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PUBLIC HEARING
RE: 360 SOLID WASTE MANAGEMENT PERMIT
FOR LEO DICKSON AND SONS

Held On: August 6, 2012

Held At: Bath-Haverling High School
Bath, New York

Before: P. NICHOLAS GARLICK
Administrative Law Judge
CHRISTINE FERGUSON
Shorthand Reporter

Appearances:
KIMBERLY MERCHANT, Deputy Regional Permit
Administrator Division of
Environmental Permits, Region 8
ALAN J. KNAUF, ESQ., Attorney for Leo Dickson

1 ALJ: Good evening. My name is Nick
2 Garlick. I'm an administrative law judge
3 for the New York State Department of
4 Environmental Conservation. I want to
5 thank you all for coming out today. I have
6 been told someone has turned on the air
7 conditioning but I don't feel it yet.

8 We're here to receive and accept
9 public comments on the application of Leo
10 Dickson & Sons, Incorporated. The
11 applicant has applied for a modification to
12 the existing land application permit to add
13 the land application of non-recognizable
14 food waste operations to the Part 360
15 permit. All of this will be explained at
16 length in Ms. Merchant's remarks.

17 Ms. Merchant will speak next, she's a
18 member of DEC staff and will have some
19 opening remarks. She'll be followed by the
20 applicant's attorney, Mr. Alan Knauf, and
21 after that I will call members of the
22 audience in the order we received the
23 cards. I think I have 14 cards.

24 I will give you very quickly, I'll

1 quickly go through some notes here. The
2 proceedings are being recording
3 stenographically tonight, so when you get
4 up here and you speak, please speak slowly
5 and don't rush, and if the stenographer
6 can't understand what you're saying, she
7 can't record it properly. So, she may stop
8 you, ask you to repeat something, or if
9 you're using technical terms, ask you to
10 speak more slowly.

11 This is not a -- very quickly, this
12 is not a question-and-answer session, this
13 is a public statement session. However,
14 members of the DEC staff are here and will
15 be introduced in a minute, and they will be
16 available at a break we take to answer any
17 questions you might have about the process
18 that we're in right now. We also spoke to
19 the applicant, he has members of his team
20 here, and at the break you can speak to
21 them as well, ask any questions.

22 One final thing, written comments on
23 this application will be accepted until the
24 close of business, August 16, 2012. Equal

1 weight will be given to written and oral
2 comments, so I'm not going to time people
3 per se here, but I might give you a
4 friendly reminder after four minutes if you
5 could wrap up. Anything that's lengthy or
6 detailed, you can put in writing and that
7 will receive equal weight.

8 So without any further ado, I'm going
9 to ask Kimberly Merchant from DEC staff to
10 give an introduction here.

11 MS. MERCHANT: Thank you, Your Honor,
12 for presiding over tonight's hearing. Good
13 evening, and thank you for attending
14 tonight's hearing concerning the Leo
15 Dickson & Sons Part 360 solid waste
16 management facility permit.

17 My name is Kimberly Merchant, I'm a
18 deputy regional permit administrator with
19 the Division of Environmental Permits of
20 the New York State Department of
21 Environmental Conservation or DEC. I am
22 the permit manager for review of this
23 proposal pursuant to the State
24 Environmental Quality Review Act, or SEQRA,

1 and I am responsible for coordinating the
2 review of the application and supporting
3 materials among department staff, the
4 public, local governments and various state
5 and federal agencies.

6 Tonight I will introduce staff and
7 then provide a brief project description of
8 the department's jurisdictions, the
9 existing facility and the proposed permit
10 modifications.

11 First I will introduce department
12 staff: Lisa Schwartz is our senior
13 attorney with the Office of General
14 Counsel. If you guys could stand up and
15 wave. Scott Sheeley is a regional permit
16 administrator for the Division of
17 Environmental Permits. Scott Foti is our
18 regional division of materials management
19 engineer. Gary Maslanka is an
20 environmental engineer with the Division of
21 Materials Management. Mary Binder and Matt
22 Griffiths and Alec Moses are all
23 environmental analysts and they're out
24 front at the table helping take the cards.

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Nancy Rice, environmental engineer,
Division of Water, is also here.

We have Lieutenant Peter Barton with
us tonight and Environmental Conservation
Officer Dave Hulett, Steve Farrand and Ed
Stull. All staff present tonight for DEC
are out of the Avon office.

The department has legal jurisdiction
over the project under SEQR and also under
New York State Environmental Conservation
Law Article 27, Title 7, and the
regulations at 6 NYCRR Part 360, which
together govern solid waste management in
New York State.

The permittee and applicant, Leo
Dickson & Sons, Inc. operates in the towns
of Bath, Cameron and Thurston. The
department currently regulates Leo Dickson
& Sons, Inc. under three different
regulatory mechanisms.

One, Leo Dickson & Sons is regulated
under an existing Part 360 permit to land
apply stabilized sludges, or biosolids,
generated at various municipal wastewater

1 treatment plants on a set of permitted
2 fields.

3 Two, the applicant is regulated under
4 Part 360 registration to spread
5 non-recognizable food wastes on a separate
6 set of fields.

7 Three, the applicant is regulated as
8 a concentrated animal feeding operation, or
9 CAFO, and is authorized under the State
10 Pollutant Discharge Elimination Systems, or
11 SPDES, CAFO general permit to manage manure
12 and other process wastewaters associated
13 with the agricultural operation for manure.

14 For the most part, the same fields
15 are used for spreading manure that are used
16 for biosolids and food wastes. Therefore,
17 nutrient loadings must be tracked and
18 summed for all waste streams.

19 In 2009 the applicant applied for a
20 modification to the existing land
21 application permit to add the land
22 application of non-recognizable food waste
23 operations to the Part 360 permitted
24 fields. The department felt that in order

1 to approve this, we would need to combine
2 the biosolids and non-recognizable food
3 waste land application operations under a
4 single 360 permit.

5 This means that the department would
6 regulate the land application of
7 non-recognizable food wastes under a more
8 stringent Part 360 permit and the
9 registration would no longer be needed. As
10 a result, all fields would be covered by
11 the single Part 360 permit and the
12 applicant would be allowed to land apply
13 both biosolids and non-recognizable food
14 wastes on what are now the registered and
15 permitted fields.

16 In summary, the permit modification
17 would regulate the facility under two
18 regulatory mechanisms; instead of three,
19 the mechanisms would be the 360 Permit and
20 the CAFO permit.

21 DEC staff determined that the
22 application was complete and adequate for
23 public review in February 2011. The action
24 was a Type I action under SEQR, and

1 although the DEC assumed the role of lead
2 agency, there were no other involved
3 agencies.

4 We received significant public
5 interest and therefore made a decision to
6 hold a legislative hearing on January 19,
7 2012. Some changes to the application, and
8 subsequently to the draft permit, were
9 made. For example, the new draft permit
10 includes the addition of five new
11 biosolids.

12 The notice of hearing, which was
13 issued on July 9, 2012, includes these
14 proposed changes. There is also a permit
15 application to add some additional
16 biosolids to the compost permit, which is a
17 separate 360 permit.

