used to, I don't know what  
23          they do now -- to chase the birds away because they  
24          don't like the noises.

25          Blasting? No more birds, no more Canada

1 Geese, no more Blue Herons, no more swans. Do you  
2 know they made a movie about the swans that come  
3 here? They did.

4 My husband loves to fish and that's one of his  
5 favorite places to go is down Sour Springs Road,  
6 because it's quiet and fishermen need it to be  
7 quiet, very quiet. And he loves the quiet. He  
8 wouldn't be able to go there anymore if you ruin  
9 it.

10 So I will say to the DEC, which is the  
11 Department of Environmental Conservation, you will  
12 have to change your name if you approve this,  
13 because you will become the Department of Mining  
14 Conservation, probably because money talks. Thank  
15 you.

16 MS. MCBRIDE: Bonnie Watts.

17 BONNIE WATTS: Thank you, Your Honor. I'm a  
18 residence of Shelby and my name is Bonnie Watts. I  
19 live at 11181 Ryan Road. Since 2009, having  
20 relocated from the Rochester suburb of Henrietta  
21 with my husband Matt, after our youngest child  
22 finished college and left home, we were at a point  
23 in our lives where we could afford to leave our  
24 modest little corner lot in the suburbs and move to  
25 the country, with some land.

1           We spent considerable time and savings  
2           choosing a home that was affordable and that was  
3           within an area that we could enjoy; natural  
4           settings and our outdoor interests.

5           Since that time we are enjoying, beyond  
6           measure, what we had anticipated. We knew we were  
7           close to the refuge and could go there  
8           conveniently. Where back in Rochester, we would  
9           have to make it a day trip, getting on the thruway  
10          and paying tolls.

11          Nearly every day I'm thrilled to see what  
12          lives in the refuge coming right into my yard and  
13          on my land. I have had immature, unbanded Bald  
14          Eagles, Ruffed Grouse, Green and Blue Heron, geese,  
15          ducks, owls, turkey, hawks, and many more creatures  
16          arrive in the morning and return to the direction  
17          of the refuge at night.

18          Folks who have lived here all of their lives  
19          might be accustomed to these delightful scenes, but  
20          to me this is a slice of Heaven and we are so glad  
21          that we packed it all up and moved here. We are  
22          proud to live here and to be a part of this  
23          community.

24          We have never known better neighbors and  
25          friends and I have the utmost respect for those in

1 office here in Shelby, that protect and serve the  
2 interests of our community. I recognize that in  
3 addition to our many other resources here in  
4 Western New York, that stone quarries are a part of  
5 those. We are fortunate to have so many, yet I'm  
6 concerned with the growing number and locations.

7 Today, I respectfully submit to you my  
8 objections to the proposed stone quarry in the area  
9 of Fletcher Chapel Road and Sour Springs Road.  
10 There is already another quarry to the north of my  
11 home within 3 miles, the proposed quarry would be  
12 the same distance to the south, and then our home  
13 would be situated right between these two active  
14 quarries.

15 I ask that the Department of Environmental  
16 Conservation to please consider each of the  
17 following points and deny the permit due to the  
18 negative impact mining would pose to the Iroquois  
19 National Wildlife Refuge and the community of  
20 Shelby. It is my adamant belief these areas of  
21 concern are far too important to ignore.

22 I have attached in more detail to support the  
23 following concerns:

24 Number 1, I am opposed to having a second  
25 quarry in this community and the proposed location.

1           Number 2, I have examined the public version  
2           of the DEIS and my interpretation is that the  
3           contents are still incomplete or inaccurate, and  
4           raise more questions that should be answered in an  
5           unbiased and responsible manner.

6           Number 3, I fear that the proposed quarry will  
7           put at risk the economic investments for Genesee  
8           and Orleans County communities, such as the STAMP  
9           project.

10          Number 4, I'm opposed to the risk that the  
11          proposed quarry will put on current and future  
12          funding at the Iroquois National Wildlife Refuge,  
13          such as the recent conservation grants given to  
14          Ducks Unlimited to work on restoration projects in  
15          the refuge.

16          Number 5, I am opposed to the potential  
17          negative impact from noise, traffic, and road  
18          improvements that would be necessary to support  
19          mining and trucking operations at the proposed  
20          location.

21          Number 6, I oppose the negative impact of  
22          noise reaching into the boundaries of the refuge,  
23          including the pockets of complete sanctuary, such  
24          as Swallow Hollow.

