
COMMONWEALTH OF MASSACHUSETTS

IN RE: TOWN OF LEE, BOARD OF HEALTH
ADJUDICATORY HEARING

TOWN OF LEE ADJUDICATORY HEARING
HELD ON
SATURDAY, NOVEMBER 19, 2022
AT THE
LEE MIDDLE AND HIGH SCHOOL AUDITORIUM
300 GREYLOCK STREET
LEE, MASSACHUSETTS

Reporter: Rebecca J. DeCarlo

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APPEARANCES:

For the Town of Lee Board of Health:

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Also in Attendance:

Robert Wespieser

James Wilusz

JoAnne Sullivan

Zach Roberts

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EXHIBITS: (continued)

No. 11 United States Environmental 13

Protection Agency, EPA New

England, Permit Under The

Resource And Recovery Act (RCRA)

As Amended (42 U.S.C. Section

6901, et seq.)

No. 12 United States Environmental 14

Protection Agency, EPA New

England, Permit Issued 2020 Under

The Resource And Conservations

And Recovery Act (RCRA) As

Amended (42 U.S.C. Section 6901,

et seq.)

No. 13 Letter dated November 15, 2022 14

No. 14 Letter dated November 18, 2022 14

(Exhibits retained by Mr. Bonifaz)

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EXHIBITS:

EXHIBIT DESCRIPTION PAGE

No. 1 Town of Lee, Board of Health, 11

Notice of Adjudicatory Hearing,

Saturday, November 19, 2022

No. 2 Letter dated October 11, 2022 11

No. 3 Letter dated October 27, 2022 11

No. 4 Understanding PCB Risks at the 11

GE-Pittsfield/Housatonic River

Site

No. 5 Predesign Investigative Work Plan 12

For Upland Disposal Facility

No. 6 Letter dated September 28, 2022 12

No. 7 Letter dated October 31, 2022 12

No. 8 Letter dated November 3, 2022 12

No. 9 GE-Pittsfield/Housatonic River 13

Site/Rest of River Portion

Petition to Town of Lee Board of

Health, EPA's Counsel Responses

to LBOH's Letter dated September

28, October 31, and November 3,

2022

No. 10 Comparison of Exhibits 6, 7, 8 13

with Exhibit 9

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1 * * * * *

2 (Hearing commences at 10:06 a.m.)

3 MR. WESPIESER: Welcome,

4 everybody. Hello. Good morning. This is

5 the Lee Board of Health adjudicatory

6 hearing regarding the Upland disposal

7 facility. I'm sure if you're at the wrong

8 meeting --

9 UNIDENTIFIED MALE SPEAKER: We

10 can't hear you in the back.

11 MR. WESPIESER: Well, again,

12 welcome. And this is the Lee Board of

13 Health adjudicatory hearing regarding the

14 safety of the Upland disposal facility.

15 So we're going to get going

16 with this. There are a couple of ground

17 rules, facility things. Bathrooms are

18 around the corner to my right, your left,

19 in that corner. We do want you to use the

20 door that's open there. These other two

21 doors make a lot of noise when they close.