18 The releasable application documents
19 have been and will continue to be available
20 to the public at the Bath Town Hall and the
21 DEC Regional Office in Avon. Also,
22 selected documents are posted on the DEC
23 website. A draft permit has been prepared
24 as part of the review process and a limited

1 number of copies are available at the front
2 table where you came in tonight. The draft
3 permit is also available at our website,
4 www.dec.ny.gov/permits, or you can speak to
5 me or other DEC folks at the front table
6 and we can send you a copy.

7 Tonight's hearing was scheduled to
8 offer the public additional opportunity to
9 provide comments regarding the permit
10 application of materials and the draft
11 permit. As a tentative determination, the
12 department will consider all verbal and
13 written comments before we make a final
14 decision.

15 I recommend you provide very specific
16 comments because it is difficult for us to
17 respond to general comments. I also
18 recommend that you focus your comments on
19 the department's standards under Part 360
20 as they are the thresholds which we can
21 apply to this facility through our permit
22 process.

23 Once again, verbal comments made
24 tonight will be included in a transcript of

1 the hearing and will be given equal weight
2 with written comments. Written comments
3 must be received no later than the close of
4 business on August 16, 2012. There are
5 copies of the hearing notice at the front
6 table and on the ENB. This notice includes
7 the addresses where your comments must be
8 sent.

9 Thank you for you attention.

10 ALJ: Okay. Now, I'm going to ask
11 the applicant's attorney to speak for a few
12 minutes and then I'll call the cards.

13 MR. KNAUF: Thank you, Your Honor,
14 and Ladies and Gentlemen. My name is Alan
15 Knauf, I'm environmental counsel for Leo
16 Dickson & Sons. Representatives of the
17 company are here in the front row including
18 Phil Dickson, and I will be briefly
19 speaking about the permit application on
20 their behalf.

21 Dickson takes in biosolids, not a
22 liquid, but sludge in ^(cake?) K_x form, from
23 municipal treatment plants as well as food
24 wastes from local business including Kraft

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1 Foods and recycles them as either
2 fertilizer or compost.

3 So rather than being landfilled food
4 products, biproducts will be recycled as
5 fertilizer on the farm with Dickson -- in
6 compliance with Dickson's nutrient
7 management plan. That minimizes the use of
8 chemical fertilizers.

9 Right now they're taking biosolids
10 and using them to be composted either as
11 animal bedding or as a high-quality compost
12 that is marketed. This also results in
13 positive economic impact; they employ 75
14 people and work with local vendors.

15 Currently Dickson is properly
16 permitted by the DEC. They have a CAFO
17 general permit, they have a Part 360 land
18 spreading permit for the biosolids. The
19 Part 360 registration for food wastes,
20 which is all that is required, and they
21 also have a composting permit under Part
22 360.

23 DEC and Dicksons have been working
24 together to ensure that its operations

1 comply with environmental standards. We're
2 not here tonight saying that Dickson is
3 proposing any significant change to its
4 operations. While they're constantly
5 trying to improve their operations, we will
6 continue to basically spread the same
7 materials on the same fields.

8 This application has nothing to do
9 with fracking. There was talk about
10 fracking. No waste from fracking
11 operations have ever been spread or come to
12 the Dickson facility for disposal and no
13 fracking waste will be allowed under this
14 permit.

15 And this is not a landfill. We're
16 trying to keep material out of the landfill
17 and trying to basically recycle materials,
18 organic waste, to be re-used in an
19 environmentally-friendly way.

20 The DEC has requested that the scope
21 of the Part 360 permit be expanded, as Ms.
22 Merchant explained, in order to make it
23 easier to administer and understand the
24 permit both for DEC and the applicant.

1 Again, no registration was required for the
2 food waste, but DEC has requested, and
3 Dicksons is voluntarily complying with the
4 request, to add the food waste to the
5 permit. This is going to result in more
6 stringent requirements including the
7 requirement to incorporate the food wastes
8 into the soil to minimize runoff and to try
9 to mitigate odors.

10 DEC has proposed 79 permit
11 conditions, specifications on what waste
12 can be spread on which fields and where we
13 can spread and where we can't spread it.
14 Dickson has been working with agricultural
15 engineers, consultants and the DEC and is
16 confident that the operations under the
17 proposed permit will comply with all
18 regulatory requirements and protect the
19 environment.

20 And we want to thank DEC for working
21 with us for quite a while to come up with
22 this permit. They have gone the extra mile
23 to go beyond the regulatory requirements to
24 try to protect the environment, so they are

1 requesting these permits that are not
2 required under the regulations. They also
3 have put the permits in a very organized
4 format so it's there easy to administer to
5 know which fields are the proper fields for
6 spreading what materials. And they gave us
7 some good ideas and insight that have
8 helped us to improve the facilities so that
9 we can all work towards our goal of
10 improving environmental quality.

11 Dickson has gone to some great
12 expense; they've hired lawyer, consultants,
13 engineers to make sure their operations
14 will comply with environmental requirements
15 and mitigating environmental impacts.
16 They've first equipped and made operational
17 changes, their agricultural consultants
18 have developed nutrient management plans;
19 they use computer programs to plan out what
20 crops to grow on which fields, what
21 fertilizers to use and they test incoming
22 materials and then the farm fields to be
23 sure things are going as planned.

24 Dickson is conducting a green

1 operation. They're recycling organic waste
2 that we have to deal with in our society
3 and rather than go to a landfill and using
4 it to replace a chemical fertilizers. They
5 want to protect the environment.

6 We know this is not a
7 question-and-answer period, but if in the
8 future you do have any questions, you can
9 either -- regarding the permit, you can
10 either direct them to me or to Phil Dickson
11 either in writing, e-mail or phone or on
12 the break and we'll give you contact
13 information and try to get you a response.

14 So in summary, Dickson is ready,
15 willing, and able to accept and comply with
16 the permit that the DEC -- the draft permit
17 the DEC has proposed, and is confident it
18 will work to ensure environmental quality
19 on the facility. Thank you very much.

20 ALJ: We only have one microphone, so
21 I'm going to be getting up and down.

22 The first person I'd like to call is
23 Wayne Wells and after Mr. Wells, Helen
24 Stephen will speak.

1st
Speaker
↓

1 MR. WELLS: Hello.

2 ALJ: You might have to get close.

3 MR. WELLS: Can everybody hear me?

4 ALJ: Yep.

5 MR. WELLS: Good evening, Ladies and
6 Gentlemen. My name is Wayne Wells, a
7 resident of Cameron, and before I begin my
8 comments, I would like to thank and welcome
9 Judge Garlick on behalf of the Cameron
10 Committee For a Safe Environment, hoping he
11 is compensated for his long journey to
12 preside over this area by the beauty of the
13 environment that so many of us are trying
14 so hard to preserve. Welcome, sir.

15 ALJ: Thank you.

16 MR. WELLS: Dickson Corporation has
17 been land applying sewage sludges since
18 1987 when our community in Cameron was
19 first assaulted by the foulest of odors
20 that necessitated the creation of the
21 Cameron Committee for a Safe Environment,
22 or CCSE.

