

1 STATE OF NEW YORK  
2 DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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4 In The Matter of the Application of **FRONTIER**  
5 **STONE, LLC**, for a Mined Land Reclamation  
6 Permit under Article 23 of the New York  
7 Environmental Conservation Law ("ECL"), Parts  
8 420-425 of Title 6 of the Official Compilation  
9 of Codes, Rules and Regulations of the State  
10 of New York ("6 NYCRR"), and a Water  
11 Withdrawal Permit under ECL Article 15 and 6  
12 NYCRR Part 601, for property located in the  
13 Town of Shelby, Orleans County, New York

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15 HELD AT: Medina High School  
16 2 Mustang Drive,  
17 Medina, New York 14103

18 DATE: Tuesday, March 8, 2016

19 TIME: 6:30 p.m. to 8:45 p.m.

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21  
22 REPORTED BY: SUSAN M. RYCKMAN, CP,  
23 EDITH FORBES COURT REPORTING  
24 21 Woodcrest Avenue,  
25 Batavia, NY 14020,  
(585) 343-8612

1       APPEARANCES:

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3               D. SCOTT BASSINSON,  
4                       NYS DEC Administrative Law Judge;

5               SCOTT E. SHEELEY,  
6                       NYS DEC Region 8,  
7                       Regional Permit Administrator;

8               KEVIN BROWN, ESQ.,  
9                       Brown Sharlow Duke & Fogel, PC;  
10                      Frontier Stone, LLC.

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1        SPEAKERS:

- 2                                CHARLES MALCOMB, ESQ.,
- 3    Town of Shelby;
- 4                                JAMES STRICKLAND;
- 5                                ELEANOR STRICKLAND;
- 6                                MIKE ELAM;
- 7                                MIKE DONAHUE;
- 8                                RICHARD MAURER;
- 9                                PATRICIA BUSHOVER;
- 10                              CARL ZENGER;
- 11                              KEN PRINTUP;
- 12                              JOHN HUBER;
- 13                              BARBARA HOFFMAN;
- 14                              ROBERT HOFFMAN;
- 15                              WENDI PENCILLE;
- 16                              JEFF STRICKLAND;
- 17                              AMY STRICKLAND;
- 18                              MIKE FULLER;
- 19                              ALLEN ROBINSON;
- 20                              RUSSELL CREE;
- 21                              WILLIAM KEPPLER;
- 22                              DEBBIE WHITE;
- 23                              BRIAN McCARTY;
- 24                              CELESTE MORIEN;
- 25                              JAY KAPLEWICZ;
- LORRAINE DAVIS;
- MARGUERITE SHERMAN;
- MELINDA STAHL.

\* \* \*

1                   JUDGE BASSINSON: Good evening. My  
2 name is Scott Bassinson. I am an  
3 Administrative Law Judge with the New York  
4 State Department of Environmental  
5 Conservation, also known as DEC. I will be  
6 presiding over the public comment section this  
7 evening regarding the application of Frontier  
8 Stone, LLC, for a combined DEC permit relating  
9 to a new dolomite/limestone quarry on  
10 approximately 269 acres, located in the Town  
11 of Shelby, Orleans County, about 3.7 miles  
12 south of the Village of Medina.

13                   The project involves applications  
14 for Mined Land Reclamation Permit, pursuant to  
15 New York State Environmental Conservation Law,  
16 ECL Article 23, and Title 6 of the Official  
17 Compilation of Codes, Rules, Regulations of  
18 the State of New York also known as 6 NYCRR  
19 Parts 420 to 425, and a water withdrawal  
20 permit pursuant to ECL Article 15 and 6 NYCRR  
21 Part 601. The project will also require  
22 coverage under the Department's State  
23 Pollutant Discharge Elimination System, also  
24 known as SPDES, General Permit for Stormwater  
25 Discharges Associated With Industrial

1       Activities, Sector J, and registration  
2       pursuant to the Department's Air Pollution  
3       Control Regulations at 6 NYCRR, Part 201.

4               Notice of Frontier Stone's  
5       application was published in the Environmental  
6       Notice Bulletin, also known as the ENB on  
7       February 3rd, 2016. Notice was also published  
8       in The Daily News in Batavia, New York, on  
9       February 10th, 2016.

10              I note for the record, that Counsel  
11       for the Applicant has provided me tonight with  
12       an adequate notice of publication. The notice  
13       identified that three physical locations at  
14       which permit application documents and  
15       supporting materials could be reviewed by  
16       members of the public, and also provided a web  
17       site at which one can view the electronic  
18       versions of the documents. In addition,  
19       copies of the ENB notice and the draft  
20       combined permit are outside in the lobby at  
21       the DEC table.

22              The purpose of today's session is to  
23       allow members of the public to provide comment  
24       on the application. Please understand this is  
25       not a question and answer session. The public

1 comment period for Frontier Stone's  
2 application ends on March 15th, 2016. Anyone  
3 who wishes to speak this evening must fill out  
4 a speaker card. The cards are available at  
5 the registration table out in the lobby,  
6 outside the doors. I've collected 20 cards so  
7 far this evening. If you have not yet  
8 completed a card and wish to speak tonight,  
9 please fill out a card and give it to the DEC  
10 representatives at the table outside. They  
11 will bring it to me.

12           Speakers will be taken in the  
13 following order: Elected officials and then  
14 members of the public who will be called in  
15 the order in which their cards were received.  
16 I will call each individual speaker's name  
17 when it is your turn to speak. Let me  
18 apologize now if I mispronounce your name, and  
19 if I do so, please correct me when you come up  
20 to the lectern over here on my right. After  
21 I've called your name, please come forward,  
22 speak into the microphone. Begin with your  
23 name and address, and if you are speaking on  
24 behalf of someone or some group of people,  
25 please identify who it is that you represent.

1 When you make your statement, please speak  
2 slowly and clearly. All comments this evening  
3 are being recorded by a court stenographer.  
4 If we cannot hear you, there is a risk that  
5 your statement will not be recorded  
6 accurately.

7 I request everyone's silence when  
8 each speaker is talking. And that all  
9 speakers are given the same courtesy that you  
10 would want if you were to speak. For the  
11 benefit of the stenographer, just spell your  
12 name when you begin speaking.

13 If you do not wish to make an oral  
14 statement, you may submit a written statement  
15 tonight and hand it to a member of DEC staff  
16 at the table out front, or you can submit it  
17 by mail or email as noticed in the ENB notice,  
18 copies of which are also outside in the lobby.  
19 Oral statements and written statements will be  
20 given the same weight.

21 Before we begin accepting public  
22 comments tonight, Scott Sheeley, Regional  
23 Permit Administrator for Region 8 will give a  
24 brief oral overview of the project.  
25 Mr. Sheeley?

1                   MR. SHEELEY: Thank you, Your Honor.  
2           As the judge said, my name is Scott Sheeley; I  
3           am the Regional Permit Administrator in  
4           Region 8 office in Avon, New York. Other  
5           staff present here tonight include Steve Army,  
6           Regional Mined Land Reclamation Specialist;  
7           Dudley Loew, Office of General Counsel;  
8           Linda Vera, Regional Citizen Participation  
9           Specialist; and Robert Call and Will Saar, who  
10          are assisting at the registration table. I  
11          will give a brief summary of the key steps in  
12          the review process that have been undertaken  
13          to date, followed by a brief summary of the  
14          proposed project.

15                   On March 14th, 2006, the Department  
16          received an application for an Article 23,  
17          Mined Land Reclamation Permit, along with a  
18          State Environmental Quality Review Act, or  
19          SEQR, Long Environmental Assessment Form for  
20          the quarry proposal. After classifying the  
21          action as a Type 1 action under SEQR, the  
22          Department coordinated for lead agency status  
23          and was established as the lead agency on  
24          April 20th, 2006. The Department then issued  
25          a SEQR Positive Declaration on June 5th, 2006,



1 requiring the preparation of a Draft  
2 Environmental Impact Statement, or Draft EIS.  
3 After review of several preliminary versions  
4 of the Draft EIS, the Draft EIS was accepted  
5 for public review on March 28th, 2014. Also,  
6 due to changes in the Environmental  
7 Conservation Law in effect in 2012, a water  
8 withdrawal application for mine dewatering was  
9 submitted on June 14, 2013. A public comment  
10 period on the Draft EIS and complete permit  
11 application was held April 2nd, 2014, through  
12 June 9th, 2014, which also included a  
13 legislative public hearing held on April 30th,  
14 2014, at the Sheldon Town Hall.

15 Since June 2014, DEC staff have been  
16 reviewing comments submitted on the Draft EIS  
17 and permit applications. In addition, we have  
18 met with the applicant and other parties  
19 regarding the comments received. On  
20 December 11, 2015, the Department notified the  
21 Applicant of its determination to refer the  
22 applications to this further hearing  
23 proceeding under the Department's hearing  
24 regulations at 6 NYCRR, Part 624.

25 The project proposal is described in

1 detail in the Draft EIS and application  
2 documents, which are available online and at  
3 several locations as indicated in the notice  
4 for tonight's hearing. In addition, we have  
5 brought with us a limited number of CDs  
6 containing electronic copies of the Draft EIS  
7 and application documents for those who would  
8 like one.

9           The proposed quarry would consist of  
10 a new 215.5 acre dolomite/limestone quarry on  
11 a 269.45 acre parcel of land located about 3.7  
12 miles south of the Village of Medina. The  
13 property is existing agricultural land on the  
14 south side of Fletcher Chapel Road, several  
15 hundred feet east of Sour Springs Road. A  
16 small portion of the site also fronts on Sour  
17 Springs Road. Mining would be divided into  
18 four phases and quarrying would be conducted  
19 by drill and blast technology with front-end  
20 loaders and excavators feeding a primary  
21 crusher with the blasted rock. The primary  
22 crusher will follow the advancing face and  
23 rock would be conveyed to an on-site  
24 processing plant by field conveyor. Mining is  
25 proposed below the water table, and the

1 project would involve dewatering of the quarry  
2 area. As proposed, the maximum water  
3 withdrawal for mine dewatering is 554,264  
4 gallons per day, which would be discharged at  
5 the southwest corner of the mine to an  
6 existing agricultural ditch, eventually  
7 passing through Schoolhouse Marsh. When  
8 requested by the US Fish and Wildlife Service,  
9 dewatering would be redirected to an  
10 alternative discharge location that passes  
11 flow through Center Marsh and then the  
12 Ringneck Marsh. The reclamation objective  
13 proposed is to create two lakes. The two  
14 lakes, separated by an existing utility line,  
15 would be approximately 35.2 and 156.1 acres in  
16 size, at their full depth of about 145 feet  
17 deep. An additional shallow area within the  
18 first 50 feet of shore below the water surface  
19 less than 5 feet deep would also be included.

20 The proposed mine entrance is on  
21 Fletcher Chapel Road, approximately 1,500 feet  
22 east of the intersection of Sour Springs Road.  
23 Trucks leaving or arriving at the site are  
24 proposed to be routed to and from State  
25 Highway 63 via Fletcher Chapel Road. An

1 alternative access plan has also been proposed  
2 that would access the site near via Sour  
3 Springs Road, approximately 1,600 feet south  
4 of Fletcher Chapel Road, and traffic to and  
5 from State Highway 63 traveling along Sour  
6 Springs Road and Oak Orchard Ridge Road. The  
7 information contained in the Draft EIS  
8 indicates that the proposed mine would  
9 generate a maximum of 30 trucks per hour,  
10 that's 15 entering and 15 leaving, and an  
11 average of up to 10 truck trips per hour, 5  
12 entering and 5 leaving.

