

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

In the Matter of the Application of

SIERRA CLUB, CONCERNED CITIZENS OF ALLEGANY  
COUNTY, INC., PEOPLE FOR A HEALTHY  
ENVIRONMENT, INC., JOHN CULVER, AND BRIAN  
AND MARYALICE LITTLE,

Petitioners,

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

–against–

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION, BASIL SEGGOS,  
COMMISSIONER, TOWN OF CAMPBELL AND HAKES  
C&D DISPOSAL INC.,

Respondents.

AFFIDAVIT OF  
KATHRYN  
BARTHOLOMEW IN  
SUPPORT OF THE  
AMENDED VERIFIED  
PETITION

Index No. E2019-0441CV

Hon. Patrick F. McAllister

State of New York,  
County of Tompkins, ss.:

KATHRYN BARTHOLOMEW, being duly sworn, deposes and says:

(1) I am the chair of the Atlantic Chapter of the Sierra Club, a petitioner in the above-captioned proceeding.

(2) I make this affidavit in support of the Amended Verified Petition.

(3) Sierra Club is a not-for-profit corporation organized under the laws of the State of California. It is the oldest and largest grassroots environmental organization in the country. Sierra Club was founded in 1892. Its purposes include practicing and promoting the responsible use of earth's ecosystems and resources, and protecting and restoring the quality of the natural and human environment. The protection of air, soil and water resources is a key aspect of Sierra

Club's work. Sierra Club has more than 783,000 members nationwide, including approximately 50,000 members in New York State, many of whom live in the vicinity of the Hakes C&D Landfill ("Hakes Landfill") in the Town of Campbell, Steuben County, New York or downriver from the Village of Bath Wastewater Treatment Plant ("Bath WWTP"). All leachate from the Hakes Landfill is sent to the leachate pre-treatment plant at the Steuben County landfill, which pipes all its discharges to the Bath WWTP. The Bath WWTP discharges into the Cohocton River, which is upstream from the cities of Corning and Elmira, and a source of drinking water for each city.

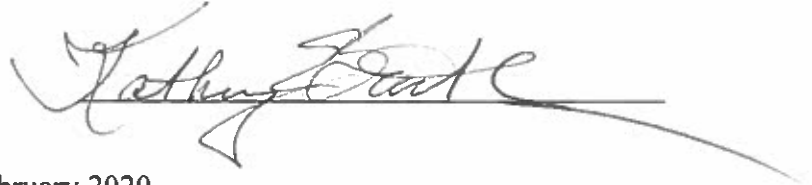
(4) The interests of the Sierra Club and its members are injured by the actions of Respondent New York State Department of Environmental Conservation ("Respondent DEC") and Respondent Town of Campbell ("Respondent Town") in allowing the expansion of the Hakes Landfill without requiring the installation of effective radiation monitors at the entrance to the landfill or otherwise mitigating the risks of radioactivity in the landfill, which will increase the exposure of those living in the area of the landfill to radon and other harmful substances being emitted into the atmosphere by the landfill, will increase the exposure of those living downstream from the landfill to radioactive leachate from the landfill and will increase the adverse health impacts of the landfill.

(5) Sierra Club and its members have suffered an informational injury by the actions of Respondent DEC and Respondent Town in failing to take a hard look at the evidence of radioactivity in the Hakes Landfill leachate and in failing to conduct additional testing at the Hakes Landfill to determine more about the types and amounts of radionuclides present in the landfill, and by the actions of Respondent DEC in failing to conduct an administrative

proceeding on radioactivity issues at the Hakes Landfill and in discontinuing requirements for measurement of gamma radioactivity in the landfill leachate.

(6) As described in the amended verified petition, Sierra Club and its members participated at every stage in the proceedings conducted by Respondent DEC and Respondent Town related to the preparation and issuance of a Final Supplemental Environmental Impact Statement for the Hakes Landfill expansion project (the “Hakes FSEIS”). Copies of the comments filed by Sierra Club, and its fellow petitioners Concerned Citizens of Allegany County, Inc. (“CCAC”) and People for a Healthy Environment, Inc. (“PHE”) through March 6, 2019 are attached as exhibits to my affidavit of April 9, 2019. These comments include (a) the Sierra Club, CCAC and PHE comments on the draft scoping document submitted on May 5, 2017, (b) the Sierra Club, CCAC and PHE comments submitted on the DSEIS on March 19, 2018 together with the affidavits of Dr. David Carpenter, Dr. Raymond Vaughan and Mr. Dustin May and the additional presentation prepared by Dr. Vaughan, (c) the January 14, 2019, letter Sierra Club filed a letter with Planning Board of Respondent Town asking them to delay consideration of Respondent HCDD’s zoning application until Sierra Club could have Dr. Vaughan respond to the May 2018 report by HCDD’s consultant, CoPhysics Corporation, (d) the February 21, 2019, letter from Petitioners Sierra Club, CCAC and PHE to Respondent Town enclosing Dr. Vaughan’s February 21, 2019, memorandum discussing the reasons why the FSEIS and the CoPhysics Report do not rebut the evidence presented by Petitioners and their experts, and (e) the March 6, 2019, letter from Sierra Club to Respondent Town enclosing Dr. Vaughan’s March 5, 2019, memorandum describing radon testing that could be conducted of the Hakes landfill gas system and the protocols that need to be followed in continuing to test the Hakes landfill leachate for the gamma emitting radionuclides Lead-214 and Bismuth-214.

(7) A copy of the comments filed on June 28, 2019, by Petitioners Sierra Club, CCAC and PHE on the proposed Hakes Landfill permit modifications, which enclose Dr. Vaughan's written comments at the June 27, 2019 public hearing held by Respondent DEC, is attached as Exhibit A.



Sworn to before me this 12 day of February 2020.



Notary Public