23 Disturbing patterns of behavior have
24 remained constant through the 25 years of

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1 the Dickson operation and their DEC region
2 permitting agency. The Dickson Corporation
3 ignores DEC permit conditions and the DEC
4 ignores Dickson Corporation violations,
5 demonstrating an unwillingness to
6 effectively enforce permit conditions when
7 violations occur.

8 Over the past 25 -- over the past 25
9 years, we have documented such serious
10 violations as not following permit
11 requirements to reduce pathogens in sewage
12 sludges containing medical waste.

13 The 2010 pollution of a Mennonite
14 farmer's well was particularly illustrative
15 of the symbiotic relationship between the
16 Dicksons and the DEC. In that incident, a
17 conservation officer had been physically
18 pushed around by Phil Dickson, president of
19 the corporation. He paid a small fine for
20 spreading waste on the road.

21 DEC Region 8 then authorized the
22 construction of a sludge lagoon specified
23 at 1.2 million gallons. Dicksons
24 constructed a 5.4 million gallon sludge

1 lagoon. This went unchallenged by DEC
2 until the CCSE had documented serial
3 violations of the Dickson operations for
4 five years resulting in a consent order
5 permanently deactivating that lagoon. To
6 ensure compliance of future nonuse, a
7 bulldozed breach on the side of the lagoon
8 was mandated.

9 Last year the CCSE documented
10 modifications to the lagoon with repair to
11 the breached side of the lagoon and a dike
12 now dividing the lagoon in half, holding
13 liquids of unknown composition or purpose.

14 We have inquired of Region 8's Mr.
15 Scott Foti as to who authorized the lagoon
16 modifications and for what was the purpose.
17 Mr. Foti replied, quote, "The pond is not,
18 in my opinion, causing any environmental
19 concern at the site." End quote.

20 A quote from the consent order
21 explicitly prohibiting the use of the
22 lagoon under the section heading
23 "modifications" declares: Quote, "No
24 change in this order shall be made or

1 become effective except as specifically set
2 forth by the written order of the
3 commissioner."

4 Here the Dicksons are openly defying
5 a consent order decree by DEC, and Mr. Foti
6 of Region 8 is defending the Dickson
7 defiance of that consent order. A CCSE
8 FOIL request resulted in no documented
9 request by the Dicksons to reactivate the
10 lagoon, nor any DEC permission to do so.

11 The CCSE believes that the Dickson
12 violations should warrant permit revocation
13 and not just permit modification, let alone
14 expansion. CCSE supports efforts to use
15 the sludge lagoon and food wastes in a
16 beneficial way, but it must be done safely.
17 It is a dual travesty of the regulatory
18 process that the Dickson operation degrades
19 our communities by ignoring regulations
20 that -- by ignoring regulations and the DEC
21 abets this behavior by turning a blind eye
22 or meeting out token fines of disapproval
23 when pushed to do so.

24 Folks, we're having an epidemic of

1 government regulatory failure in this
2 country, if not the world. It has gotten
3 so pervasive that it has its own name,
4 regulatory capture. And I say regulatory
5 capture of the Dicksons Corporation of DEC
6 must end. Thank you very much.

7 ALJ: The next speaker Helen Stephen
8 followed by Timothy Hargrave.

9 MS. STEPHEN: My name is Helen
10 Stephen --

11 ALJ: Get closer to the mic.

12 MS. STEPHEN: -- and I have resided
13 in the Town of Thurston for the past 43
14 years. We, the town people of Thurston and
15 the surrounding communities, are concerned
16 for our health, safety and viability, as
17 people in regards to disposal of sludge and
18 other waste in our community.

19 We have spent a lifetime to establish
20 our homes so we could enjoy our retirement
21 and family. That's the pride of the
22 American dream. Friends and neighbors have
23 been forced out because of the sludge
24 operation. The area here has gotten so bad

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1 you can't open your window, hang your
2 laundry out, enjoy barbecue because the
3 odor is so obnoxious. We have no idea what
4 pathogens might be in the air and in the
5 streams.

6 Because of the obnoxious odors from
7 the Dickson sludge operation, my husband
8 and I felt our property value was over
9 assessed. So, on March 1, 2012, we went to
10 the grievance board and they took in
11 account the negative impact and unanimously
12 granted a 20 percent reduction rate on the
13 assessed value of our property dated May
14 29, 2012.

15 In my final statement, I would like
16 to say that landowner rights are being
17 taken away and our home values plummet.
18 What a price to pay to have a constant
19 assault on our quality of life while others
20 profit from our loss.

21 I hope you take my comments in
22 consideration as well as the other
23 concerned citizens here tonight when you
24 evaluate on whether or not a permit

1 modification or expansion should be
2 granted. Thank you.

3 ALJ: Next is Timothy Hargrave
4 followed by Lisa Hargrave.

5 MR. HARGRAVE: Good evening, folks. 22
6 I'll keep my comment kind of brief. Region
7 8's oversight of the Dickson Corp. is
8 rendered useless by false inaccurate data
9 found in the annual operating reports
10 submitted by Leo Dickson & Sons.

11 I have a few concerns. Concern
12 number one, the cumulative heavy metal
13 noting data that is directly tied to the
14 remaining side life of each particular
15 field and is used to determine when that
16 field is polluted to a point that it can no
17 longer be used for waste disposal.

18 For example, if you take Field A and
19 you apply three pounds of arsenic every
20 year for five years, you would then have 15
21 pounds of total cumulative loading for
22 arsenic. In other words, every year that
23 sludge is applied, every year sludge is
24 loaded on a Dickson field, the total

1 cumulative loading for each pollutant
2 should increase.

3 The reports submitted by the Dickson
4 Corp. do not reflect this simple logic. To
5 demonstrate, I'll use actual data from the
6 2001 through 2007 Dickson annual reports.
7 During this seven-year time frame --
8 seven-year time period, 27P was loaded with
9 1,910 tons of de-watered sludged and
10 284,000 gallons of liquid sludge.

11 However, the Dickson annual reports
12 show 0 increase in the cumulative loading
13 of Field 27P. So, in essence, this massive
14 amount of waste was never accounted for in
15 a total loading of this field. In fact,
16 2008, Field 27P mysteriously showed a large
17 decrease in cumulative loading. Cumulative
18 loading should never decrease.

19 That can be argued by the Dickson
20 Corp. or by Region 8 that this was simply
21 an honest math mistake, however the CCSE
22 has carefully reviewed the data in most of
23 Leo Dickson & Son's annual reports, and
24 although this data is certified accurate by

1 Phil Dickson and reviewed by Scott Foti of
2 Region 8, the 2001 through 2010 annual
3 reports are still plagued by false and/or
4 inaccurate data.

5 It's interesting and should be noted
6 that all of the math mistakes that we have
7 found are in the Dickson Corp. favor.

8 This is my current concern number
9 two, folks. 360 regulations clearly
10 prohibit pollutants to exceed certain
11 limits in sludge samples, and yet,
12 according to Dickson's 2006, 2007, and 2008
13 annual reports, 100 percent of the Village
14 of Addison's sludge samples exceeded DEC
15 limits for arsenic and/or mercury.

16 During this time period, eight other
17 town or villages exceeded DEC limits for
18 one or more pollutants in some of their
19 sludge samples. And all of this sludge,
20 including Addison's, was still land applied
21 by the Dickson Corp.