13 The proposed hours of operation and  
14 material processing are from 6 a.m. to 6 p.m.  
15 Monday through Friday, and 6 a.m. to 12 noon  
16 on Saturdays. Blasting is proposed to be  
17 limited to weekdays only, between the hours of  
18 9 a.m. and 4 p.m. No Sunday or holiday mining  
19 and processing are proposed.

20 As indicated in the Notice of  
21 tonight's hearing, DEC staff have made a  
22 tentative determination that the proposal can  
23 be approved, and the draft permit with the  
24 combined Mined Land Reclamation Permit and  
25 Water Withdrawal Permit has been prepared for

1 public comment and for purposes of further  
2 review as part of this Part 624 hearing.  
3 Thank you.

4 JUDGE BASSINSON: Thank you,  
5 Mr. Sheeley. We will begin with  
6 Charles Malcomb.

7 CHARLES MALCOMB: Good evening,  
8 Your Honor. Charles Malcomb, M-A-L-C-O-M-B.  
9 I'm from the law firm Hodgson Russ,  
10 representing the Town of Shelby with respect  
11 to Frontier Stone's application.

12 As an initial matter, a bit of  
13 housekeeping. I need to express the Town's  
14 disappointment that this hearing was scheduled  
15 on the same day and time as their regular  
16 board meeting. Although the DEC was notified  
17 of the timing of the Town Board Meeting well  
18 in advance, it chose to schedule the  
19 conference at this time. Since the Town  
20 Supervisor and some other board members are  
21 not able to be here today, they've asked me to  
22 present their comments on their behalf on the  
23 DEIS and the draft permit conditions for the  
24 proposed project.

25 I need to stress that this proposed

1 stone quarry is an important issue for Town  
2 residents because it raises several areas of  
3 significant environmental concern. So the  
4 Town is going to take this opportunity to  
5 address several items of concern which must be  
6 addressed.

7 The record that the DEC is compiling  
8 here not only must support its determination  
9 on the permit, it also must provide a  
10 legitimate foundation for a Town decision  
11 based on the health, safety, and welfare of  
12 the community. And so far this record stands  
13 out for its failure to meet these objectives.

14 With respect to the DEIS, we  
15 reviewed the most recent revision, and have  
16 several comments on the adequacy of the  
17 document in its current form. The Town is an  
18 involved agency under SEQOR. They have  
19 identified several areas which require further  
20 study and analysis. Of these issues, two  
21 primary concerns are the project's potential  
22 impact on both the Iroquois National Wildlife  
23 Refuge and the potential impact on the  
24 Iroquois Job Corp Center.

25 I would first like to discuss the

1 project's potential impact on the refuge. The  
2 refuge primarily serves as a nesting, feeding,  
3 resting, and staging area for migratory  
4 waterfowl. There are numerous habitats within  
5 the refuge that support approximately 266  
6 species of birds, 42 species of mammals, plus  
7 reptiles, fish, amphibians, and insects. Some  
8 include state-listed endangered and/or  
9 threatened species. Town residents and  
10 tourists use the refuge for recreation,  
11 hunting, fishing, bird watching, and other  
12 nature-related activities. This area is but  
13 one of ten wildlife refuges in the State of  
14 New York. Simply put, this refuge is a  
15 unique, fragile, and great environmental  
16 resource for the residents of the Town of  
17 Shelby and also the State of New York. It  
18 must be protected from the potentially  
19 devastating effects of unrestrained  
20 development.

21 The Vegetation and Wildlife  
22 Resources Report and Impact Analysis of  
23 Ecological Resources, which is attached as  
24 Appendix 6 to the DEIS, discusses some  
25 potential impacts of the project on wildlife.

1 The DEIS acknowledges that noise, dust, and  
2 vibrations from blasting and other mining  
3 operations will affect wildlife around the  
4 project site, and, to a certain extent, within  
5 the refuge. However, while focusing on the  
6 effects of some species, the DEIS appears to  
7 short-trip the potential impact on others.  
8 For example, though the report evaluates the  
9 impact on Henslow's sparrow, it does not  
10 contain sufficient analysis of these impacts  
11 on the short-eared owl or other threatened  
12 species known to nest or forage in and around  
13 the project area. The DEIS also fails to  
14 examine the project's potential effects on  
15 other types of animals, such as bats or  
16 aquatic wildlife. Additional studies are  
17 needed to comprehensively determine the scope  
18 of the impact of the project on wildlife  
19 living in and around the refuge.

20 The wetlands in the refuge,  
21 including the Schoolhouse Marsh, are an  
22 important wildlife habitat. Concerns have  
23 been raised as to the effect of the quarry's  
24 dewatering and quarry discharges on those  
25 wetlands. The Hydrogeologic Report in the



1 DEIS, which is Appendix 4, concludes that "no  
2 impact to wetlands or waterbodies will occur  
3 on the site from the quarry development."

4 This conclusion is based upon observations  
5 that the water levels in the wetlands are  
6 associated with the shallow water table, that  
7 a thick 30-foot deposit of underlying, low  
8 permeability, silt and clay isolate the  
9 wetlands from the bedrock aquifer, and that  
10 the water levels in the bedrock are already  
11 below the levels in the wetlands.

12 It appears the Applicant is relying  
13 here entirely on visual observational analyses  
14 to support this conclusion. As noted above,  
15 protecting the wetlands and other habitats  
16 within the refuge is extremely important. For  
17 that reason, the Town feels that additional  
18 studies are warranted with respect to the  
19 quarry's potential drawdown effect on those  
20 areas. Specifically, the Applicant should be  
21 required to fund an independent study or peer  
22 review of the conclusions reached in the  
23 Hydrogeologic Report.

24 The DEIS also indicates that quarry  
25 operations would vastly increase the amount of

1 surface water flowing to the refuge.  
2 Stormwater and water from quarry dewatering  
3 will accumulate sediment, dust, and  
4 pollutants. These materials will be removed  
5 from the mine and discharged directly into the  
6 refuge. The composition of this discharge  
7 will likely be very different from the current  
8 runoff to the refuge. While mitigation of  
9 that discharge may be achieved through the use  
10 of stormwater controls and/or drainage best  
11 management practices, the potential for these  
12 contaminants to affect the refuge should not  
13 be overlooked. Based on the Town's review of  
14 the DEIS, it does not appear that this issue  
15 was fully explored. The Town therefore  
16 requests that potential effects of sediment or  
17 pollutant contaminated water on the refuge be  
18 further evaluated by the Applicant.

19 The project will undoubtedly affect  
20 the ability of Town residents and others to  
21 use the refuge for recreation as well. DEIS  
22 Section 1.3.3.2 indicates that a map was  
23 created to facilitate discussion of impacts to  
24 wildlife and recreational users within the  
25 Area of Influence. However, the DEIS devotes

1 very little discussion to the project's  
2 effects on the recreational use of the refuge.  
3 Canoeing, fishing, and hiking are deemed to be  
4 outside of the Area of Influence and were not  
5 discussed. The DEIS also asserts that bird  
6 watching will not be affected, but admits that  
7 half of the bird watching overlooks in the  
8 refuge will be directly impacted by increased  
9 truck traffic from the mine. This obvious  
10 disconnection needs correction and appropriate  
11 mitigation is most likely called for. The  
12 DEIS also claims that hunting will not be  
13 affected. This seems questionable since  
14 hunting requires peace and quite, which will  
15 undoubtedly be affected by noise from the  
16 mining operation. Further analysis of the  
17 effects on recreation is necessary to  
18 determine how Town residents will be impacted  
19 by the proposed project.

20 Next I'd like to discuss the impact  
21 of the mining operation on the Jobs Corp  
22 Center. The Jobs Corp Center is an  
23 educational training program administered by  
24 the US Department of Labor. Its facilities  
25 are located immediately southeast of the

1 proposed mine. The DEIS notes the potential  
2 for water drawdown to 7,000 feet. The Jobs  
3 Corp Center uses 36,000 to 40,000 gallons per  
4 day of portable water from ground sources  
5 within the potentially affected area. The  
6 DEIS ignores the potential impact to these  
7 sources. This is particularly concerning for  
8 the Jobs Corp Center since, unlike the  
9 potentially affected private well owners, the  
10 Jobs Corp Center has no access to a public  
11 water source. Though the Applicant has  
12 proposed a well drawdown mitigation plan, that  
13 plan appears to be inadequate for the  
14 operation of the size of the Jobs Corp Center.  
15 Disruption of water availability would result  
16 in the imposition of significant costs and the  
17 many students residing at the Jobs Corp Center  
18 may have to be relocated.

19 In addition, the Job Corp Center is  
20 an educational institution. The close  
21 proximity of an industrial mining operation  
22 would be disruptive and harmful to the mission  
23 and purpose of the Jobs Corp Center. Blasting  
24 and noise from mining operations would be  
25 disruptive of the academic environment.

1 Roughly 255 students live in dormitories at  
2 the Jobs Corp Center. The vastly increased  
3 truck traffic creates safety risks for  
4 students pedestrians and/or bicyclists.  
5 Further, noise and dust pollution increases  
6 will negatively affect these students' quality  
7 of life. The DEIS does not appear to consider  
8 any of these issues. The Town would therefore  
9 request that the Applicant revisit the issue  
10 and supplement the DEIS for purposes to  
11 address these concerns.

12 In addition to the DEIS, the Town  
13 reviewed the DEC's draft permit dated  
14 January 29th, 2016. It has the following  
15 comments and requests concerning the  
16 conditions imposed by that document.

17 Condition 5. Condition 5 states  
18 that no mining activity shall be conducted  
19 within 25 feet of any property or right-of-way  
20 boundary. This setback distance may be  
21 increased based on the depth of the mine below  
22 the level of the adjacent property. Given  
23 many of the potential adverse side effects to  
24 wildlife identified in the DEIS, the Town does  
25 not believe this setback is adequately

1 protective of the adjacent property and  
2 established surrounding land uses. Notably,  
3 the southernmost border of the proposed mine  
4 is roughly the northern border of the refuge.  
5 To mitigate the environmental effects  
6 identified by the DEIS, the draft permit  
7 should be modified to increase the setback.  
8 Additional studies should be performed to  
9 determine the appropriate increase.

10 Condition 6. Under Condition 6, DEC  
11 proposes that the Applicant be required to use  
12 water or other approved dust mitigation on  
13 roads and other parts of the mine to prevent  
14 visible dust from leaving the mine property.  
15 However, this is another instance where the  
16 DEIS has not fully considered the range of  
17 effects that could result from the proposed  
18 mining operation. The Town requests that this  
19 condition be modified to require the use of  
20 water or other approved dust mitigation on  
21 trucks leaving the mine as well. Unlike other  
22 sources of dust within the mine boundary,  
23 trucks leaving the facility have the ability  
24 to cause dust pollution on a far greater  
25 scale. Therefore, methods of mitigating or

1 reducing such dust pollution should be  
2 investigated by the Applicant and related  
3 conditions added to the draft permit.

4 Condition 10. This condition  
5 discusses site access to the mine. The DEIS  
6 confirmed that the mine would greatly increase  
7 heavy truck traffic along several local roads.  
8 However, the DEIS and the draft permit do not  
9 adequately consider the effects on these  
10 roads. Therefore, the Town requests that the  
11 current condition of these roads be surveyed.  
12 It is anticipated that the increased traffic  
13 will result in additional upkeep, maintenance,  
14 and repair costs. And to the extent that  
15 these costs or damages are attributable to the  
16 Applicant, the Town requests that DEC impose a  
17 cost-sharing responsibility on the Applicant  
18 for the road damage caused by its operations.