22 And this is being broadcast

23 and recorded, so we want to keep the

24 extraneous noise to a minimum, if

<p style="text-align: right;">Page 6</p> <p>1 possible. What about the microphones?</p> <p>2 MR. WILUSZ: This is going to</p> <p>3 be challenging. We have expert testimony</p> <p>4 later on. Just try to speak into the mic.</p> <p>5 Not speaking into the mic won't get picked</p> <p>6 up by CTSB. There will be a lot of dead</p> <p>7 noise.</p> <p>8 MR. WESPIESER: Thank you,</p> <p>9 Jim. I would like to have the meeting</p> <p>10 called to order then. Could I have a</p> <p>11 motion?</p> <p>12 MS. SULLIVAN: I make a motion</p> <p>13 to call this meeting to order.</p> <p>14 MR. WESPIESER: And I second</p> <p>15 and vote. So JoAnne and I vote to start</p> <p>16 it. In terms of who the Board of Health</p> <p>17 is, my name is Robert Wespieser, and I'm</p> <p>18 the chair at this time. We rotated. And</p> <p>19 this is --</p> <p>20 MS. SULLIVAN: JoAnne</p> <p>21 Sullivan.</p> <p>22 MR. WESPIESER: Our third</p> <p>23 member, Carrisa Vincent, unfortunately</p> <p>24 couldn't be here. She's quite ill. She's</p>	<p style="text-align: right;">Page 8</p> <p>1 are exhibits that are going to be entered</p> <p>2 in, and they're all available on the</p> <p>3 Tri-Town website. So that's</p> <p>4 tritownhealth.org.</p> <p>5 And I'm going to offer up</p> <p>6 Jim's Tri-Town e-mail as a source of</p> <p>7 contact that people can send in questions</p> <p>8 or comments later, and that is</p> <p>9 jim@tritownhealth.org. These will be</p> <p>10 posted a little later, but if anybody</p> <p>11 needs them spelled out, please feel free</p> <p>12 to ask any one of those and we can get</p> <p>13 that written out for you.</p> <p>14 There is a lot of paper, too.</p> <p>15 We all have binders with the exhibits.</p> <p>16 We've been doing our best to study it, but</p> <p>17 the purpose overall of this hearing is to</p> <p>18 tell the request, the petition request of</p> <p>19 HRI, the Housatonic River Initiative, and</p> <p>20 that is basically to ask us to hold the</p> <p>21 hearing and weigh in on is this dump</p> <p>22 facility, this disposal facility, safe for</p> <p>23 humans, what is the impact to human health</p> <p>24 and for our townsmen, for the residents of</p>
<p style="text-align: right;">Page 7</p> <p>1 put a ton of time into this and felt bad</p> <p>2 about that, but it's unavoidable. I want</p> <p>3 to thank her, though, and Jim and Zach. A</p> <p>4 special thanks to Cristobal, our attorney</p> <p>5 who's provided just a lot of expertise.</p> <p>6 And you'll see some of that as this</p> <p>7 meeting evolves, so -- and thanks to the</p> <p>8 school. We have the Lee police for --</p> <p>9 well, hopefully, just to watch.</p> <p>10 And we'll get going. So the</p> <p>11 meeting is called to order. I do want to</p> <p>12 mention that there is a hybrid function.</p> <p>13 Originally, we were hoping to get Carrisa,</p> <p>14 our third member, in, but we're not going</p> <p>15 to be able to do that, but we will, I</p> <p>16 think, have one of our experts coming in</p> <p>17 on hybrid. Is that true?</p> <p>18 MR. WILUSZ: Yes.</p> <p>19 MR. WESPIESER: Okay. Good.</p> <p>20 That was as expected. So I wanted to</p> <p>21 mention that.</p> <p>22 I also wanted to mention this</p> <p>23 is not just paper. So you'll see later</p> <p>24 that there are a lot of documents. There</p>	<p style="text-align: right;">Page 9</p> <p>1 Lee, and it's that key question that is to</p> <p>2 be addressed by this hearing.</p> <p>3 All right. So one of the</p> <p>4 things that's important is people need to</p> <p>5 state their name and their address. This</p> <p>6 is being recorded from -- with recording,</p> <p>7 as you can see, and it's very important</p> <p>8 that we get people's names for the legal</p> <p>9 aspects of the record, should this ever be</p> <p>10 in court downstream.</p> <p>11 All right. Let's see. So</p> <p>12 we've invited expert testimony, and we've</p> <p>13 invited GE. We've invited the EPA as</p> <p>14 well. Both GE and the EPA have declined</p> <p>15 to attend. The EPA has made reference.</p> <p>16 They've been communicative. I know</p> <p>17 there's been a lot of back-and-forth, but</p> <p>18 they ask us to refer to their</p> <p>19 administrative record that includes about</p> <p>20 850 documents, thousands and thousands of</p> <p>21 pages. They have helped us narrow it down</p> <p>22 a little bit, but that is their testimony,</p> <p>23 is the entire administrative record, and</p> <p>24 that is their right to offer that.</p>