22 Concern number three, and my last
23 concern: Given the short time constraint
24 regarding the comment period, the CCSE was

1 still able to review the final amended
2 negative declaration. This document lists
3 27 -- excuse me, this document lists 25
4 fields as having very high phosphorus. The
5 CCSE feels compelled to question why Region
6 8 has allowed the Dickson Corp. to apply
7 waste at a rate that would result in very
8 high phosphorus.

9 High phosphorus levels are a very
10 good indicator that excessive wastes may
11 have been applied to these fields. And
12 Scotty Foti, who is Region 8's point man
13 for the Dickson oversight, should have
14 caught this build up years ago.

15 In fact, on December 1, 2010, the
16 CCSE sent Mr. Foti and the director of
17 Region 8 an e-mail alerting them to this
18 problem. This same e-mail also questioned
19 cadmium levels in some of Dickson's fields
20 exceeding DEC limits by 800 percent.

21 At that same time we also questioned
22 the unaccounted for waste applications on
23 Field 27P that was mentioned earlier.

24 The data I base my comments on span a

1 time frame of about 10 years. This is
2 necessary and pertinent to the proposed
3 modification because it gives a clear
4 picture as to the pattern of flawed data
5 that the Dickson Corp. submits to Region 8.

6 This is what the CCSE recommends:
7 Because Region 8 does not know the true
8 makeup of the Dickson fields, a thorough
9 soil analysis by third-party testing on all
10 of these 120 plus fields is needed. Then,
11 and only then, will the DEC have a true
12 picture as to the nutrient, and more
13 importantly, the pollutant level on which
14 to base their oversight decisions.

15 I, and the people who stand with me,
16 appeal to you, Judge Garlick, the Dickson
17 Corp. must not be allowed to expand until
18 Region 8 has the manpower and the willpower
19 to protect us and our environment.

20 Thank you for the opportunity to
21 comment.

22 ALJ: Lisa Hargrave followed by
23 Roxann Turner.

24 MS. HARGRAVE: Good evening. My

1 concern is with Region 8's oversight --

2 ALJ: Can you speak into the
3 microphone?

4 MS. HARGRAVE: Can you hear me now?

5 ALJ: Yep.

6 MS. HARGRAVE: My concern is with
7 Region 8's oversight and assessment
8 regarding the impact on transportation.
9 Page 8 of the negative declaration lists
10 the amount of waste to be received to be a
11 maximum of 357 dry tons per year, however
12 page 11 of this same document lists the
13 amount of waste to be received to be
14 approximately 367 dry tons per year.

15 This oversight is a difference of 10
16 dry tons. But this is consistent with
17 Region 8's missing important details. More
18 importantly is this conversion of this wet
19 tons to dry ton. Material hauled from
20 these five new sources will be in wet tons,
21 not dry tons, as stated by Region 8.

22 In order to get an accurate
23 assessment of additional truck traffic, the
24 additional 367 dry tons must be converted

1 to wet tons. Using the data in Leo Dickson
2 & Son's 2008 report, these wet tons may
3 consist of 9 percent solids to an average
4 of 31 percent solids.

5 The conversion of 367 dry tons into
6 wet tons would equate to the following:
7 367 dry tons divided by 31 percent solids
8 equals 1,183 wet tons. Also 367 dry tons
9 divided by 9 percent solids equals 4,077
10 wet tons. If we divide these wet tons
11 using a 22-ton truck capacity, the accurate
12 number of additional truck loads, depending
13 on the percent of solids, ranges from 53
14 truck loads to a high of 185 loads, not the
15 mere 17 additional loads as stated on page
16 11 of the document.

17 So, the impact on transportation is
18 far from accurate. This is indicative of
19 the pattern of inaccuracies that plagued
20 Region 8's oversight. This ultimately
21 impacts the surrounding community and we
22 continue to suffer as a direct result of
23 Region 8's inattention to detail. Thank
24 you.

1 ALJ: The next card I have is for
2 Roxann Turner and after Ms. Turner, Jack
3 Ossunt. Sorry.

4 MS. TURNER: Thank you, Your Honor.
5 I'm Roxann Turner, and I'm a member of the
6 Cameron Committee For a Safe Environment,
7 also called CCSE. I'm a new member with
8 only 10 years in this area. However, my
9 husband's family has been in here well over
10 100 years trying preserve their land.

11 As Tim stated and Wayne stated about
12 things that have been reported and
13 neglected, DEC does show up when we
14 complain, five days later. You can't get a
15 smell, you can't get the real impact of
16 what it's doing to our families unless
17 you're there that day. They're very
18 understaffed, they cannot possibly regulate
19 Dickson Corporation, how are they going to
20 regulate anything else in this area?

21 We really need -- they need to
22 realize it's not happening. They need to
23 make it happen. They need to make the
24 necessary changes. I would like to ask

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1 anyone with a yellow band today to stand
2 up.

3 This is the support we have and these
4 are only the people that were willing to be
5 here tonight or could come tonight. You
6 will receive several more complaints and
7 they will be in written form. Please
8 consider this, Judge. I appreciate your
9 time.

10 ALJ: After Mr. --

11 MR. OSSUNT: Ossunt.

12 ALJ: Ossunt, my apologies, one of
13 the hazards to this job, will be Ms.
14 Cramer, Marie Cramer.

15 MR. OSSUNT: Good evening. I spent
16 11 years on a sound and water district
17 board. I spent time as a county
18 legislator. I spent time as an activist
19 around the sludge issue, the CAFO issue and
20 now the frack water and fracking issue.

21 What we have here is a sham tonight.
22 This is the microphone that I speak into
23 that doesn't go anywhere. DEC is a
24 permitting agency, its intent is to permit

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1 this. It may make some modification to the
2 permit, but that's their job.

3 They're an executive agency of the
4 State of New York and they will permit this
5 sometime. Jane Anne Morris, an
6 anthropologist from the University of
7 Michigan said, "help, I have been
8 colonized". She's one of the first to
9 recognize how this system has gained.

10 You have too much money behind this.
11 Mr. Dickson is the recipient of sludge,
12 eight to ten billion dollars, if not more
13 by this time, that was a few years ago when
14 they estimated. That's how much monies
15 municipalities avoid by using somebody like
16 this to dump their effluent and call it
17 biosolids, the name that sort of makes your
18 mind go numb.

19 Let me read off some of the people
20 that are contributing to the effluent that
21 he's receiving right now. This comes off
22 the DEC document. Addison, New York's
23 Village Water Treatment, Bath, New York,
24 Canisteo, Canisteo, Cayuga Heights, New

1 York, one of the high-rise heavily
2 populated by the upper crust over near
3 Ithaca, New York. Canisius Lake County
4 Sewer District, Dryden, New York,
5 Knoxville, Pennsylvania, Montour Falls,
6 Nelson Township, Pennsylvania, Perry, New
7 York, Sabinsville, Pennsylvania,
8 Trumansburg, Owego, Warsaw, Watkins Glen,
9 Waverly, Wayland, Westfield, Pennsylvania,
10 Whitney Point.

11 Now, with money like that from all of
12 those municipalities that are seeing this
13 as a way of getting rid of your waste, do
14 you really think that a few people in this
15 audience are going to change a permitting
16 process in DEC?