19 Condition 11. Condition 11 of the  
20 draft permit requires the Applicant to assist  
21 well owners if drawdown from mine dewatering  
22 negatively affects the owners' water wells.  
23 The DEIS does not appear to indicate whether  
24 Town residents are being notified and/or  
25 warned of the potential drawdown effect on

1       these wells. The Town requests that the  
2       Applicant be required to hold informational  
3       sessions for all potentially affected  
4       landowners so that those residents are aware  
5       of who to contact should a problem occur. In  
6       addition to that, the permit should be  
7       modified to require the Applicant to forward  
8       any complaints received about the wells to the  
9       DEC to ensure that said complaints are  
10      properly investigated.

11                   Condition 12. Condition 12  
12      discusses groundwater monitoring at the mining  
13      site. The permit does not provide for  
14      groundwater quality or quantity monitoring  
15      within the refuge. The DEIS readily admits  
16      that dewatering from the mine will result in a  
17      substantial increase in the amount of runoff  
18      to the wetlands within the refuge. This  
19      runoff should be closely monitored. A  
20      condition should be added to the draft permit  
21      requiring the Applicant to monitor both the  
22      amount of water discharged, as well as perform  
23      water quality testing to determine whether the  
24      runoff contains contaminants or other  
25      substances which may be harmful to the



1 habitats within the refuge. Both monitoring  
2 requirements would enable the Town and the  
3 refuge to determine when discharge rates from  
4 the mine become problematic for the affected  
5 wetlands. To ensure the accuracy and  
6 objectivity of such testing, use of a  
7 third-party monitor would likely be the  
8 appropriate means of performing this task.

9 Condition 14. This condition  
10 discusses mine dewatering alternatives. From  
11 the Town's review of the DEIS, it does not  
12 appear that the Applicant investigated any  
13 alternatives to draining the water into the  
14 refuge. The alternate discharge route from  
15 the draft permit simply channels the mine  
16 runoff from one area of the refuge to another.  
17 However, if the runoff be harmful to the  
18 habitats there, it would not make sense to  
19 permit the Applicant to simply shift the area  
20 of discharge to another area within the  
21 refuge. That would simply exacerbate the  
22 adverse environmental impact. Therefore, the  
23 Town requests that the Applicant be required  
24 to find a suitable alternative mine dewatering  
25 discharge location outside of the refuge.

1                   Condition 15. This condition  
2                   requires the Applicant to conduct pre-blasting  
3                   surveys of potentially affected buildings.  
4                   The DEIS asserts that effects will be  
5                   negligible on buildings more than 1700 feet  
6                   from the blasting site. Though the Applicant  
7                   bases this conclusion on its review of  
8                   literature, it does not appear to have  
9                   verified this conclusion via independent  
10                  testing. In addition, the Applicant should be  
11                  required to conduct a pre-blast survey for the  
12                  Jobs Corp Center. Though the Jobs Corp Center  
13                  is beyond the 1700-foot boundary, the use of  
14                  the center for educational activities warrants  
15                  special consideration to ensure the safety of  
16                  its students.

17                  Finally Condition 17. Condition 17  
18                  of the draft permit currently sets an air  
19                  blast limit at 133 decibels outside of any  
20                  dwelling, public building, school, church, or  
21                  community or institutional building outside of  
22                  the permit area. There does not appear to be  
23                  any evidentiary support, in the DEIS or  
24                  elsewhere, to support this level of noise.  
25                  Per OSHA, sound limits over 130 decibels are

1 louder than that of a jet taking off at 100  
2 meters. The same resource describes sounds at  
3 140 decibels as being at the threshold of  
4 pain. There is also no indication that  
5 efforts were taken to mitigate the effect of  
6 blasting noise, other than to constrain it to  
7 a certain time period. Further study on the  
8 noise limit for blasting is clearly required.  
9 In addition, sound limits for blasting should  
10 be reduced to a more reasonable decibel level.

11 The Town respectfully requests that  
12 its comments be taken into consideration by  
13 the DEC in its review, and that the draft  
14 permit be modified or supplemented to address  
15 the concerns above. Thank you.

16 JUDGE BASSINSON: Thank you very  
17 much. James Strickland.

18 JAMES STRICKLAND: Good evening,  
19 Your Honor. My names is James Strickland,  
20 S-T-R-I-C-K-L-A-N D. I live at 11348 Dunlap  
21 Road in the Town of Shelby.

22 My house is approximately 35 or 40  
23 feet from Route 63, and across the  
24 intersection is the beginning of Fletcher  
25 Chapel Road. As it is now, with when semis go

1 by, I can feel our house shudder somewhat from  
2 some of the big trucks. We have approximately  
3 70 acres of land, the majority of which  
4 borders the Iroquois National Wildlife Refuge  
5 on its northern border. Each year we have the  
6 privilege of observing all manner of wildlife,  
7 including Canadian Geese, Snow Geese,  
8 Trumpeter Swans, deer, turkeys, Blue Herons,  
9 American Eagles, and many hawks.

10 Our land is less than one mile from  
11 the proposed site of the quarry, and less than  
12 one mile from the Blue Heron nesting area on  
13 the refuge. The blasting and other noises  
14 associated with the quarry would sorely  
15 disrupt the nesting and the rearing cycles of  
16 these beautiful birds and other wildlife.

17 Aside from the importance of  
18 preserving the safety of our wildlife, we also  
19 need to preserve the quality of life of the  
20 people who live near the refuge. The noise  
21 pollution, dust, water pollution, truck  
22 traffic will surely destroy the pleasure of  
23 living near this beautiful preserve.

24 It's my opinion that it's a  
25 no-brainer to keep this quarry and all others

1 away from wildlife preserves across the  
2 country. Thank you.

3 JUDGE BASSINSON: Thank you very  
4 much. Eleanor Strickland?

5 ELEANOR STRICKLAND: Good evening,  
6 Your Honor. My name is Eleanor Strickland,  
7 and I live at 11348 Dunlap Road in the Town of  
8 Shelby. S-T-R-I-C-K-L-A-N-D.

9 And I am opposed to this quarry for  
10 many reasons. Among them are the  
11 environmental impact of the surrounding area.

12 The blasting and resulting water  
13 pollution will certainly disrupt the resident  
14 and migratory wildlife of the bordering  
15 Iroquois National Wildlife Refuge. For  
16 example, the endangered and threatened species  
17 of the Short-Eared Owl and the Upland  
18 Sandpiper, as well as the Bald Eagles.

19 As a result of dewatering the quarry  
20 to keep the bottom dry for production, it  
21 would cause millions of gallons of  
22 contaminated water each day to be pumped into  
23 a drainage ditch that will empty into Oak  
24 Orchard Creek and Schoolhouse Marsh, which is  
25 part of the refuge. This water will be

1 contaminated by salt brine, dissolved natural  
2 gas, high concentrations of iron and hydrogen  
3 sulfide. Not only will this be detrimental to  
4 the wildlife in the refuge, this will  
5 certainly create flooding and erosion when  
6 there is already flooding during spring runoff  
7 and heavy rains.

8 The heavy truck traffic created by  
9 the quarry will cause damage to our country  
10 roads and pollute the air with their exhaust  
11 emissions and loud diesel engines.

12 And what impact will the blasting  
13 and resulting ground vibrations and the  
14 lowered water table level have on the future  
15 STAMP project in the nearby Town of Alabama?  
16 A project which will employ thousands of  
17 people, compared to a handful at the quarry.

18 Does it make any sense to forgo such  
19 an important opportunity for economic  
20 stability to an operation that will employ a  
21 handful of people for three seasons out of the  
22 year? Thank you.

23 JUDGE BASSINSON: Thank you.

24 Mike Elam?

25 MIKE ELAM: My name is Mike Elam; I

1 live at 13021 Hanlon Road, Albion, New York.  
2 Tonight I am here speaking for Finger Lakes  
3 Conservation Council as president. I'm  
4 representing 12,000 members in the 11 counties  
5 of DEC Region 8.

6 We, the members, believe in free  
7 competitive enterprise and realize the  
8 importance of the aggregate mining industry as  
9 to the infrastructure and economy. That said,  
10 our April 2014 position was strongly opposed  
11 to the proposed Frontier Stone quarry, and our  
12 position is still firmly opposed. The new  
13 information presented fails to diminish the  
14 horrendous potential risk of the established  
15 wildlife management areas that provide a  
16 necessary sanctuary for migratory birds and  
17 many other species that depend on the Refuge  
18 for their survival.

19 Along with the concerns presented in  
20 our April '14, we believe the peace and  
21 serenity of the area around the proposed  
22 quarry will be destroyed by drilling,  
23 blasting, stone crushing, and truck traffic.  
24 Therefore, the Finger Lakes Conservation  
25 Council goes on record again as strongly

1       opposed to the Frontier Stone quarry in the  
2       Town of Shelby. Thank you for the opportunity  
3       to speak.

4                   JUDGE BASSINSON: Thank you very  
5       much. Mike Donahue?

6                   MIKE DONAHUE: Good evening,  
7       Your Honor. My name is Mike Donahue,  
8       D-O-N-A-H-U-E. I'm president of the Black  
9       North Rod and Gun Club, Vice President of the  
10      Orleans County Federation of Sportsmen. And  
11      as such, have gone on record opposing this  
12      stone quarry, and still oppose the quarry, in  
13      its proximity to the wildlife refuge. Thank  
14      you.

15                  JUDGE BASSINSON: Thank you.  
16      Richard Maurer?

17                  RICHARD MAURER: Good evening,  
18      Your Honor. My name is Richard Maurer,  
19      M-A-U-R-E-R. My wife and I reside at  
20      4795 Bigford Road, Medina, New York, in the  
21      Town of Shelby.

22                  We are writing in regard to the  
23      permit application filed by Frontier Stone to  
24      operate the quarry on Fletcher Chapel Road in  
25      the Town of Shelby, Orleans County. We are



1 not in favor of this permit being granted for  
2 a number of reasons, the most significant of  
3 which are outlined below.

4 Many of us in the immediate  
5 proximity of the proposed quarry have private  
6 wells. Allowing a quarry in this area would  
7 very likely endanger the quantity and quality  
8 of water in our wells. Previous studies by  
9 the US Geological Survey indicate that the  
10 cone of depression created by a quarry of this  
11 size could extend over a very large area.

12 This area is currently zoned  
13 agricultural/residential, lies within an  
14 agricultural district, and by law, would need  
15 to be rezoned as industrial to allow a quarry  
16 operation. It is unfair to area residents to  
17 rezone the area immediately surrounding their  
18 homes as industrial when, in fact, they have  
19 chosen to live in this area because of the  
20 peaceful, agricultural setting. If this were  
21 to be done, then what purpose does zoning  
22 serve?

23 The Iroquois National Wildlife  
24 Refuge is situated almost immediately south of  
25 the proposed quarry. Putting a quarry on the

1 edge of this wildlife refuge simply does not  
2 make sense. The refuge is where it is because  
3 of the isolation and lack of commercial and  
4 industrial factors. The water pump out of the  
5 quarry will most certainly change the dynamics  
6 of the refuge and Oak Orchard Creek, along its  
7 entire length, affecting this widely  
8 recognized salmon and sport fishing habitat.  
9 Additionally, the traffic and noises  
10 associated with the proposed quarry,  
11 especially blasting, will destroy the habitat  
12 and environment for many species of wildlife.

13 More specifically, the area in the  
14 immediate proximity of the proposed quarry  
15 site has been identified as a nesting and  
16 feeding area for the short-eared owl, an  
17 endangered species. Most recently, the DEC  
18 itself has halted and postponed two  
19 construction projects that were scheduled to  
20 take place in this vicinity due to the  
21 presence of the short-eared owl population.  
22 The DEIS proposed by Continental Placer, an  
23 agent of Frontier Stone, acknowledges the  
24 presence of the short-eared owls and other  
25 species of concern, but then claims there will

1 not be any adverse impact due to the quarry  
2 operation. We believe this amounts to  
3 double-talk on the part of Frontier Stone, and  
4 represents a serious conservation and legal  
5 issue that the DEC should thoroughly  
6 investigate before considering whether  
7 Frontier Stone should be allowed to operate a  
8 mining business in this location.