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<p>1 So the other side, the side of</p> <p>2 potentially why isn't this facility safe,</p> <p>3 is being represented by expert testimony,</p> <p>4 and it's with that in mind that a</p> <p>5 significant part of this morning's hearing</p> <p>6 will be taking place.</p> <p>7 All right. Jim, help me out</p> <p>8 here.</p> <p>9 MR. WILUSZ: We've got to</p> <p>10 enter all the exhibits into the record.</p> <p>11 So I'll ask you for a motion. I'll state</p> <p>12 the exhibit and title. Zach will show the</p> <p>13 exhibit, and we have to enter all of those</p> <p>14 into the record. After that, we'll begin</p> <p>15 expert testimony.</p> <p>16 MR. WESPIESER: So can we, in</p> <p>17 the interest of just repetition, list the</p> <p>18 exhibits first? And then with one motion,</p> <p>19 we'll enter them all into the record. So</p> <p>20 let's begin with that, Jim, if you could</p> <p>21 help me out with that.</p> <p>22 MR. WILUSZ: Mr. Chair, I</p> <p>23 would ask for a motion to enter in Exhibit</p> <p>24 1, which is the notice of adjudicatory</p>	<p>1 Predesign Investigative Work Plan For</p> <p>2 Upland Disposal Facility.</p> <p>3 (Exhibit 5, Predesign Investigative Work</p> <p>4 Plan For Upland Disposal Facility, entered</p> <p>5 into the record)</p> <p>6 MR. WILUSZ: Exhibit No. 6, a</p> <p>7 letter from Lee Board of Health counsel to</p> <p>8 EPA counsel dated September 28, 2022.</p> <p>9 (Exhibit 6, Letter dated September 28,</p> <p>10 2022, entered into the record)</p> <p>11 MR. WILUSZ: Exhibit No. 7, a</p> <p>12 letter from Lee Board of Health counsel to</p> <p>13 EPA counsel dated October 31, 2022.</p> <p>14 (Exhibit 7, Letter dated October 31,</p> <p>15 2022, entered into the record)</p> <p>16 MR. WILUSZ: Exhibit No. 8, a</p> <p>17 letter from Lee Board of Health counsel to</p> <p>18 EPA counsel dated November 3, 2022.</p> <p>19 (Exhibit 8, Letter dated November 3,</p> <p>20 2022, entered into the record)</p> <p>21 MR. WILUSZ: Exhibit No. 9,</p> <p>22 EPA's counsel response followed with</p> <p>23 labeled EPA response, November 8, 2022.</p> <p>24</p>
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<p>1 hearing, into the record.</p> <p>2 (Exhibit 1, Town of Lee, Board of</p> <p>3 Health, Notice of Adjudicatory Hearing,</p> <p>4 Saturday, November 19, 2022, entered into</p> <p>5 the record)</p> <p>6 MR. WILUSZ: Exhibit No. 2.</p> <p>7 That's a letter from the Lee Board of</p> <p>8 Health to GE and EPA dated October 11,</p> <p>9 2022.</p> <p>10 (Exhibit 2, Letter dated October 11,</p> <p>11 2022, entered into the record)</p> <p>12 MR. WILUSZ: Exhibit No. 3 is</p> <p>13 a letter from Andrew Silfer to Lee Board</p> <p>14 of Health dated October 27, 2022.</p> <p>15 (Exhibit 3, Letter dated October 27,</p> <p>16 2022, entered into the record)</p> <p>17 MR. WILUSZ: Exhibit No. 4,</p> <p>18 Understanding PCB Risks at the</p> <p>19 GE-Pittsfield/Housatonic River Site, EPA</p> <p>20 publication.</p> <p>21 (Exhibit 4, Understanding PCB Risks at</p> <p>22 the GE-Pittsfield/Housatonic River Site,</p> <p>23 entered into the record)</p> <p>24 MR. WILUSZ: Exhibit No. 5,</p>	<p>1 (Exhibit 9, GE-Pittsfield/Housatonic</p> <p>2 River Site/Rest of River Portion Petition</p> <p>3 to Town of Lee Board of Health, EPA's</p> <p>4 Counsel Responses to LBOH's Letter dated</p> <p>5 September 28, October 31, and November 3,</p> <p>6 2022, entered into the record)</p> <p>7 MR. WILUSZ: Exhibit No. 10,</p> <p>8 comparison of Exhibits 6, 7, 8 with</p> <p>9 Exhibit 9.</p> <p>10 (Exhibit 10, Comparison of Exhibits 6,</p> <p>11 7, 8 with Exhibit 9, entered into the</p> <p>12 record)</p> <p>13 MR. WILUSZ: Exhibit No. 11,</p> <p>14 it's the EPA New England permit issued in</p> <p>15 November 2016 under the RCRA, the Resource</p> <p>16 Conservation Recovery Act, as amended.</p> <p>17 (Exhibit 11, United States Environmental</p> <p>18 Protection Agency, EPA New England, Permit</p> <p>19 Under The Resource And Recovery Act (RCRA)</p> <p>20 As Amended (42 U.S.C. Section 6901, et</p> <p>21 seq.), entered into the record)</p> <p>22 MR. WILUSZ: Exhibit No. 12,</p> <p>23 EPA New England permit issued in 2002</p> <p>24 under the Resource Conservation and</p>