17 Food processing waste, Primo Waste
18 out of Waverly, Pennsylvania, Dietrich's
19 Food, Dairy Farmer's of America,
20 Middlebury, Pennsylvania, Kraft Foods,
21 Campbell, New York, Kraft Foods Lowville,
22 New York, Quest Kerry Bioscience in
23 Norwich, New York, rejected raw milk load
24 independent haulers milk rejected by Kraft

1 in Campbell, that must make your
2 environment smell pretty good.

3 It's also interesting to note the
4 first person that stood up here and tried
5 to convince you that everything was going
6 to be handled was the hired mouthpiece
7 masquerading as an environmental attorney,
8 Mr. Knauf. I don't understand why he was
9 given privilege of the floor first when
10 this is supposed to hear from the public.

11 Variances, in the permit, variances
12 that are being given already in this permit
13 are the -- how often do the DEC people go
14 out and monitor what's going on? There's a
15 list. Village of Montour Falls, sampling
16 events required reduce from four to two.
17 Village of Dryden, elimination of Group C
18 parameters from biosolids testing
19 requirements.

20 I might note here that the EPA
21 requirements for testing biosolids or
22 sewage sludge is about 11 heavy metals.
23 They don't test for a lot of chemicals that
24 go into that sludge because they don't have

1 the data available to have a database
2 because the industry has never tested those
3 chemicals, so who knows what's going into
4 those biosolids that gets spread as manure
5 food additive to our food stream.

6 If you think I'm attacking the entire
7 system of regulation today, you're
8 absolutely correct. Regulation is -- I
9 witnessed over a period of time dealing
10 with the CAFO issue and fought with DEC for
11 their enforcement regiments. I got a stack
12 of enforcements this thick (indicating),
13 most of them were voluntary complaints or
14 actions, which means that DEC people would
15 go out, slap the hand of the offending
16 polluter, tell them not to do it again, and
17 in many cases, up to four that I read they
18 had a voluntary complaints cycle that went
19 up to four times.

20 Then there was a small fine. Mr.
21 Wells alluded to how often Mr. Dickson has
22 been approached by the DEC, and the people
23 in Cameron Mills, I know for a fact, have
24 been suffering for decades down there and

1 he goes and spreads his effluent down there
2 in a rural area that doesn't have any
3 political influence in the State of New
4 York.

5 If Judge Garlick makes a decision
6 tonight and says, oh, my God, we have got
7 to stop this process and make these permit
8 improvements and it goes to an adjudicatory
9 hearing, do you know what happens next? It
10 goes upward until the commissioner of DEC
11 has the opportunity to reverse every one of
12 those adjudicatory processes that have been
13 rendered in your favor.

14 And if the commissioner, God forbid,
15 renders a decision that the governor
16 doesn't like, as an executive agency of the
17 State of New York, the governor will
18 reverse the commissioner's decision. So, I
19 ask you, in whose authority is the DEC
20 operating? Not in ours, but in the
21 interest of the industry. It's time for
22 the American people to wake up.

23 ALJ: Marie Cramer followed by Dawn
24 Wilder.

1 MR. WILDER: Dwain.

2 ALJ: Dwain, sorry.

3 MS. CRAMER: Hello. Thank you, Your
4 Honor, for allowing me to speak.

5 ALJ: Can you get closer?

6 MS. CRAMER: Can you hear me now?

7 ALJ: Yep.

8 MS. CRAMER: My name is Marie Cramer,
9 and I'm a resident of the Village of
10 Maceden and I came to support the citizens
11 here to hopefully prevent what is happening
12 here in my own hometown. I want to be
13 proactive.

14 I have FOIL document stating that a
15 farmer that had taken over the family's
16 farm 10 years ago has now been polluted
17 well and is contaminated with ecoli
18 bacteria for the first time, and dumping of
19 the food wasteway on the roadway.

20 The waste smell of food wasteway ran
21 down the roadway into the ditches and is
22 being said that it's not manure.

23 There have been residents that have
24 seen trucks slop waste in the roads on

1 numerous occasions. And Mr. Dickson stated
2 that it was water, not waste. My feeling
3 is that New Yorkers are intelligent and
4 know the difference in smell from manure,
5 water and waste. Bottom line, I feel the
6 DEC is ignoring the violation and making
7 excuses why they're not protecting the
8 people and the land of New York.

9 Thank you.

10 ALJ: Mr. Wilder will be followed by
11 Mary Borham.

12 MR. WILDER: I want to address my
13 remarks directly to the staff members of
14 the DEC. You're public servants. You're
15 here to protect us. We are on the
16 presavice of having fracking coming to New
17 York unless we can do something monumental
18 to stop it, and we will, if we can. But
19 how are you going to deal with the
20 monolithic industry of oil and gas
21 extraction if this is your record with
22 Dickson?

23 Earlier this year, a statement was
24 signed by numerous DEC staff saying we

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1 don't have the power, we don't have the
2 staff, we don't have the training, we don't
3 have the money.

4 Somebody has got to light their hair
5 on fire if you're going to control this.
6 How are you going to do that? How? Thank
7 you.

8 ALJ: After Ms. Borham, Charles
9 Soles.

10 MS. BORHAM: Hi, my name is Mary
11 Borham and I'm a member of the Bonny Hill
12 Concerned Citizens Association. I was born
13 and raised here as well as many generations
14 before me and after me. I'm very concerned
15 for our health.

16 My story starts out many years ago
17 when my grandfather, Frank Stewart, was
18 concerned about the sludge use, and I have
19 newspaper articles back when his ponds were
20 polluted and killed all of his fish. He
21 had the DEC involved also at this time.

22 In one of the articles, he's quoted
23 as saying: "My ponds are spring fed, it's
24 not surface water, so that pollution is

5

1 down in the ground. It's going to get in
2 somebody's well." That article was written
3 September 25, 1980 and now here I am, 30
4 years later, with a polluted well.

5 Three years ago in September I came
6 home one day to find the terigator in our
7 field. They were told many times that the
8 could not spread anything other than cow
9 manure on our fields, which we do rent to
10 them.

11 It was right next to our well, not
12 thinking about it, I let it pass until
13 approximately two weeks later when my water
14 turned brown. It smelt really bad just
15 like the sludge that's put in the fields.
16 We had water testing done and we had
17 extremely high readings of arsenic, barium
18 manganese, which can cause many serious
19 health issues.

20 We went to Phil Dickson thinking we
21 had been good neighbors, he would help us
22 out. He basically said it was not his
23 problem. He said he had followed DEC
24 regulations. Guess what? He had not when

1 he spread 20 feet from my well.

2 So, this is why I'm speaking out
3 today to say they will not help with
4 polluted wells and therefore, I'm very
5 concerned with people's health. With the
6 arsenic, it can cause bladder cancer. The
7 manganese, dementia. The barium can
8 increase blood pressure and many other
9 health issues, too many to name. They want
10 to bring boron to this hill and our ground
11 is already saturated enough. How much more
12 can we take?

13 The smell is so bad we can't sit
14 outside sometimes, and why are we here
15 talking about smell when in 1993 the
16 Cameron people had a consent order from the
17 DEC Law Judge? should that not go for our
18 area, also?