9           The economic benefits cited in the  
10 DEIS are negligible when compared to the  
11 negative impacts the quarry is likely to foist  
12 upon the area. There is no significant  
13 employment associated with the quarry  
14 application. The amount of property and sales  
15 tax the quarry will pay is also not  
16 significant. Three or four houses would pay  
17 about the same in property taxes, and the  
18 majority of stone used to build the roads will  
19 be sold to agencies that are tax exempt.  
20 Additionally, sales from this proposed quarry  
21 would be likely to take business away from  
22 other quarries in the area. There is no  
23 benefit to this. We have enough stone and  
24 agricultural lime.

25           Perhaps more important in economic

1 terms, allowing a quarry in the proposed area  
2 just north of the wildlife refuge has the  
3 potential to jeopardize the future growth and  
4 development of the science and technology park  
5 which the Genesee County Economic Development  
6 Center is coordinating. This 1250-acre  
7 development site, known as Western New York  
8 STAMP, is only a few miles south of the  
9 proposed quarry location, and is intended to  
10 attract technology companies from around the  
11 world that are involved in the manufacture of  
12 computer and electronic devices, using very  
13 sensitive equipment. One reason this site was  
14 chosen is because of its relative stability  
15 with respect to size and vibrations that are  
16 detrimental to the manufacturing process.  
17 Allowing a quarry to set up operations only a  
18 few miles away and blast for rock would be  
19 very short-sighted, considering the potential  
20 these technology companies have to offer in  
21 terms of employment and economic expansion for  
22 both Genesee and Orleans Counties.

23 In order to address these issues, we  
24 are aware that Frontier Stone conducted what  
25 they termed a test blast to ascertain the

1 impact on the surrounding area. The test  
2 blast is suspect for a number of reasons. The  
3 amount of explosive used represents only a  
4 fraction of the amount that would be set off  
5 during an actual production situation for a  
6 typical quarry of this size and type. The  
7 blast was contained in a well casing, which  
8 could yield very different results than might  
9 be expected with the open-faced blasting  
10 technique outlined by Frontier Stone in the  
11 DEIS. Extrapolating these results to the  
12 actual production environment of the proposed  
13 quarry is questionable, to be sure. These  
14 deficiencies have been cited by engineering  
15 personnel associated with the STAMP project,  
16 and it is our understanding that Frontier  
17 Stone has been less than cooperative in  
18 addressing these engineering concerns. Part  
19 of Frontier Stone's lack of cooperation  
20 includes the idea that since there are no  
21 current occupants in the technology park, it  
22 really doesn't matter. This is untrue, and  
23 this attitude leads us to wonder if that is  
24 being omitted to conceal the very real  
25 possibility that the STAMP project may be

1 negatively impacted.

2 In fact, the State is currently  
3 participating in the creation of a  
4 \$700 million facility for 1366 Technologies, a  
5 company that produces silicon wafers with the  
6 potential for 1,000 jobs. This company  
7 secured a \$150 million loan guaranty from the  
8 US Department of Energy to build the  
9 commercial scale factory in the Town of  
10 Alabama. The company has lined up commitments  
11 from solar panel producers to buy 60 percent  
12 of the factory's output. New York State and  
13 Genesee County have agreed to provide the  
14 company with \$97 million in incentives,  
15 including low cost hydropower, property tax  
16 breaks, and the factory that will be built.  
17 They would like to break ground before the end  
18 of June 2016. According to Brian Eller an  
19 executive for 1366 Technologies, the company  
20 would like to use local suppliers to improve  
21 our local economy.

22 The State has also committed  
23 significant resources toward the  
24 infrastructure of the technology park for  
25 other companies as well. The STAMP project

1       could employ as many as 10,000 people when it  
2       is fully developed. Governor Cuomo was  
3       recently in the Western New York area touting  
4       the viability and economic benefits of the  
5       STAMP project. We would suggest that the DEC  
6       check with the Governor's office to see if  
7       they would be in favor of allowing this quarry  
8       operation to affect the future development  
9       potential of the STAMP project.

10               There are simply too many  
11       potentially negative impacts involved in  
12       allowing a quarry to operate in the location  
13       Frontier Stone has proposed. Only a handful  
14       of people will benefit if this permit is  
15       approved, at the expense of the community at  
16       large. As a community of concerned citizens,  
17       we urge the DEC to decline this permit  
18       application and take the necessary action to  
19       ensure that the environmental and economic  
20       future of our region is not sacrificed. Thank  
21       you.

22               JUDGE BASSINSON: Thank you very  
23       much. Patricia Bushover.

24               A SPEAKER: Your Honor, my name is  
25       Patricia Bushover, B-U-S-H-O-V-E-R, and I live

1 with my husband at 5140 East Shelby Road,  
2 Medina, New York. We have lived at this  
3 location for approximately 37 years, and we  
4 are two miles due west of the proposed site  
5 for the quarry.

6 We strongly oppose permitting this  
7 quarry for the following factors:

8 The harm that it would do to the  
9 three wildlife refuge areas by either flooding  
10 or draining the ponds and the wetlands areas;

11 The harm that it would do to the wildlife  
12 that currently inhabits the area;

13 And destroying the land and surrounding  
14 area with noise, dust, and increased traffic  
15 that this operation will create;

16 The change in character of the area  
17 by allowing mining in an  
18 agricultural/residential zone from peaceful  
19 country to polluting industry;

20 The harm the quarry would do to the  
21 water tables, affecting wells and draining  
22 valuable water resources;

23 The harm in following and --  
24 flooding of available watersheds that are  
25 located in the area, harming fish and wildlife



1 all the way to Lake Ontario;

2 The harm that it will do to the  
3 large STAMP project that is to be located in  
4 the Town of Alabama with the blasting that is  
5 required of the mining;

6 The cost to the taxpayer for the  
7 repair and replacement of the rural Town roads  
8 that were never meant to carry heavy truck  
9 traffic;

10 The harm to the buildings and the  
11 houses that the blasting will cause. Most of  
12 the houses in the area are older construction;

13 The loss of the visitors to the  
14 wildlife area, which will impact the economy  
15 of the area;

16 And the loss of the quality of life  
17 that is to be found in the country living.

18 In closing, we would like you to  
19 consider the concerns of the residents in the  
20 Town of Shelby regarding the location of the  
21 quarry and the impact it would have on the  
22 lives of so many, both in the area and those  
23 who visit the area. No one wants to look at a  
24 starved, flooded, and polluted wildlife area.  
25 Thank you, sir.

1 JUDGE BASSINSON: Thank you.

2 Carl Zenger.

3 CARL ZENGER: Good evening,  
4 Your Honor, and Town of Shelby officials, DEC  
5 representatives, and friends. My name is Carl  
6 Zenger, Z-E-N-G-E-R. I live in Lockport, New  
7 York, 5859 Beattie Avenue. I've been a  
8 volunteer at the Iroquois National Wildlife  
9 Refuge for over 18 years. I've given over  
10 25,000 hours of volunteer time of mine to  
11 support the refuge, and I drive about 7500  
12 miles per year of my own expense to volunteer  
13 there. And I am also a past president of the  
14 Friends of the Iroquois National Wildlife  
15 Refuge and support its many projects and  
16 activities on the refuge.

17 As a friend and taxpayer, I'm  
18 strongly opposed to placing a stone quarry  
19 within 300 feet of the refuge boundary. The  
20 refuge has 35,000 to 50,000 visits a year from  
21 hunters, nature photographers, fisherman,  
22 sightseers, nature lovers, college interns,  
23 school groups, scout groups, and others. The  
24 creation of a stone quarry this close to the  
25 refuge would significantly decrease this

1       visitation number and reduce the tourism  
2       dollars in this area.

3                   An unsolicited statement by the  
4       Public Employees For Environmental  
5       Responsibilities known as PEER out of  
6       Washington, DC, has listed Iroquois Refuge  
7       among the top 10 threatened refuges in the  
8       United States. This is not a recognition we  
9       were happy of or proud of.

10                   The Department of Interior estimates  
11       that refuges contribute an average of \$4.89 to  
12       the economic output for every dollar  
13       appropriated. This is over three times the  
14       value that the DEIS states the quarry would  
15       have. The decision to allow this to be lost  
16       in this area is, obviously, a bad decision.

17                   I see no advantage to having a stone  
18       quarry in this location, and there are many  
19       disadvantages to it. Items like heavy truck  
20       traffic, 480 trips a day, six days a week,  
21       starting before 6 a.m. in the morning and  
22       running until after 6 p.m. at night. The  
23       blasting, ground vibration, noise, light  
24       pollution at night, dust in the air and  
25       covering the surrounding area and roads,

1 severe alterations to the water supply,  
2 pollution to the impoundments on the refuge,  
3 contamination to the ditches and fields where  
4 the water is pumped, reduced habitat  
5 management ability, major road construction  
6 and maintenance, and the list goes on and on.  
7 The Forrestal Flats where this water would  
8 flow, which is an estimated 554,000 gallons  
9 per day, is habitat for many ground-nesting  
10 birds which are in serious decline in New York  
11 State and North America wide. This  
12 contamination plus altered habitat maintenance  
13 on the refuge would be additional steps toward  
14 reducing their population and contribute to  
15 them being threatened or endangered species.  
16 This would lead to costing all of us tax  
17 dollars in efforts to try to prevent this from  
18 happening. It is a request that the DEC more  
19 clearly define the contaminants in this  
20 discharge water and how the maximum limits of  
21 all contaminants will be measured and  
22 continuously controlled.

23 The National Audubon Society  
24 declared Iroquois Refuge and adjacent State  
25 lands as an Important Bird Area. This was

1 done due to the important birds that migrate,  
2 feed, and breed on these lands. This quarry  
3 would threaten a major portion of this land.

4 If anyone thinks that a stone quarry  
5 is a good thing to have in your neighborhood,  
6 I suggest that they talk to some of the  
7 residents on Hinman Road in Lockport,  
8 New York. None of these people are happy  
9 about it, and this is the same company,  
10 Frontier Stone, proposing to open this quarry  
11 in the Town of Shelby.

12 I strongly urge the Town of Shelby  
13 officials, New York State officials, the DEC,  
14 and all others who makes decisions on this  
15 proposed quarry to not allow these permits to  
16 be approved.

17 I also request the DEC to extend the  
18 written comment period beyond March 15th.  
19 With a proposal of over a thousand pages and  
20 having such a major negative impact on the  
21 refuge, the Town of Shelby, and the  
22 surrounding area, more time is necessary to  
23 properly respond to this Draft Environmental  
24 Impact Statement.

25 Thank you for your consideration,

1 and please reject the approval of the permits  
2 allowing this quarry to be authorized at this  
3 location. Now is the time to terminate this  
4 proposal. Thank you.

5 JUDGE BASSINSON: Thank you.

6 Ken Printup?

7 KEN PRINTUP: Thank you, Judge, for  
8 letting me speak tonight. My name is  
9 Ken Printup, P-R-I-N-T-U-P. I am here with my  
10 wife Shirley.

11 As a resident living only a third of  
12 a mile from the proposed site, I have my  
13 concerns about the noise, the dust from the  
14 production of crushed stone being produced at  
15 the quarry. In addition, my concerns are for  
16 truck traffic and the effect it may have on  
17 the wildlife of the Iroquois National Wildlife  
18 Refuge, which could be devastating.