25          Number 7, I am opposed to the potential of

1 future expansion of the proposed quarry if  
2 neighboring acres to the east or west become  
3 available.

4 Number 8, I am opposed to the risk of  
5 irreversible harm to the wildlife, not only at the  
6 refuge but to the surrounding area beyond the  
7 refuge borders that show on a map.

8 Number 9, I am opposed to the negative impact  
9 from the dewatering of the mining operation into  
10 local drainage systems at high volumes that  
11 eventually feed into area ponds, streams, the  
12 refuge, and the Oak Orchard River. Specifically,  
13 the impact of water levels, quality of the water  
14 that supports the ecologic resources required to  
15 sustain the habitat.

16 I thank you all this evening for listening to  
17 these concerns and objections. I am trusting that  
18 you will more closely examine with due diligence,  
19 the DEIS from Frontier Stone and everything that is  
20 at risk here and deny the permit. Thank you so  
21 much.

22 MS. MCBRIDE: Barbara Hoffman.

23 BARBARA HOFFMAN: My name is Barbara Hoffman  
24 and a lot of these items have been talked about by  
25 other people, so I will summarize some.

1           For the last 30 years I have lived on Ryan  
2           Road, which is just 1.5 miles, approximately, south  
3           of the current Shelby Crushed Stone.

4           And I can't tell you how many times when they  
5           are blasting, my house shakes, my widows rattle and  
6           the birds at my feeder scatter.

7           I find some misinformation in Frontier Stone's  
8           application to open a quarry. Other people have  
9           talked about this, but I find that the other  
10          quarries in the area have excess stone and lime  
11          available up to 50 years in the future.

12          Recently I drove by the proposed site, not far  
13          from my home, when I saw how incredibly close it is  
14          to the Iroquois National Wildlife Refuge, I was  
15          astounded. When I looked at the topography and  
16          considered the proposed effects of the quarry, I  
17          cannot imagine that this quarry will not affect the  
18          water table in the area, especially when the clay  
19          is removed.

20          Clay holds water and is what makes a swamp  
21          hold water. Once the clay is removed and the  
22          blasting occurs, who is going to guarantee that the  
23          swamp will not be affected. Along with the nesting  
24          birds and the endangered species, such as the  
25          Short-eared Owl, the Iroquois Wildlife Refuge is a

1           mecca for nature enthusiasts from around the  
2           country.

3           Frontier Stone claims they will be pumping up  
4           to a half a million gallons of water a day out of  
5           the quarry and into a drainage ditch. Seriously?

6           Then they claim this water will not be coming  
7           out of the swamp. If not from the swamp, where  
8           will it be coming from? And then they will dump  
9           all of that water into a drainage ditch that will  
10          eventually flow into Oak Orchard Creek and Lake  
11          Ontario.

12          How will all of this water and chemicals from  
13          blasting affect the fish in those waters? If  
14          Frontier Stone thinks all of that water they will  
15          be pumping into that ditch will move swiftly, maybe  
16          they should come to my house on Ryan Road and see  
17          the pools of standing water going nowhere in my  
18          front yard since the snow melted this spring.

19          As a Town of Shelby taxpayer, I am concerned  
20          about the increased truck traffic reported to be at  
21          maximum, one truck per minute, into and out of the  
22          proposed quarry. Fletcher Chapel Road and the  
23          other roads in the vicinity can't handle that kind  
24          of heavy duty truck traffic.

25          Who is going to pay to improve the roads and



1 maintain them? What about the noise the additional  
2 truck traffic will have on residents in the area,  
3 as well as the wildlife.

4 Having to deal with one stone quarry is bad  
5 enough to disrupt my quiet rural lifestyle. But  
6 with the possibility of having two within five  
7 miles of my house, one to the north and one to the  
8 south, I will have to seriously consider something  
9 else.

10 Also, the proposed STAMP facility just a few  
11 miles away from the proposed quarry on Fletcher  
12 Chapel Road chose their site because of the quiet  
13 rural setting and the sensitivity of the type of  
14 manufacturing that will be done there. Blasting  
15 just a few miles away is something that does not  
16 mesh well with the STAMP facility.