19 Another concern we have is about our
20 wildlife; our deer, rabbits, ducks, et
21 cetera, eating the crops that are polluted
22 with harsh chemicals from the sludge. We
23 eat venison throughout the year and now I
24 wonder, should would be? We have had

1 intestinal problems, probably associated
2 with the water. And I have had an
3 infection that is cause by some nitrate in
4 my system that the doctor says cannot be
5 produced by a human being.

6 So again, I wonder, is it from my
7 water? We do cook with it, shower in it,
8 brush my teeth; it does get in our system
9 no matter how much we try. But I carry
10 water daily and it really gets old thinking
11 I did have a perfectly good water source.

12 Now, with no help from Phil Dickson,
13 I will probably spend approximately \$3,000
14 on trying to solve some of the problem, but
15 it can't guarantee it can get out all of
16 the poison chemicals.

17 We just want everyone to stand up for
18 what they believe and let's try to get some
19 results. Because like my grandfather said
20 many years ago, we'll be polluted sooner or
21 later if we keep allowing this to go on.

22 Just to leave you with a thought.
23 Who will not to drink their water up on the
24 hill? Who has been known to have

1 gastrointestinal problems? Who cannot
2 stand outside because of the smell being so
3 bad? Well, to get down to it, it's Dickson
4 environmental is only out for the money. I
5 know many other farmer who can grow crops
6 without sludge and biosolids, why can't
7 you?

8 ALJ: Charles Soles followed by Noel
9 Sylvester.

10 MR. SOLES: I'm Charlie Soles, my
11 family has lived up on Bonny Hill since the
12 early '50s and since 1987 when this stuff
13 was started to be spread, they have
14 suffered; land value down, smells, you have
15 a family gathering, you can't breathe.

16 And I have only one other thing to
17 ask. All of you here that will be making
18 these decision and Judge Garlick and the
19 Dickson attorney as well, I ask you, which
20 of you would raise your family in this
21 smell and mess?

22 ALJ: After Mr. Sylvester, Marie
23 Dartt-Bentley.

24 MR. SYLVESTER: Thank you, Your

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1 Honor. My name is Noel Sylvester, I live
2 on County Route 24 in Cameron Mills,
3 Risingville, in one of the original Rising
4 houses. Recently the land above me was
5 bought by Dickson Corporation and sludge
6 was fairly readily runoff and applied, and
7 my concern being downhill is one, water.

8 You know, we disagree about a lot of
9 things, but at worse, our fight over water
10 I have seen through the 40 plus years I
11 have lived there ups and downs. I know the
12 family, the Dickson family, throughout some
13 different times and I'm concerned that the
14 method of operation is not contributing to
15 the wellbeing of the community.

16 It does contribute to the wellbeing
17 of the family in a very monetary way, and I
18 wish it wasn't that way. I think the
19 concerns are not for the community, but
20 what can be done to further the
21 environment. Thank you.

22 ALJ: After Ms. Dartt-Bentley, Roy
23 Yarnell (phonetic).

24 MR. YARNELL: In the interest of

1 time, I'd like to allow the next speaker to
2 go ahead after me.

3 MS. DARTT-BENTLEY: My name is Marie
4 Dartt-Bentley, I'm a resident of Cameron
5 and I have a couple of comments. Why is
6 Leo Dickson & Sons allowed to haul sludge
7 from Castile when that particular place is
8 not on this current permit? This has also
9 happened in 2010 and 2011 and most recently
10 he's hauled 24 tons from Castile. This is
11 one example of activities from the Dickson
12 Corporation that should be a red flag and
13 show their practice and the attitude and
14 arrogance and disregard for the DEC's
15 regulations and lack of compliance.

16 I realize when we live in a very
17 depressed area and we all need income, but
18 Cameron doesn't take their crap anywhere
19 else, don't bring your crap to us.

20 ALJ: Mr. Yarnell will be followed by
21 Mary Finneran.

22 MR. HARGRAVE: Just a clarification
23 on Marie's comment. That's Castile, New
24 York, sounds a lot like Canistoto. Phil

1 Dickson is allowed to haul from Canisteco,
2 but his current permit does not allow him
3 to haul from Castile, and he's hauled for
4 two years from Castile.

5 ALJ: Your name was?

6 MR. HARGRAVE: Tim Hargrave.

7 ALJ: You're Mr. Yarnell? And you're
8 going to pass, okay.

9 Mary Finneran, did I say that right,
10 followed by Daniel Burgess.

11 ALJ: Hi, my name is Mary Finneran,
12 I'm from Cairo, New York in the Catskills,
13 but I came here because this area has by
14 heart. The DEC has the unfortunate
15 schizophrenic mandates to prevent, allow
16 and develop industry and all it's
17 elasticity while at the same time
18 mitigating damages and impacts to the
19 environment and the people living in the
20 environment.

21 The mitigation that regulatory
22 agencies write act as gaps that the
23 industry do to keep the people from
24 screaming too loudly when the mitigations

1 are not enough to stop egregious damages to
2 life.

3 The DEC needs to do more than meet
4 its mandates to preserve to environment by
5 putting violators in jail. If you don't
6 start doing this job, we, the people, will
7 start doing it for you. Thank you.

8 ALJ: David Burgess followed by
9 Daniel Hubbard.

10 MR. BURGESS: I apologize, I didn't
11 write any little speeches. I'm Dave
12 Burgess from the Double D Dairy, I am on
13 the south side of Cameron and I have got
14 more questions than comments.

15 Firstly, my biggest concern, when
16 ya'll coming after me? I have got a small
17 farm over there, and I think my cows smell
18 just as bad as the Dickson cows.

19 PUBLIC: It's not the cows.

20 MR. BURGESS: Well, it's all waste.
21 The waste has to have something done with
22 it. Now, I don't know how much it is going
23 to cost if the Dickson farm is shut down,
24 how much is it going to cost to take care

8

1 of it another way?

2 I would like to ask, has anybody
3 tested for contaminants downstream? Now, I
4 know the Dickson farm ;just for all
5 disclosure, I was a former employee of the
6 Dickson farm, I worked there, I have seen
7 the day-to-day operations and no
8 disrespect, Mr. Wells, but I have had to
9 put up with your harassment, too.

10 The Dickson farms recently dug a
11 16-foot trench to see if there were any
12 contaminants. None were found. I do not
13 think there is anybody in here in this room
14 that is for the poor health of you and your
15 family, and you know what, I don't think
16 the Dicksons are either.

17 They live on that farm. That is
18 where your sludge is being spread. They
19 have lived there for three, four
20 generations now, I don't think they're
21 going anywhere. They would not contaminate
22 their own living.

23 PUBLIC: They put it up on the hill.

24 ALJ: If you want to have this

1 conversation that's fine, somewhere else.
2 If you have got comments about the permit
3 or you want to voice support, that's fine,
4 too.

5 MR. BURGESS: I am in full support of
6 the permit. I know the economic expense of
7 having it, taking care of it in an
8 alternate method is going to be huge to the
9 taxpayers, and as far as I know, there have
10 been no unsafe operations. And I have
11 worked there and I challenge you, with Mr.
12 Dickson's permission, to see the operation.