19 In response to something that was  
20 presented to the Town of Shelby board meeting  
21 on June 13th, 2006. A Syracuse law firm,  
22 Gilbenti -- I can't pronounce half these names  
23 -- Heintz and Smith. They were there on  
24 behalf of Frontier Stone, LLC. An  
25 environmental attorney with this law firm got

1 up and said, that new blasting technology  
2 helps to focus the blast, reducing noise,  
3 pinpointing the energy. That could still be  
4 pinpointed at the wildlife and my well.

5 He also said that Western New York  
6 contractors and municipalities would benefit  
7 from the stone to build homes and roads. He  
8 talked about the high costs of asphalt to  
9 build roads due to the stone quarries closing  
10 because of lack of stone, and having to haul  
11 blacktop at an average of 30 miles away. We  
12 do not have that problem here in Shelby.

13 I did my homework, and this is what  
14 I came up with as to how far away our quarries  
15 actually are. Using the proposed site as a  
16 benchmark, we have 7 active quarries,  
17 limestone quarries, two nonactive at this  
18 time. Seven production asphalt plants, one  
19 not active. Most of all -- most all have lime  
20 for agricultural use. These quarries are from  
21 5.11 miles to 25 miles from the proposed site.  
22 We have one sandstone quarry, sits 6.1 miles  
23 north of the proposed site. There are also 7  
24 active sand wash and gravel pits in operation  
25 within 13 miles of the proposed site.

1                   In closing, I know that some of my  
2                   information may not be environmental concerns.  
3                   But, and it may not have an impact on your  
4                   decision, but if your decision could be swayed  
5                   either way, then my concerns may help in your  
6                   decision to deny the permit application.  
7                   Thank you very much for your time and  
8                   consideration.

9                   JUDGE BASSINSON: Thank you.  
10                  John Huber?

11                  JOHN HUBER: Good evening. My name  
12                  is John Huber, H-U-B-E-R, 5154 Hellert Road,  
13                  Medina. My property is approximately about  
14                  550 feet north of the refuge. Thank you for  
15                  the opportunity to address my concerns this  
16                  evening.

17                  I absolutely oppose the Frontier  
18                  Stone, LLC, property proposed quarry.

19                  The submitted Frontier Stone, LLC,  
20                  DEIS analysis of the potential, quote, impact  
21                  on the refuge and surrounding area goes to the  
22                  very heart of why the DEC and the EPA were  
23                  created in the first place.

24                  Nowhere does the DEIS's report  
25                  address the justification to, quote, impact



1 the environment of this community and its  
2 residences.

3 By its own definition, Frontier,  
4 LLC, will have what it calls impact on this  
5 community. The very fact that they use the  
6 word impact implies, by definition, quote, the  
7 action of one object coming forcibly into  
8 contact with another.

9 Who asked for this impact? Did the  
10 residents of this community ask to be  
11 impacted? Did the tens of thousands of  
12 hunters, fisherman, hikers, bird watchers,  
13 outdoor enthusiasts, and local homeowners ask  
14 to be impacted? Is this money-maker event  
15 something the Orleans County asked for?

16 Do you have thousands, even hundreds  
17 of letters on file requesting an impact in the  
18 Town of Shelby by Frontier, LLC? I do not  
19 have the answer to that. I do know you have  
20 thousands of letters on file objecting to the  
21 impact of Frontier, LLC, on this community.  
22 Shouldn't that count for something? Shouldn't  
23 that count for the voice of the people in this  
24 community? Should we not abide by the wishes  
25 of this community? We are the ones here who

1 choose to live here, pay the taxes here, and  
2 support the local government here, which in  
3 turn, is charged with doing what is best for  
4 its residents.

5           The DEIS report does, however,  
6 address Frontier's attempt to limit the  
7 damages it will make through hypothetically  
8 extrapolated numerics, even to the extent of  
9 asserting that wildlife will probably take no  
10 more than about ten years to adapt itself to  
11 the damages made to the environment by the  
12 quarry.

13           The DEC, the EPA, and the scientific  
14 community at large all have overwhelming  
15 evidence of species extinction. This area is  
16 blessed to have the beauty of one of this  
17 Nation's most valued resource. You already  
18 have on the record two species of birds that  
19 use this wildlife refuge as part of their  
20 reproductive-cycle environment. By what  
21 justification does Frontier, LLC, have to  
22 alter that, and who grants that justification?  
23 You? Why would you want to justify letting  
24 Frontier, LLC, to add more species to that  
25 extinction list?

1                   This community has a moral  
2                   obligation to do all it can to protect the  
3                   national treasure and the wildlife that need  
4                   it for survival. I can think of no rhyme or  
5                   reason for you to grant the LLC the right to  
6                   impact this treasure, especially without the  
7                   invitation by the local community or the  
8                   national visiting community, save one -- the  
9                   opportunity to make a dollar.

10                   Finally, why would you think it's  
11                   okay to place the burden of proof on this  
12                   community to justify why it does not want an  
13                   uninvited impact on the wildlife refuge and  
14                   surrounding area? Instead of placing that  
15                   burden of proof on Frontier, LLC, to justify  
16                   why they think it's okay to impact the  
17                   wildlife refuge and this community.

18                   Please note, I am making a  
19                   distinction here between the Frontier, LLC,  
20                   report that proposes theoretical damage  
21                   control numerics versus the simple  
22                   unchallenged assertion of their right to  
23                   intrude uninvited.

24                   Please don't be that person who  
25                   callously, callously, gives away the future

1 heritage of our local national treasure.

2 I as a resident, absolutely oppose  
3 the Frontier, LLC, quarry project.

4 Lastly, has anyone contacted the  
5 existing quarries in the area to see if they  
6 can handle the additional 15 trucks per hour?  
7 And if they say collectively yes, or  
8 individually yes, then what need is there for  
9 Frontier, LLC? Thank you.

10 JUDGE BASSINSON: Thank you.  
11 Barbara Hoffman?

12 BARBARA HOFFMAN: Good evening,  
13 Your Honor. My name is Barbara Grapes  
14 Hoffman, H-O-F-F-M-A-N. I live on Ryan Road  
15 in the Town of Shelby. Currently my house is  
16 located approximately one mile south of the  
17 current Shelby Stone quarry. The quarry  
18 proposed by Frontier Stone would be  
19 approximately two miles southeast of my home.  
20 At this time, I would like to tell you why I  
21 oppose the quarry.

22 I live with my husband and two sons  
23 in a house that has been in my family since it  
24 was purchased from the Holland Land Company in  
25 the 1800s. We chose to continue to live here

1 because of the wildlife, green space, and  
2 peaceful nature of the site. Both of my  
3 adult-aged sons have developmental  
4 disabilities. They enjoy looking out the  
5 window at the many birds that frequent our  
6 feeders and the deer, fox, and turkeys walking  
7 through our yard. My sons are also disturbed  
8 and can have behavioral issues when exposed to  
9 sudden and/or loud noises. On blasting days  
10 at Shelby Stone, the house can shake, windows  
11 rattle, and we can hear the loud blast,  
12 especially on cloudy days. In order to  
13 protect my sons, if they are home on blasting  
14 days, I have to make plans to take them out of  
15 the house to a quiet place so they do not get  
16 upset. If another stone quarry is opened, I  
17 will have to make plans two or more days a  
18 week, depending on the blasting schedule, to  
19 have my sons out of the house so they do not  
20 get upset.

21 I'm also concerned about the effects  
22 the stone quarry will have on the wildlife  
23 that frequents my house and the endangered  
24 species in the area. The short-eared owl  
25 nests in the area of the proposed stone

1 quarry. Because of this endangered species  
2 identified by the New York State DEC, the Town  
3 of Shelby and Orleans County are prohibited  
4 from digging in the area during nesting  
5 season. How can the stone quarry run during  
6 the nesting season when other entities cannot  
7 work?

8           The other day I turned on my road  
9 from Route 63 near sunset. I looked out at  
10 the open farm field to my left, and there were  
11 literally thousands Canada Geese settling in  
12 for the night. Will they migrate through here  
13 in the spring and fall and fly by, or live  
14 here in the summer with another stone quarry  
15 in their home?

16           Water. The proposed quarry says it  
17 will discharge approximately 550,000 gallons  
18 of water per day into a drainage ditch, the  
19 equivalent of approximately 7 seconds of water  
20 that goes over Niagara Falls daily. Will this  
21 be 365 days per year, or will they only be  
22 able to discharge during the spring, summer,  
23 and fall at an even higher rate of discharge?  
24 Will there be erosion in the drainage ditch?  
25 Will there be erosion in Oak Orchard Creek

1       that the drainage ditch connects to? Where is  
2       the water coming from? Will it drain the  
3       Iroquois Wildlife Refuge? What guarantees do  
4       we have? Will there be sediments discharged  
5       also into the drainage ditch, Oak Orchard  
6       Creek, and ultimately Lake Ontario? What  
7       about all the dust from the blasting and  
8       grinding of stone and air pollution? Will my  
9       well become contaminated, that I use to water  
10      my gardens? There are too many unanswered  
11      questions.

12                    The Town of Shelby is my sons'  
13      forever home. Will it still be the quiet  
14      place surrounded by wildlife if another stone  
15      quarry is opened? Somehow, I don't think so.  
16      Thank you.

17                    JUDGE BASSINSON: Thank you.  
18      Robert Hoffman?

19                    ROBERT HOFFMAN: Good evening,  
20      Judge. My name is Robert Hoffman,  
21      H-O-F-F-M-A-N. I am a retired Albion High  
22      School social studies teacher who lives at  
23      10772 Ryan Road in the Town of Shelby, about  
24      two miles from the Iroquois Refuge.

25                    I want to begin my comments saying

1 I'm a capitalist, I invest money in the stock  
2 market for the sole purpose of making money.  
3 I really don't care how these companies make  
4 money. I'm only interested in how much money  
5 I make on my investment.

6 The people who represent Frontier  
7 Stone are capitalists, too. They only care  
8 about making money. To them, the land is a  
9 commodity to be taken and used. They will  
10 come into our Town, exploit the land, take the  
11 money, and leave behind a hole some 200-feet  
12 deep that will be here for eternity. To put  
13 this into perspective, if that hole is 200  
14 feet deep, it will be 33 feet deeper than the  
15 drop of Niagara Falls and the Niagara George.  
16 They won't live here. They will drive in.  
17 They will drive out. They won't invest in  
18 this community. They are takers, not givers.  
19 They don't care about the land. They don't  
20 care about the birds. They don't care about  
21 the animals. They don't care about what  
22 happens downstream at Oak Orchard River. It's  
23 the money. They only care about the money.

24 We are the analysts on the other  
25 hand that are the little people; the



1 convenience store clerk, the owner of the  
2 fourth-generation family farm; the man who  
3 repairs tires at the local garage; a retired  
4 teacher. We do live here, and we do care  
5 about the land. We will be here long after  
6 the stone company is gone, living with their  
7 abuse to the land, as well as our will  
8 children and their children. You can't erase  
9 the kind of imprint that the land this company  
10 proposes. You can't cover it up. You can't  
11 fill it in. It will be here forever.

12 In regards to the Iroquois Refuge,  
13 this is a special place. It is a treasure. I  
14 don't have any statistics. I know from  
15 personal observation hundreds of people park  
16 along Route 63 and watch the geese come in in  
17 the spring. Hundreds and hundreds of more  
18 elementary school kids arrive for tours, and  
19 hundreds of more people review the video of  
20 the Eagle's nest. So the impact of the refuge  
21 is widespread.