17 Frontier Stone states that the Town of Shelby  
18 will see an increased tax revenue from the proposed  
19 quarry. However, most of the stone will be used  
20 for County and State projects and they do not pay  
21 taxes. Any additional tax revenue will likely go  
22 down because of increased competition. Besides, if  
23 there's any increased tax, most of the local tax  
24 revenue is used by Orleans County and very little  
25 is shared with the Town of Shelby.

1 I respectfully ask that the New York State  
2 Department of Environmental Conservation edit their  
3 mission statement to conserve, improve, protect New  
4 York natural resources and environment and prevent,  
5 abate and control water, land and air pollution, in  
6 order to enhance the health, safety and welfare of  
7 the people of the State and their overall economic  
8 and social well being.

9 I also respectfully ask the Town of Shelby to  
10 deny the zoning change necessary for the proposed  
11 quarry. Thank you.

12 MS. MCBRIDE: Russel Cree.

13 RUSSEL CREE: Thank you, Your Honor. I have a  
14 question for you first: If I say something wrong,  
15 do I have to pay a fine, because fines go that way?

16 MS. MCBRIDE: I'm not charging you, no.

17 RUSSEL CREE: Okay. Mr. Mahar, Mrs. Mahar,  
18 welcome to Shelby again. Nice to have you. These  
19 are all our neighbors here. We are not mean  
20 people, we are very nice people.

21 I wish I could stand up here and say I'm  
22 well-educated, have a degree from Harvard or  
23 Cornell, but I don't. But if you take a good look  
24 around the room here, we are all Shelby people. We  
25 love our community. We would love to have you and

1           your wife come and build a house here, then we  
2           could get the taxes.

3           We don't want -- I'm not saying we don't want  
4           the mine, the quarry, because I know we are not  
5           going to get it. I was really worried, I would  
6           stay up at night and think: Are we going to get  
7           that quarry? Because I live on 11660 Fletcher  
8           Chapel Road.

9           My favorite father and mother-in-law were  
10          sitting right here, 80 and 84 years old, they come  
11          to this meeting to oppose it. I have to tell you  
12          something, when elderly -- nothing against elderly  
13          people, but when elderly people stay up and come  
14          and want to tell you they oppose something -- my  
15          father-in-law goes: I can't speak. I can't speak,  
16          but I'm going to write.

17          And I love my father-in-law and he's all  
18          exited and I don't want to see nothing happen to  
19          him, but I'll tell you what, when something like  
20          this happens it's hard. It's hard on everyone.  
21          It's hard on the businessman, it's hard on the  
22          community.

23          We love our community, we really do. I love  
24          living in the country. I tell you, one of the  
25          biggest thrills is my favorite father-in-law gave

1 me a Bluebird box. I got a Bluebird -- where are  
2 you, the head of -- he's gone, he left. But it's  
3 such a joy when you get a Bluebird, a house and one  
4 comes. It's very, very difficult.

5 But what I would like to also say is that I  
6 thank the media for coming here. And why I know we  
7 will not have a permit given to the stone quarry?  
8 Is because, why? Because you protect, the DEC  
9 protects us and the great Governor of New York  
10 State, Andrew Cuomo, he'll get back to him. He's  
11 not going to sit back and say: Hey, hey, let's  
12 just give them this permit. No way, no. We don't  
13 want it. Thank you for your time.

14 MS. MCBRIDE: That was my last speaker card I  
15 had this evening. On behalf of the Department, I  
16 want to thank you for coming out and staying this  
17 evening and making your comments on the record.  
18 Have a safe trip home this evening. Thank you.  
19 (Whereupon the Hearing adjourned at 8:20 p.m.)

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STENOGRAPHER'S CERTIFICATION

1  
2  
3 I, RHODA E. COLLINS, being a Shorthand Reporter in  
4 the County of Monroe, State of New York, do hereby certify  
5 that I reported in Stenotype Shorthand the Shelby Public  
6 Hearing held on the 30th day of April, 2014, IN THE MATTER OF  
7 FRONTIER STONE, LLC, and that the foregoing pages number 1  
8 through 101 were prepared under my direction and control, and  
9 constitute a true, accurate, and correct record of those  
10 Stenotype Shorthand notes.

11 I further certify that I am neither attorney nor  
12 counsel for any of the parties, nor a relative or employee of  
13 any attorney or counsel connected with the action, nor  
14 financially interested in the outcome of the action.  
15  
16

17   
18 Rhoda Collins

19  
20 Dated at Rochester, New York  
21 this 22nd day of May, 2014.  
22  
23  
24  
25