13 That's all I have.

14 ALJ: Daniel Hubbard will be followed
15 by Gudrun Scott. I apologize if I
16 butchered that name, too.

17 MR. HUBBARD: Thank you. I'm Dan
18 Hubbard, I'm a farmer in Avoca, fourth
19 generation. We went down this road when I
20 was two years old. We had a dairy farm in
21 the Village of Avoca and the people didn't
22 like -- we had a stanchion barn with straw
23 and they didn't like that being spread in
24 the Village of Avoca, so we have a history

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1 of knowing what happens here.

2 But you got to understand, they sold
3 the cows in 1964 and since then, the farm
4 productivity has declined because you can't
5 keep taking crops off land without putting
6 organic matter back into it. In a dry year
7 like this, it shows more than ever, because
8 if you have 5 percent of organic matter in
9 your ground, it will hold 50 gals of water.
10 If you have 2 percent, it only holds 15.
11 So, you can ride right around this year and
12 see the fields that don't have the right
13 organic matter.

14 Now, as far as sludge goes, I don't
15 know that much about it, but I came here on
16 the understanding that this was about
17 spreading process waste, which is food
18 waste. I would understand that that's very
19 safe, rebuilds the soil, bring the
20 fertility back and serves a purpose instead
21 of putting it in a landfill somewhere and
22 throwing our soils right down the road
23 because we're depleting this country so
24 fast by trying to feed a population that's

1 grown beyond imagination.

2 We all go to our refrigerator and we
3 have got eggs and meat and milk and all of
4 these nice products in the refrigerator,
5 where does it come from? It comes from our
6 family farms, which is 90 percent or more
7 of this country. Dickson still, for me, is
8 classified as a family farm.

9 Now, when you talk about the sludge,
10 don't they usually do a point source of
11 pollution? Our dairy farms now have got
12 regulators coming in taking samples here,
13 taking sample there, do paperwork for this,
14 do paperwork for that. Great, let's bring
15 it back home.

16 What are you people doing that is any
17 different than the people in Addison or any
18 of those other villages putting down your
19 septics that's any different? So, all of
20 this arsenic and heavy metals and all of
21 this that you're talking about is coming
22 right from the population.

23 Let's do the job, DEC, let's regulate
24 this country. Go to these people's houses

1 and test their septic water. You know, if
2 they -- go to their bathroom to see what
3 they're dumping down their drains in the
4 kitchen and their cleaners, all of that
5 stuff. That's what you're ending up with.

6 If you want to be regulated like the
7 farmers, you'd have spot inspection at your
8 homes. Let the DEC come in, look in your
9 bathrooms, see what you're buying, take
10 responsibility for your own stuff if that's
11 the case.

12 PUBLIC: Mr. Hubbard, if you'd like
13 to --

14 ALJ: No, no, no, no, no, no, no. If
15 you want to have a conversation outside,
16 that's fine.

17 MR. HUBBARD: You know, farmers have
18 a lot of challenges in this country, and it
19 isn't getting any easier by the
20 regulations. It's making it hard. You
21 know, let's look at this realistically.
22 Where does your food come from? Do you
23 want to keep it on? You know, give it
24 break.

1 If it needs to be expanded into a
2 wider area, I'm sure Dicksons can probably
3 do that and get away from some of these
4 places that have already had something.

5 The farms need these products, they
6 need them spread on there. It's a matter
7 of our national security, you know. If you
8 really want to clean up the environment,
9 look in your own bathroom and kitchen.

10 ALJ: Gudrun Scott followed by Rachel
11 Treichler.

12 MS. SCOTT: Hello. I'm from Allegany
13 County and I would like to submit a
14 newspaper article from July 13, 2012,
15 "Permit Change to Raise the Radiation Level
16 in Landfill Insights Foes" and this
17 happened in South Huntington in
18 Pennsylvania, they have to raise their
19 radiation level in their dump.

20 It's going to go up by -- well it's
21 10 micrograms now it's going to go to 140
22 micrograms and I just want the DEC to be
23 aware of radiation as a source of problems.
24 And I'm an oncology nurse during my entire

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1 lifetime and I know that this cancer is
2 going to take a while to get here, like
3 maybe like 20 years, okay?

4 So, you can ignore it just like they
5 did the asbestos, they ignored that and now
6 we got to go rip out all of the schools and
7 everything because we didn't pay attention
8 to it when it was occurring.

9 So, I wanted you all to be aware of
10 this article, and we have until August 16th
11 to reply, a comment, and it's called
12 "Permit Change to Race the Radiation Level
13 in Landfill" if you want to look it up.
14 Thank you.

15 ALJ: Thank you. After Ms.
16 Treichler, Ross Scott.

17 MS. TREICHLER: My name is Rachel
18 Treichler, I live on a farm in the Town of
19 Urbana in Mount Washington. I grew up on a
20 farm in Iowa, an organic farm, and I guess
21 the response I would make to Dan Hubbard is
22 when does a good thing become a bad thing?

23 And I certainly agree with you, Dan,
24 that we need to preserve our soil and put

1 things back into the soil and there are
2 many wonderful things that farmers do to do
3 that, but if you're adding outside
4 contamination and chemicals and poisons to
5 what you're putting back, you're defeating
6 the purpose of putting back the good things
7 and you're poisoning the land and you're
8 poisoning the water and you're poisoning
9 people's health.

10 The question, you know, I think Jack
11 Ossunt raised some very good questions of
12 who is making the decisions about these
13 things. Do we get to make the decisions in
14 our community? Can we look and see what's
15 happening in our community and say we don't
16 want this in our community and make that
17 law? Or does the DEC? Does the governor
18 get to tell us how we live our lives? Do
19 they get to tell us we have to take poison?

20 You know, the issue is becoming an
21 even greater concern to many of us with the
22 threat of hydrofracking coming to New York.
23 We have seen all across the state, and I
24 have gone over that last few years, to a

1 number of workshops on confined animal
2 feedings operations and what that has done
3 to different areas of New York, to Seneca
4 County to Wyoming county.

5 A number of counties, many people are
6 suffering polluted water and health affects
7 from combined animal feeding operations.
8 Now we have a bigger threat and we seem the
9 same issues that the DEC is not staffed,
10 that the DEC is not enforcing the
11 regulations, that they don't have adequate
12 regulations to enforce.

13 And the question, you know, is this
14 -- is this really the right way to make
15 discussions? Isn't it better for us to
16 make those discussions for ourselves and
17 have the right to make those decisions for
18 ourselves in our communities; and a lot of
19 people are working now to do local laws, a
20 lot of Pennsylvania communities that have
21 really heavy sludge operations and people
22 that died from exposures from sludge passed
23 laws saying you can't do this in our
24 community, and I think we need to start

1 doing laws like that here in our
2 communities in Steuben County.

3 ALJ: Okay. The next card I think is
4 Ross Scott and after that Joan, I have no
5 -- Nefose. I'll try again. Mr. Scott.

6 MR. SCOTT: Thank you, Judge Garlick.
7 I'm very pleased to be here, it's not the
8 first time I have testified at a DEC
9 hearing. I do practice environmental law.
10 DEC sometimes gets it right, and sometimes
11 they get it wrong. I'm hopeful this time
12 enough facts are going to come up and
13 there's going to be an adjudicatory hearing
14 following this legislative hearing after
15 which there will be a denial of the
16 application of Mr. Dickson. And if there
17 isn't, there's always a possibility of the
18 courts. So we have got a ways to go.