22 This place contains an ecosystem  
23 that has to be protected and has to be  
24 preserved. How do I know? Since I retired in  
25 2006, I've spent hundreds of hours hiking the

1 back trails, the dikes, the ponds, and the  
2 sludges of the refuge. Most of us never see  
3 the real treasure of this place because it  
4 takes time and patience, but it's there and  
5 it's there in profusion. I and my camera have  
6 seen the treasure of Iroquois. I want to  
7 enter into the record some 20 pictures of the  
8 animals that will be affected. The Pileated  
9 Woodpecker, the little Brown Bat, the Red  
10 Admiral Butterfly, Canadian Goose, the red  
11 fox, the Blue Heron, and many more.

12 I hope those sitting in judgment on  
13 this matter see and appreciate the richness of  
14 this treasure, see the value that this place  
15 holds for all of us and future generations. I  
16 hope you use common sense in making your  
17 decision.

18 Mr. Spock said it best in the movie  
19 Star Trek. Like him, this is a case where the  
20 value to the many outweighs the value to the  
21 few.

22 I strongly disapprove of this  
23 project.

24 JUDGE BASSINSON: Thank you.  
25 Wendi Pencille.

1                   WENDI PENCILLE: My name is  
2                   Wendi Pencille, I live at 11207 Ryan Road.  
3                   That's Medina, New York, Town of Shelby.  
4                   P-E-N-C-I-L-L-E.

5                   When you consider Frontier Stone's  
6                   ability to mitigate individual issues, they  
7                   seem surmountable. But when taken  
8                   collectively, there are just far too man, too  
9                   many, factors requiring mitigation to risk  
10                  allowing this quarry to be sited in this  
11                  location.

12                  Blasting, truck traffic, dust,  
13                  noise, loss of view shed, loss of habitat for  
14                  endangered species, disruption in water to the  
15                  refuge, potential for loss of value to the  
16                  Nanotech STAMP site, sulfur and salt water  
17                  being brought to the surface and dumped,  
18                  damage to local wells and home foundations,  
19                  disruption of a peaceful farming community and  
20                  residential community by a massively invasive  
21                  industrial use, it's unconscionable and it's  
22                  wrong.

23                  There are more than 200 miles of  
24                  Lockport formation rock running from Niagara  
25                  County all the way to Rome, New York. Do you

1 mean to tell us that there isn't another site  
2 anywhere along those 200 miles without a  
3 National Wildlife Refuge that they can risk?

4 Early on in the process, the DEC  
5 cited Frontier's lack of consideration for  
6 impact assessment in the surrounding environs  
7 with respect to vegetation and wildlife,  
8 endangered species, and threatened species,  
9 and wetlands and streams.

10 In the most recent version of the  
11 EIS, Volume 4, Pages 9 through 14, Frontier  
12 again states that no short-eared owls will be  
13 affected. They're not expected to be on the  
14 site. And again on Page 29 of the same  
15 document, no adverse effects/impacts to the  
16 short-eared owls will occur. There is no  
17 mention of the endangered species of Upland  
18 Sandpiper.

19 Now frontier may not think there are  
20 endangered species to be affected by their  
21 operations, but the Avon office of the DEC  
22 does. They have shut down ditching operations  
23 by the Orleans County Highway Department on  
24 Fletcher Chapel Road immediately north of the  
25 quarry site, and they put limitations on the

1 Town of Shelby Highway Department with respect  
2 to digging water lines in the area immediately  
3 east of the quarry site. I have both of those  
4 limitations and documentation here from your  
5 own office in Avon, New York. They did this  
6 in an effort to protect the endangered species  
7 short-eared owl, the same owl that Frontier  
8 Stone claims will not be affected by their  
9 quarry.

10 Construction is not allowed from  
11 November 1st through April 30th. So why then  
12 does the DEIS refer to a schedule of operation  
13 for this quarry from mid April through  
14 November, and it's a suggested -- it's a  
15 suggested schedule of operation. Why wouldn't  
16 the quarry have to follow the exact same rules  
17 applied to the local town and county? And why  
18 would the mining permit not contain these  
19 specific operational limits as permit  
20 conditions? Not a suggested operation, but  
21 permit conditions.

22 The EIS says the quarry can operate  
23 outside these limits as needed to support  
24 demand. Really? The quarry should be subject  
25 to the exact same limits for the exact same

1 reasons, no matter whether Frontier's experts  
2 saw short-eared owls on the property or not.  
3 The DEC knows they're there. One branch of  
4 the DEC needs to know what the other branch is  
5 doing.

6 And finally, if a national wildlife  
7 refuge isn't sufficiently sensitive and  
8 valuable enough to the New York State DEC to  
9 deny an industrial mining permit, then under  
10 what circumstances would you deny a permit?  
11 Are there any? The refuge is a delicate  
12 ecosystem. It deserves your protection. If  
13 you wouldn't protect a sensitive wetland  
14 ecosystem from the risks and effects of  
15 industrial mining, then in what environment  
16 would the DEC actually deem worth conserving?  
17 Please, please tell us. Thank you.

18 JUDGE BASSINSON: Gerry Zinkievich?

19 GERRY ZINKIEVICH: Your Honor, I do  
20 not need to speak right now. Ms. Pencille and  
21 Ken Printup pretty much said what I was going  
22 to say.

23 JUDGE BASSINSON: Thank you very  
24 much. Jeff Strickland?

25 JEFF STRICKLAND: Good evening,

1 Your Honor. My name is Jeff Strickland,  
2 S-T-R-I-C-K-L-A-N-D. I live at 11330 Dunlap  
3 Road in Medina, in the Town of Shelby.

4 And I'm opposed to this quarry  
5 proposal for the following reasons, and I am  
6 concerned about our well being contaminated  
7 and/or affected in a negative manner. I am an  
8 avid outdoorsman, and I enjoy hunting and  
9 fishing in and around the wildlife refuge and  
10 the areas of the proposed quarry site. I'm  
11 also concerned about the negative impact on  
12 the wildlife and also the fisheries such as  
13 Oak Orchard River, a major tributary of Lake  
14 Ontario. And I also do not want the added  
15 truck traffic in our area, as we have enough  
16 traffic now to compromise our quality of life  
17 due to the excessive noise as it is.

18 Thank you for your time and  
19 consideration in this matter.

20 JUDGE BASSINSON: Thank you.  
21 Amy Strickland?

22 AMY STRICKLAND: Good evening,  
23 Your Honor. My name is Amy Strickland,  
24 S-T-R-I-C-K-L-A-N D. I live at 11330 Dunlap  
25 Road in Medina in the Town of Shelby.

1                   And I am opposed to this quarry  
2                   proposal for the following reasons: The  
3                   Iroquois National Wildlife Refuge is an  
4                   important part of our area. Our endangered or  
5                   threatened wildlife need to be protected and  
6                   not have their area destroyed by a quarry.

7                   We also don't need our well water  
8                   compromised, or the constant traffic of dump  
9                   trucks and large equipment in the refuge area  
10                  and around our homes.

11                  Also, the idea of our peaceful  
12                  country surroundings destroyed by the effects  
13                  of the daily blasting is definitely not one  
14                  that I want or would support.

15                  Thank you for your time and  
16                  consideration in this matter.

17                  JUDGE BASSINSON: Thank you.  
18                  Mike Fuller?

19                  MIKE FULLER: Your Honor, my name is  
20                  Mike Fuller, F-U-L-L-E-R. I'm short and  
21                  sweet. The stone quarry is too close to the  
22                  wildlife refuge. Thank you.

23                  JUDGE BASSINSON: Thank you.  
24                  Allen Robinson?

25                  ALLEN ROBINSON: Good evening,



1 everyone. Allen Robinson, R-O-B-I-N-S-O-N,  
2 15931 Brown Schoolhouse Road in the Town of  
3 Holley. I live in a little Town called  
4 Clarendon that exists next to a stone quarry,  
5 and we live with the every day life of a  
6 mining operation next to us.

7 I am very concerned that people that  
8 are on wells that live nearby to the stone  
9 quarry, they better have the Town consider  
10 bringing a water main in to every residence  
11 around that to provide public water. And my  
12 concern is why should the residents pay for  
13 it? It should be Frontier that pays for that  
14 water main going around that property and to  
15 people that are affected.

16 The other big concern I see in our  
17 own Town is the water discharge from our  
18 operation, which is Hansons. We have had a  
19 concern with the amount of water that's being  
20 discharged in a ditch that finally goes  
21 towards the Clarendon Falls. Too much water  
22 in at one time. And it provides a problem  
23 with the water backing up into the muck  
24 fields. I really wish they would have a way  
25 of monitoring the amount of water being

1 discharged out of their quarry operation that  
2 is a realistic number, that is monitored by a  
3 test device in the pipe that's being pumped  
4 out. Instead of what we have in Clarendon is  
5 an hour gauge, and the velocity of the pump  
6 comes up with a magical gallons per minute or  
7 gallons per hour. They have a device that  
8 goes in the pipe. It's like a little paddle  
9 wheel, and it tells real life gallons being  
10 pumped out of that.

11 In the springtime, like now, except  
12 for this year, it's a big concern. They pump  
13 more water than what they -- actually  
14 disclose. But in the summertime, we have the  
15 opposite thing, that we need water pumped into  
16 the creek because they've actually tapped into  
17 the aquifer to the north. So if they don't  
18 pump into that northern ditch system, it goes  
19 away. People walk right around the bottom of  
20 it.

21 So that's one thing I would like to  
22 see, if they happen to move ahead on this,  
23 which I'm totally against in this area, that  
24 they have a physical hard device that monitors  
25 the amount of gallons per hour out of that

1 facility. And the discharge creek needs to be  
2 big enough to handle the amount of water  
3 that's being discharged to the south.

4 That's it. That's what I see from  
5 our little Town of Clarendon. I feel sorry  
6 for all of you, you have to go through this.  
7 It's a great little Town of Shelby. It's a  
8 great preserve, but if you all stick together  
9 and talk to your Town board members, they  
10 still have to rezone the property. Thank you.

11 JUDGE BASSINSON: Thank you very  
12 much. Russell Cree?

13 RUSSELL CREE: Thank you,  
14 Your Honor. Russell Cree, C-R-E-E,  
15 11660 Fletcher Chapel Road.

16 First of all, Your Honor, I'd like  
17 to thank the Medina School system and Mr. Evoy  
18 for letting us use this facility. That's your  
19 entrance there and back there, in case of an  
20 emergency. And why -- why I say that, I do  
21 have a preference why.

22 I live on Fletcher Chapel Road. I'm  
23 there. I know a lot of people have questions  
24 of what happens when there's a blast. I'm  
25 there. I can look right out my window and I

1 can see where that stone quarry's not going to  
2 be. Do you know why? Because I have trust in  
3 the DEC. And why do I have trust in the DEC?  
4 Because District 10 for the water system, and  
5 it's been said before, in regards they  
6 couldn't put a little ditch in there. A  
7 little ditch is not very big. A stone quarry  
8 is very, very deep.

9 I'm not the most intelligent  
10 individual, but common sense goes a long way.  
11 If you're up here and you put a hole down  
12 here, water is going to go downhill. And the  
13 thing of it is, that when you go out in the  
14 springtime and you see people going up and  
15 down the road, they're there to see the  
16 animals. And if there is a stone quarry  
17 there, which there will not be a stone quarry  
18 there, they won't want to see that.

19 People come in the from the city to  
20 the country. Why do people come to the  
21 country? Because there's less noise, it's  
22 peaceful. Look at all these good hard working  
23 people here. These are my neighbors. I love  
24 my neighbors. No one is a victim of this.

25 I know I am a pretty big man, and I

1 almost feel like I'm being bullied. Why am I  
2 being bulled? Because I'm just one person.  
3 But I'm not really one person, because I have  
4 my neighbors here backing me up.

