

STATE OF NEW YORK
SUPREME COURT : COUNTY OF TOMPKINS

In the Matter of the Application, CAYUGA LAKE ENVIRONMENTAL ACTION NOW (CLEAN), an Unincorporated Association by President JOHN V. DENNIS, and LOUISE BUCK, BURKE CARSON, JOHN V. DENNIS, WILLIAM HECHT, HILARY LAMBERT, ELIZABETH and ROBERT THOMAS, and KEN ZESERSON

Petitioners,

For a Judgment Pursuant to Article 78 of the New York Civil Practice Laws and Rules

vs.

**AFFIDAVIT
OF WILLIAM
S. HECHT
IN SUPPORT
OF PETITION**

Index No.

THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and CARGILL INCORPORATED

Respondents.

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

William S. Hecht, being duly sworn, deposes and says:

1. I am William S. Hecht and I reside year-round on land on the east shore of Cayuga Lake and located at 5525 and 5526 Route 90, Fire Lane 20, Cayuga, NY 13034. I am a riparian owner to Cayuga Lake, a geologist and a retired farmer.

2. In the early 2000s, I engaged in a protracted FOIL process that eventually yielded significantly-redacted releases of two documents that

Cargill has claimed without merit can substitute for carrying out an Environmental Impact Statement on Cayuga Salt Mine. Those significantly-redacted documents were the Extended Environmental Assessment and the Mined Land Use Plan. Both documents are dated 22 December 2002 and were produced by Spectra Environmental Group of Latham, New York. This was a company that—from its web site at least—appeared to lack any prior expertise in underground mining and that may have been chosen more for its proximity to Albany.

3. Here we are 15 years later and faced with the same unresolved issues. We can and must do better. The bottom line is that this is a mine whose active mining face has been under Cayuga Lake since 1984. Cayuga Lake is a lake owned and controlled by New York State. This is an invaluable state resource! There is no reason that DEC should not ask for and receive any and all data collected within and above the mine as well as copies of all consultant reports related to this mine. No reason whatsoever.

4. This information can and should all be turned over to DEC. The excuse that this is proprietary information is bogus. There is precedent in the New York oil and gas permit system for placing such data in the hands and control of DEC. NYS and its consultants can see and review the data, but in some instances data can be deemed sufficiently confidential to be withheld from the public for a certain number of years. Cargill's refusal to allow their data and their documents to be stored at DEC Region 7 & 8 is an ongoing issue because this totally circumvents public input and review during SEQRA environmental review. IF THE PUBLIC CAN NOT SEE THESE DATA, THERE IS NO INFORMED PUBLIC REVIEW. Indeed,

there are times when certain data are legitimately kept for a time, from the public. I have spoken to numerous geologists, engineers and former DEC scientists and no one can give me one good reason or example why any data from this mine on State Land warrants the designation “proprietary”. Cargill has no competitors mining at Cayuga Lake.

5. DEC is failing to fulfill its fiduciary responsibilities by allowing Cargill to control the permitting process. In about 2005, I met at DEC offices in Syracuse with Cargill’s lawyers and DEC officials. Both the DEC officials and I were totally taken aback by Cargill’s lawyers announcing at the start that they felt that DEC had no jurisdiction over them. The newly-modified mining permit for Cayuga Salt Mine that was issued in February 2021 is prima facie evidence that DEC has abrogated its responsibilities to regulate Cayuga Salt Mine. Turning over to Cargill the management of the third-party consultant that advises the DEC and reviews Cargill’s annual report to the DEC creates an unacceptable conflict of interest. This permit language needs to be amended.

6. Have we learned nothing? The DEC must stand up and protect the resources of New York they hold in trust for future generations. Under SEQRA, you have the obligation and the right to say to Cargill:

1) all mine-related data must be made public because this mine is mostly on State land.

2) Sufficient review by Cargill’s own consultants and by third-party experts already indicate the need for DEC to end salt mining under Cayuga Lake and to only mine salt under land where the mined voids

have no possible hydraulic connection to the mined voids under the lake.

3) Cargill must carry out a full EIS regarding appropriate decommissioning of the mine under the lake and regarding any proposed mining under land.

7. Please, DEC, step up and do your job.

This affidavit is based on information available to me at this time. Should additional information become available, I reserve the right to determine the impact, if any, of the new information on my opinions and conclusions and to modify or supplement this affidavit if necessary.

William S. HECHT

Sworn to before me this 8th day of June 2021.

COURTNEY L ELLINWOOD
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01EL6410459
Qualified in Cayuga County
My Commission Expires October 26, 2024

Courtney L Ellinwood

Notary Public

Cayuga County

State of New York