19 So, I would not be completely
20 hopeless on DEC like some are. We just
21 have to interject one thing for the benefit
22 of those who don't know the story, and this
23 shows how misguided DEC can be at times.

24 My wife, who happens to be a previous

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1 speaker, Gudrun Scott, saw a family of
2 beavers at risk of being run over by
3 traffic or trapped out to prevent them from
4 causing that. And when she couldn't get
5 DEC to relocate the beaver, we offered our
6 250-acre farm if they wanted to, she took
7 it upon herself to set a Havaheart trap and
8 catch the beaver. DEC responded, not by
9 helping her relocate the beaver, but by
10 charging her with trapping a beaver out of
11 season and fining her \$250. That's a very
12 poor use of DEC resources when we have got
13 problems like the Dickson farm to deal
14 with.

15 So, another point is that we have the
16 State Environmental Quality Review Act, or
17 SEQOR, as it's known. As I understand it,
18 this is a Type I action, this permit
19 modification, and Type I actions
20 presumptively require an environmental
21 impact statement. DEC, for reasons I don't
22 understand, has issued a negative
23 declaration saying, notwithstanding it's a
24 Type I action, there will be no

1 environmental impact statement.

2 That's a clear mistake in itself and
3 should be subject to court review unless
4 DEC changes its mind before we get to that
5 point.

6 Now, the particular thing that
7 Dickson is asking for is to instead of
8 having a separate registration and separate
9 fields for food waste to be applied to,
10 separate from the fields and permit that
11 the sewage sludge is applied to, they're
12 asking DEC to allow them to mix the food
13 waste and sewage sludge together and apply
14 it to all of the fields indiscriminately,
15 and I haven't seen, maybe it's in the
16 application, which I don't even know where
17 the application is or whether it's been
18 made available, certainly the draft permit
19 is available online, but the application is
20 not online apparently.

21 But I'm not sure that DEC is
22 intending, if it grants this application,
23 to even specify what ratio the food waste
24 and the sewage sludge may be combined in.

1 Now, since the sewage sludge has limits on
2 heavy metals, it's a very nice way to
3 dilute it by just mixing it with the food
4 wastes and then say what we're applying
5 falls within the limit. That alone should
6 be enough to disallow this combining of
7 food waste and spreading it on all of the
8 fields.

9 My next point is that I have been
10 aware of a number of consent orders and
11 they're consent orders under Environmental
12 Conservation Law 71-3501. Each of those
13 consent orders represents a misdemeanor.
14 Some of the consent orders have more than
15 one misdemeanor, it appears, and if we're
16 up around a half of a dozen misdemeanors, I
17 practice criminal law, also, when I have a
18 client who's accumulated a half of a dozen
19 misdemeanors, I'm very tempted to call him
20 a career criminal.

21 I mean, I don't want to offend, but
22 when we have a recidivist, that recidivist
23 should not be the person that DEC
24 authorizes to become possibly the largest

1 land spreader in the county. It's bizarre
2 if that should happen.

3 So, with that, I'm hoping DEC does
4 the right thing and denies the permit
5 application even without an adjudicatory
6 hearing, but if an adjudicatory hearing is
7 in order, I'm sure those opposed to the
8 application will prevail.

9 ALJ: The last card I have is, I'm
10 sorry, I can't read this, Joan --

11 PUBLIC: DeSimone.

12 ALJ: It could be, yep. And Mr.
13 Yarnell, you declined to speak, do you want
14 to speak last?

15 MR. YARNELL: I think I am okay.

16 ALJ: You'll be our last speaker
17 then.

18 MS. DESIMONE: Hi, I'm from the Avoca
19 area, I have something in particular to
20 say, but then after one of my neighbors,
21 Mr. Hubbard spoke, I want to make the
22 comment, some of the things he's saying is
23 true. We do all have to be responsible
24 what we put down our drains.

12

1 In fact, that's part of the problem,
2 we all think we can put things anywhere we
3 want and they'll disappear. I'm guessing
4 probably a lot of the people that are here
5 be might already be using vinegar, baking
6 soda, things that are really already good,
7 not harmful for the environment. If
8 they're not, you have a good point there.

9 But that doesn't make what I've
10 learned tonight the Dickson people were
11 doing -- I had no idea, I'm shocked, but in
12 a way I'm not shocked because I have been
13 working with the antifracking groups and
14 one concern and one reason I came tonight,
15 one reason was to support all of you who
16 are fighting for your health and what's
17 right for the community, because right now,
18 we're all in this together.

19 Every single person in this country
20 should be wearing those yellow bands,
21 because the bottom line is it's other
22 countries that are taking over this
23 country. They're selling our gas, they're
24 doing all this stuff, and there are certain

1 groups that can make a lot money and
2 they're doing it and we're all a joke.

3 But the one concern I do have, I do
4 know the Dickson Company already owns and
5 works with the fracking industry and they
6 have residual waste trucks, and I see them
7 all the time and I wonder, where are they
8 putting all of that? Sometimes I hear
9 trucks at 3:00 in the morning. I don't
10 know if it's them, but (inaudible), their
11 truck are there.

12 And I also know, and this is just
13 suspect, but I live down below where
14 there's a gas -- there's supposed to be gas
15 storage wells that were put -- they're now
16 closed off, but during the time before they
17 closed them off, there were hundreds of
18 trucks, residual waste trucks, and I'm
19 pretty sure some of them were Dickson.

20 They were dumping, they obviously
21 were dumping into those wells before they
22 closed them off. So, I guess my concern to
23 all of you, if you didn't know that, if you
24 see these residual waste trucks, more than

1 likely it's fracking fluid and there's a
2 lot of chemicals in there and there's a lot
3 of very credible doctors, scientists that
4 can give you all of that information.

5 Thank you.

6 ALJ: Okay. I have gone through all
7 of the cards, so I think we're done unless
8 there's anybody who has anything else at
9 this point.

10 Somebody did leave a pen up here when
11 they spoke. All right, well --

12 MR. WELLS: Your Honor, we were
13 denied access to some documents.

14 ALJ: Do you want to make a statement
15 or do you want to talk to me afterwards?

16 MR. WELLS: May I?

17 ALJ: Yeah. Just state your name
18 again, for the stenographer, please.

19 MR. WELLS: My name is Wayne Wells,
20 and I have a request. The CCSE has
21 requested documents of the DEC that they
22 say they can't find. These were the 2009,
23 2010 and 2011 annual reports for Dicksons
24 registered facility of food wastes.

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1 Amazing they can't be found, but we
2 have the correspondence here and I would
3 ask Judge Garlick if you would give us an
4 extension upon the receipt, for one week
5 upon the receipt of these documents if the
6 DEC can manage to come up with them.

7 ALJ: I can't do it right now, but
8 I'll take a look at it.

9 MR. WELLS: Thank you.

10 ALJ: Yep. Then at this point we're
11 done. Thank you very much.

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

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.

CHRISTINE FERGUSON