5 You know, we don't care about the  
6 money. There is no -- there is no jobs there.  
7 It's not beneficial. I stand corrected.  
8 There are a few jobs there, but what does it  
9 really matter to Orleans County? When you  
10 stop and you think about the damage that this  
11 could have. And the DEC, you know what, I  
12 love the DEC. And why do I love the DEC?  
13 Because they protect the animals.

14 And sir, I'm not telling you how to  
15 do your job, but it's simple. N-O is no. Do  
16 not give them that permit. And if you do,  
17 sir, you will have to live with yourself. You  
18 at night will have to think about what you did  
19 for what? For why? You're there to protect  
20 the animals. You're there to protect, bottom  
21 line.

22 These poor animals, I'm not going to  
23 list them. You know them. I know them. I go  
24 through, I'm retired, I go through pickup  
25 things on the Job Corp and everything, and I'm

1 happy to do that. Why? Because I care. And  
2 that's why the simple people of Shelby are  
3 here tonight. Why? Because they care. I  
4 care.

5                   And let me tell you of why I was  
6 thinking about those exit signs? Because when  
7 they drilled, and they had a little blast.  
8 And when I say a little blast, the house  
9 shook. I knew at that specific time that they  
10 were going to have it. And I'll tell you  
11 right now, if that took place right now,  
12 everybody would be going towards the exit  
13 because they would think we're having an  
14 earthquake. And it just saddens my heart.  
15 They don't care. No one came to my house and  
16 said, hey, did that affect you? Did they  
17 come? I have a well. Turn the water on. Now  
18 I have sulfur water. So is it going to affect  
19 us? Yes. It already has affected me. Feel  
20 free to come test my water any time. I'm  
21 there. You're more than welcome.

22                   The Mahars, you're more than welcome  
23 to come to Orleans County and live. Be my  
24 neighbors. Put a house up there. That is  
25 agriculture land, residential, and you know

1           what? Let's keep it that way. Thank you.

2                       JUDGE BASSINSON: Thank you.

3           William Keppler?

4                       WILLIAM KEPPLER: Thank you,

5           Your Honor, for this opportunity to speak.

6           I'm going to be somewhat redundant because at

7           the last meeting Dr. Francis Demoine was here,

8           and he spoke about his work around the world.

9           He is a Ph.D. in development of countries that

10          were very poor. And he spoke at length about

11          how these countries that were very poor, and

12          in many instances the only thing they had to

13          export was aggregate crushed stone. And he

14          spoke of how we could import the crushed stone

15          with the same price we can mine it. And I

16          don't know if you're aware of that comment

17          that was made at the last meeting, but I

18          haven't heard anybody say that. So I thought

19          I should come up here and say it.

20                       But I do live in Shelby, and I think

21          there may be a better place to put the mine.

22          Thank you.

23                       JUDGE BASSINSON: Thank you very

24          much. Debbie White.

25                       DEBBIE WHITE: Good evening. My

1 name's Debbie White, I live at 11066 Dunlap  
2 Road.

3 We have been in a fight to protect  
4 the Iroquois National Wildlife Refuge, our  
5 homes, and our town and county for ten years  
6 now. We have pursued this endeavor for all  
7 these years to prevent the disastrous effect a  
8 quarry on the northern border of the Iroquois  
9 National Wildlife Refuge would have.

10 There are numerous reasons why this  
11 proposed quarry should not be permitted by the  
12 DEC. The negative impact on the quality of  
13 well water is one.

14 Two, the preservation of the habitat  
15 of threatened and endangered species such as  
16 the Short-Eared Owl, Eagles, Upland Sandpiper,  
17 et cetera.

18 Three, the Flyway Zone for migrating  
19 birds.

20 Four, the contamination of  
21 tributaries of the Oak Orchard Creek and Oak  
22 Orchard Watershed.

23 Five, the air quality from dust  
24 contamination and the noise pollution blasting  
25 and heavy truck traffic through the refuge and



1 bordering areas.

2 And six, any unknown negative  
3 impacts to the wildlife and people living in  
4 this area.

5 If the DEC has already restricted  
6 the town and county from proceeding with water  
7 line installation and road repairs in the same  
8 area because of the proven presence of  
9 Short-Eared Owls and Upland Sandpipers during  
10 a majority of the year, why would they approve  
11 a quarry operation?

12 To the citizens of Shelby and the  
13 people who come to the refuge to observe the  
14 wildlife and enjoy the peace and serenity it  
15 offers, this is a no-brainer. As well as it  
16 should be to the DEC, the protector of our  
17 environment and its inhabitants.

18 So as not to overlook another  
19 important factor, we mentioned the developing  
20 STAMP project, not far down the road in the  
21 Town of Alabama. This is an economic boost  
22 for this area, bringing in endless opportunity  
23 for the entire GLOW region and beyond. Why  
24 would we jeopardize this chance to allow a  
25 quarry we don't need or want? Furthermore,

1       because of the sensitive nature of the  
2       business park, nanotechnology, blasting at the  
3       quarry would be detrimental to these  
4       businesses. Yes, we know they've done blast  
5       testing and seismically graphed the results,  
6       but what they didn't tell you is that the  
7       tests were done with considerably less  
8       blasting power than normally would be used in  
9       a quarry operation.

10                It is with all these thoughts in  
11       mind that we request that you do not permit  
12       Frontier Stone or anyone else to operate a  
13       quarry anywhere near the Iroquois Wildlife  
14       Refuge or anywhere else that it would  
15       negatively impact our environment.

16                Thank you for your time and  
17       consideration in this matter. I would also  
18       like to submit a comment from a friend who  
19       couldn't make it this evening. So I will turn  
20       that in.

21                JUDGE BASSINSON: That's fine.

22       Thank you.

23                DEBBIE WHITE: Thank you.

24                JUDGE BASSINSON: Brian McCarty?

25                BRIAN McCARTY: Good evening, I am

1 Brian McCarty, that's spelled M-C-C-A-R-T-Y.  
2 I am a proud resident of the Town of Shelby,  
3 the County of Orleans, or some people say  
4 Orleans County, neighbor to Genesee County and  
5 Niagara County. I am in total opposition of  
6 this quarry. Excuse me, I get a little  
7 passionate about this.

8 Give you a little of my background.  
9 Boy Scouts, 4-H, United States Air Force  
10 Reserve, 22-year veteran. My whole life is  
11 about being a steward of the land, the people.  
12 I take it personal to protect the land, the  
13 people, our country on a number of levels.  
14 All today as I was working on my land, I  
15 attempted to come up with another way of  
16 presenting this information.

17 Being a graduate of the Roy Rogers  
18 School of Ethics, I came up with this analogy:  
19 The gentlemen over there, who I refer to as  
20 the Mahar Gang, bullied their way into the  
21 Town of Shelby. And for those who aren't  
22 aware of it, if they don't get the permit from  
23 the DEC, they have threatened -- threatened,  
24 and it's documented, it isn't just what I'm  
25 saying -- it's in black and white, that they

1 will sue the Town of Shelby to the point of  
2 bankruptcy. Does that sound like a very good  
3 neighbor to you? I say not.

4 So they rode in here. At one time  
5 it would have been a band of thugs, later it  
6 would progress to the Al Capone type with  
7 their accordion cases, violin cases, whatever.  
8 Now they stroll in with their laptops.

9 And then we have the lady with the  
10 white hat, the head of our Citizens For the  
11 Preservation of Shelby, who says, oh, no,  
12 you're not going to do this, not here. Two  
13 different ways to spell no. To the Mahar  
14 Gang, we say it's spelled N-O. In the old  
15 days, although I'm not in favor of vigilante  
16 groups, but they won't be setting up shop  
17 here. And I say today, in a modern sense, we  
18 to have laptops, we know how to use them, and  
19 this is going to light a fire. If the DEC  
20 isn't going to stop them, as they are the  
21 steward of our environment, which you are well  
22 aware, but someone there -- because you've had  
23 this before. Ten years, and they think they  
24 are going to wear us down. I say to you  
25 gentlemen, ladies, whoever else is pushing

1 your agenda, it's not going to happen. We  
2 spell no here N-O. No to the quarry in  
3 Orleans County, the Town of Shelby, the State  
4 of New York, on the border of the Iroquois  
5 Wildlife Refuge. It's all wrong. I thank  
6 you, sir.

7 JUDGE BASSINSON: Thank you.  
8 Celeste Morien?

9 CELESTE MORIEN: Good evening. My  
10 name is Celeste Morien, M-O-R-I-E-N. I live  
11 at 12534 Hemlock Ridge Road, Medina. We've  
12 lived at that address for 29 years. Raised  
13 our children in the Town of Shelby, and we  
14 have well water. There is no water line on  
15 our road, and we're very concerned as a  
16 resident. Plus, my husband and I are both  
17 concerned of our well safety.

18 And we are also concerned with the  
19 truck noise and dust that will be produced if  
20 this quarry were to proceed.

21 I'm a member of the Friends of  
22 Iroquois. I am a long-time volunteer at the  
23 refuge. I also volunteer for the Audubon  
24 Society through the Iroquois Observations  
25 Program. I'm also a Buffalo owner of the

1 Ornithological Society member, and with those  
2 three groups, I bring field trips of bird  
3 watchers through the refuge, and we frequently  
4 stop at Forrestal Flats. Forrestal Flats is  
5 the grassland bird area that is seen by  
6 overlooking from Oak Orchard Ridge Road  
7 towards the quarry proposed site.

8           If the truck traffic were to be --  
9 were to -- if the quarry goes in, the truck  
10 traffic there would prevent any field trips  
11 from safely showing visitors to the refuge,  
12 the grazing birds that do reside there. I  
13 participate in the Purple Martin Colony  
14 Project, which a great deal of is at the Job  
15 Corp.

16           And the Job Corp site would be  
17 severely disrupted because of blasting. And  
18 even though Purple Martins are not an  
19 endangered species, they have declined by 39  
20 to 40 percent in New York State since the last  
21 Breeding Bird Atlas survey mentioned in 1985.  
22 So we'd certainly like to make sure that our  
23 Purple Martin colony site is as effective as  
24 it has been in the past. And I think that the  
25 blasting noises would have a negative effect

1 on our project.

2 I'm also a volunteer for the DEC for  
3 the Winter Raptor Study, which takes place on  
4 Posson Road and in several other sites north  
5 of the refuge, including the Forrestal Flats.  
6 And I would hope that the work that we've been  
7 doing all these years studying these outlines  
8 would make a difference in determining that  
9 this quarry is inappropriate in that location.

10 I didn't learn about the meeting  
11 until this afternoon, and I would like to  
12 request that there be more time given for  
13 written comments, although I have submitted my  
14 written comments in the past. I strongly  
15 object to the quarry because of the reasons  
16 that I've stated, and hope that it will not be  
17 approved. Thank you.

18 JUDGE BASSINSON: Thank you.

19 Jay Kaplewicz?

20 JAY KAAPLEWICZ: Hi, my name is  
21 Jay Kaplewicz, residing at 4362 Shelby Basin  
22 Road in Medina, New York, 14103, and  
23 owner/operator of JayBee's Apiary and Honey  
24 Farm, also at 4362 Basin Road, Medina,  
25 New York, 14103.

1                   I oppose the approval and  
2                   construction of the proposed stone quarry by  
3                   Frontier Stone, LLC, on Fletcher Chapel Road.  
4                   I oppose this project for many reasons,  
5                   including but not limited to the following:

6                   The DEIS appears to be insufficient  
7                   in its assessment of the true scope and  
8                   standing of the potential environmental impact  
9                   this project may have. The potential risk --  
10                  the potential risk to sensitive species in the  
11                  surrounding area such as the Upland Sandpiper,  
12                  the Short-Eared Owl, and the Bald Eagles.

13                  Three, the inevitable increase in  
14                  nonpoint-source pollution into the national  
15                  wildlife refuge and the surrounding watershed  
16                  due to significant increases in diesel vehicle  
17                  traffic. Of greatest concern is the diesel  
18                  exhaust nanoparticle neurotoxicity, which has  
19                  been documented to have a detrimental effect  
20                  on honeybee navigation and behavior. And its  
21                  risks to other native pollinators and what the  
22                  risk of these nanoparticle neurotoxicity to  
23                  other native pollinators and wildlife is not  
24                  well understood.

25                  Four, the project would be a further



1       detriment to the continually shrinking  
2       pollinated habitat and foraging within this  
3       area. Governor Cuomo has recently established  
4       the New York State Pollinated Protection Task  
5       Force with the intent of increasing the  
6       pollinated habitat and foraging in New York  
7       State.

8                   JUDGE BASSINSON: I'm sorry, are you  
9       saying pollinator?

10                   A SPEAKER: Pollinator, yes. The  
11       proposed project would work directly against  
12       the efforts of this task force.

13                   Being a beekeeper and an owner of a  
14       new and growing honey production company in  
15       its third year of growth and operation, and  
16       given that the proposed quarry is within the  
17       three to four mile foraging range of my  
18       honeybees, this project will directly affect  
19       the amount of honeybee forage available to my  
20       bees, and therefore directly affect the bottom  
21       line of my small business, which my goal is to  
22       grow my business which can provide me with  
23       full-time employment and a livelihood some  
24       day.

25                   And five, the project will directly

1 affect my enjoyment of bird watching, hiking,  
2 and kayaking in the Iroquois National Wildlife  
3 Refuge.

4           Given the many reasons that so many  
5 people have for opposing this project, please  
6 do not hold the potential profit of a small  
7 group of people above the values and concerns  
8 of so many. Thank you.

9           JUDGE BASSINSON: Thank you.  
10 Lorraine Davis?

11           LORRAINE DAVIS: Good evening,  
12 Your Honor. My name is Lorraine Davis,  
13 D-A-V-I-S. I live at 4775 Bigford Road in  
14 Medina, in the Town of Shelby. And I would  
15 like to express my concern for the process of  
16 allowing -- excuse me a moment.

17           I am opposed to the Shelby -- to the  
18 stone quarry being proposed in our area. It  
19 just seems to me that you've heard large and  
20 small issues about why this would be a  
21 detriment to our community. So I won't  
22 reunite all those issues right now.

23           But we live in a farming community,  
24 and why I located my husband and my home there  
25 is because of the air quality, because I have

1 an illness that requires clean air. And I  
2 live less than three miles from the proposed  
3 site. And regardless of how it's placed on  
4 paper, this will impact the air quality, and  
5 my quality of life. It isn't just my quality  
6 of life, it's all these folks here, all my  
7 neighbors and friends. It's going to impact  
8 us all, and all in a negative way.

9 I can't see anything positive about  
10 this site. This isn't the only site. As  
11 someone has stated, there's 200 miles of this  
12 stone that could be quarried. Why on earth  
13 after ten years and hearing from all of us  
14 that this will negatively impact our  
15 community, why are they not looking somewhere  
16 else besides next door to the treasure that we  
17 have with the national wildlife reserve?

18 In addition to the fact that we  
19 would be forced to rezone our community for  
20 that type of business. There are many  
21 businesses in this area, and I have yet to  
22 hear one positive thing about this stone  
23 quarry.

24 Large impacts or small, they are all  
25 impacts, and this is our environment. And I

1 ask you, sir, please protect our environment  
2 and say no to this quarry. Thank you.

3 JUDGE BASSINSON: Thank you. March  
4 Marguerite Sherman.

5 MARGUERITE SHERMAN: My name is  
6 Marguerite Sherman, S-H-E-R-M-A-N. I live at  
7 917 Gwinn Street in the Village of Medina. I  
8 am a Trustee for the Village of Medina, and I  
9 also grew up on Fletcher Chapel Road.

10 I am opposed to the stone quarry for  
11 several reasons, many of which have been  
12 spoken of already tonight. I am concerned  
13 about, first of all, the negative economic  
14 impact this could have on the Village of  
15 Medina and the surrounding towns. As was  
16 stated earlier, we have a STAMP project about  
17 to come in, hopefully, in the Town of Alabama.  
18 There are several businesses that will be  
19 brought here as a result of the STAMP project,  
20 if that goes through. I'm worried that the  
21 quarry will bring a negative impact to that,  
22 and it will hurt our economy as a hole.

23 Secondly, I'm concerned about the  
24 adverse effects on our beautiful wildlife  
25 refuge, not to mention the endangered species

1 that reside there, like the Short-Eared Owl.

2 Then I am also, number three, I am  
3 concerned about the negative effect on the  
4 residents who live near the site. So it is  
5 here that I want to offer an emotional appeal  
6 to you, which is kind of -- it's not what  
7 everyone has done tonight, but I'm concerned  
8 about the quality of life that the residents  
9 here deserve. I grew up on Fletcher Chapel,  
10 one of six children. About 500 feet from the  
11 backyard of my parents' house is where the  
12 stone quarry is going to go. Our Sunday  
13 afternoon family treat was to go to the  
14 wildlife refuge to watch the geese. We would  
15 sit at the overlooks, and we would sit there  
16 and watch the geese. And then we would get to  
17 go to Oakfield for a 25 cent ice cream. It  
18 may not seem like much to many, but it  
19 certainly was to a family of six children who  
20 could not afford to live lavishly. We learned  
21 to appreciate nature. We learned to  
22 appreciate our family from living on Fletcher  
23 Chapel Road near the wildlife refuge.

24 Your Honor, my parents are sitting  
25 right here. Will you wave, please, mom and

1       dad? They are 82 and 86-years-old. They  
2       reside in the same family home that I grew up  
3       in and learned to appreciate. They're older  
4       and they have -- they enjoy returning to the  
5       -- to watching the wildlife. They have bird  
6       feeders. They have birdhouses. This is what  
7       they do. They sit in their home and they  
8       watch this wildlife and they get joy out of  
9       it. Not because they can't afford to get out  
10      anymore like we couldn't as much when I was a  
11      child, but because they're elderly. This is  
12      their life. If this stone quarry should come  
13      in, my parents won't be able to enjoy that  
14      anymore, nor will other families who are  
15      growing up in the area. And I ask that you  
16      please remember my parents' faces when you go  
17      to your committee and you have to decide  
18      whether or not to approve a stone quarry that  
19      only satisfies the greed of a farmer who is  
20      willing to sell his land, and the Frontier  
21      Stone executives whose only aim is to make  
22      money from it.

23                   Finally, I would like to say as a  
24      Trustee of the Village of Medina, we look  
25      closely at businesses who want to enter our

1 village. We look at the impact that they will  
2 have on our economy, but we also take into  
3 account how it will affect our residents and  
4 the taxpayers. They are our people.

5 We recently had a business come into  
6 our village and some of the residents brought  
7 their concerns to our planning board. It was  
8 here that the business owners stood up, went  
9 face-to-face with these homeowners, and  
10 reassured them that it would not affect their  
11 quality of life, because they were going to  
12 make sure that they had barriers of the trees  
13 and they wouldn't hear as much of the truck  
14 traffic. I witnessed it. I was there.

15 I don't think there's much that  
16 these people can say about constant blasting,  
17 chasing wildlife away from our precious  
18 refuge, and leaving a hole in the ground only  
19 to create six jobs. Thank you.

20 JUDGE BASSINSON: Thank you.  
21 Melinda Stahl, I believe.

22 MELINDA STAHL: Melinda Stahl,  
23 S-T-A-H-L, 5406 Saltworks Road. It's  
24 Middleport mailing address, but I do reside in  
25 the County of Orleans.

1           I really don't have anything new to  
2           say to you that hasn't already been addressed.  
3           But I would like to address everybody else and  
4           say, you know, our Town Board definitely  
5           doesn't sound like they're too enthused, and I  
6           stand behind that. I am not as well. But  
7           this is a decision that's going to be made by  
8           the State organization.

9           Has anybody tried to reach State  
10          elected officials to get comment on this? I'm  
11          sure it's been stated, Governor Cuomo and the  
12          STAMP plant, they're very much behind this.  
13          And not for nothing, but we see things going  
14          on in the midwest with the state parks,  
15          eminent domain, farmers that have worked  
16          public land for years and years, and we see  
17          this kind of issues. And when -- and when we  
18          try to handle it within ourselves, within the  
19          community, we can only get so far. This is  
20          really a State issue. It's not just West  
21          Shelby and Shelby Center and our little  
22          corner. This is going to affect an entire  
23          state of people.

24                 We only have so many wildlife  
25          refuges and parks in all of New York State.



1       And I would dare say that this refuge is  
2       unique, even amongst the ones that we have  
3       here in New York. And I think we heard a  
4       couple people here, you know, from  
5       conservation and things, but this needs to go  
6       further than just our little Town.

7                 We really need to start writing and  
8       sending some letters into the news. We really  
9       need to get the message out a whole lot  
10      further than just here. And we know we have a  
11      limit to the 15th to do it, and there's no  
12      faster way to do it than to get it in the  
13      news, get it to the State officials, the  
14      people that have a little bit more, I don't  
15      want to say influence over what our Town does,  
16      but it really needs to go broader than that.  
17      Broader. Broader.

18                You know, we did have a few people  
19      here that were quite a ways out of Town, so  
20      it's not just us that are affected. I live  
21      right there. I see every summer the busses  
22      come from inner cities, from the inner city,  
23      come out for those kids that have never seen  
24      wildlife like that. They have no idea what a  
25      marsh is. This affects all those

1 underprivileged kids in Buffalo. But does not  
2 anybody in Buffalo know about our plight? Has  
3 it been on the news? Has it been put out  
4 there as to how far this really reaches?

5 I really think we've all made a good  
6 statement, all made good points here tonight,  
7 and we've repeated it very loudly. Very  
8 loudly, and many times over, but our little  
9 voices are not carrying far enough. We need a  
10 bigger trumpet blowing. That's all I have to  
11 say. Thank you.

12 JUDGE BASSINSON: Thank you. Any  
13 more cards? Okay. We will go off the record  
14 for ten minutes in case some other people show  
15 up.

16 (Off the record.)

17 JUDGE BASSINSON: Okay. We're going  
18 to go back on the record at this moment. No  
19 one else has signed a card to speak this  
20 evening, so I'm going to close the hearing  
21 today.

22 I do want to remind you that written  
23 comments can still be submitted through  
24 March 15th. They can be submitted by mail to  
25 the address that's listed in the Environmental

1 Bulletin Notice, copies of which, I believe,  
2 are still out at the table. Or to me directly  
3 at the following E-mail address, Scott, with  
4 two Ts, dot, Bassinson, B-A-S-S-I-N-S-O-N, at  
5 D-E-C at NY, dot, GOV.

6 Thank you very much for  
7 participating tonight. I appreciate it.

8 (The proceeding concluded at.  
9 a time of 8:37 p.m.)

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1 STATE OF NEW YORK)

2 ss:

3 COUNTY OF GENESEE)

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6 I DO HEREBY CERTIFY as a Notary Public  
7 in and for the State of New York, that I did  
8 attend and report the foregoing proceeding,  
9 which was taken down by me in a verbatim  
10 manner by means of machine shorthand.

11 Further, that the proceeding was then  
12 reduced to writing in my presence and under my  
13 direction. That the proceeding was taken to  
14 be used in the foregoing entitled action.

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19 -----  
20 SUSAN M. RYCKMAN, C.P.,  
21 Notary Public.

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|  |   |   |   |  |   |
|--|---|---|---|--|---|
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