<p style="text-align: right;">Page 14</p> <p>1 Recovery Act as amended. 2 (Exhibit 12, United States Environmental 3 Protection Agency, EPA New England, Permit 4 Issued 2020 Under The Resource And 5 Conservations And Recovery Act (RCRA) As 6 Amended (42 U.S.C. Section 6901, et seq.), 7 entered into the record) 8 MR. WILUSZ: Exhibit No. 13, 9 it's correspondence from EPA to our 10 counsel, Cristobal Bonifaz, Esquire, dated 11 November 15, 2022. 12 (Exhibit 13, Letter dated November 15, 13 2022, entered into the record) 14 MR. WILUSZ: And last but not 15 least, Exhibit No. 14, it's correspondence 16 from EPA in reference to a Lee 17 agricultural commission letter sent to the 18 Lee Board of Health dated November 18, 19 2022. 20 (Exhibit 14, Letter dated November 18, 21 2022, entered into the record) 22 MR. WILUSZ: Mr. Chair, I ask 23 for a motion and approval to enter in 24 Exhibits 1 through 14 as stated.</p>	<p style="text-align: right;">Page 16</p> <p>1 of Lee. 2 And that process -- we don't 3 have an exact time frame on that. Again, 4 it will depend a little bit on what kind 5 of information and back-and-forth is going 6 to be required to clarify technical 7 details. There's a lot of interest in 8 this, getting all of you folks out on a 9 Saturday morning when there's so many 10 other things to do with holidays, et 11 cetera. So we understand there's a lot of 12 interest. 13 This hearing is a little bit 14 different, though, and it has to deal with 15 the technical details of safety. What are 16 the risks to human health? Is it on that 17 basis that the board has jurisdiction and 18 interest and legal history or precedent 19 with regard to that. At least we believe 20 we do. 21 So that is a fairly focused 22 limit of this board's action and, hence, 23 this meeting. We also know that there's a 24 lot of emotion around it, and I'd like you</p>
<p style="text-align: right;">Page 15</p> <p>1 MS. SULLIVAN: I make a motion 2 that we enter Exhibits 1 through 14 as 3 stated. 4 MR. WESPIESER: I second that 5 motion and vote yea. 6 MS. SULLIVAN: Yea. 7 MR. WESPIESER: So the motion 8 carries. The exhibits are entered. 9 MR. WESPIESER: We will be 10 inviting other expert testimony as it's 11 available today. And the process will 12 include taking that expert testimony 13 together with pertinent parts of the 14 administrative record, as supplied by the 15 EPA, and reviewing that. 16 The board will then at some 17 point -- it will depend a little bit 18 about -- with regard to how many questions 19 and how much review is necessary, but then 20 we will convene and vote on whether we 21 believe that this facility, the Upland 22 disposal facility, also called the PCB 23 dump, will be more likely than not to be 24 harmful to human health for the residents</p>	<p style="text-align: right;">Page 17</p> <p>1 to forgive me ahead of time if we need to 2 direct people to those technical matters 3 that are going to help us make this 4 decision. And there may be a time when 5 we're going to have to ask people to step 6 down away from that kind of thing. 7 In general, though, the way 8 the format of this meeting is set up is to 9 gather that expert testimony first. You 10 can see -- I don't know if the agenda is 11 up there or what, but then we're going to 12 have a time for the public at the end of 13 the meeting. One of the key pieces of 14 that will be specific questions that are 15 raised. Most helpfulness to the board 16 will be specific questions around the 17 expert testimony, things that may or may 18 not be evident, that require 19 clarification, or potentially more detail. 20 And we'll then possess those 21 questions best, I think, provided in 22 writing. We were just talking about this 23 morning, that we're really going to need 24 that for the legal record so that we can</p>

<p style="text-align: right;">Page 18</p> <p>1 then present those questions to the</p> <p>2 experts with hopefully getting</p> <p>3 clarification, answers, et cetera.</p> <p>4 All right. So I think really</p> <p>5 we're ready to invite -- we'd invite</p> <p>6 Dr. DeSimone to come down to the mic and</p> <p>7 introduce yourself. Am I saying that</p> <p>8 right?</p> <p>9 DR. DeSIMONE: DeSimone is</p> <p>10 fine.</p> <p>11 MR. WESPIESER: DeSimone,</p> <p>12 okay.</p> <p>13 DR. DeSIMONE: Good morning.</p> <p>14 How are you?</p> <p>15 MR. WESPIESER: If you could</p> <p>16 please introduce yourself for the record.</p> <p>17 DR. DeSIMONE: I'm David</p> <p>18 DeSimone. I'm a consulting geoscientist</p> <p>19 and retired professor from Williams</p> <p>20 College. I still do a little bit of work</p> <p>21 largely for Vermont geological survey or</p> <p>22 geoarcheology clients, doing mapping of</p> <p>23 glacial and postglacial deposits.</p> <p>24 Good for everyone to</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. WESPIESER: January 2020.</p> <p>2 Thank you. All right. Good.</p> <p>3 And I just have a couple of</p> <p>4 questions for you, if you don't mind.</p> <p>5 DR. DeSIMONE: Sure.</p> <p>6 MR. WESPIESER: Thank you,</p> <p>7 first of all, for your expertise but also</p> <p>8 coming out to our small town with a big</p> <p>9 interest, though. And I appreciate your</p> <p>10 considering just how important it is to</p> <p>11 the board and to the town's people as we</p> <p>12 try and navigate this kind of difficult</p> <p>13 area.</p> <p>14 Let's see. So we've got the</p> <p>15 date now. We wanted to clarify that for</p> <p>16 the record. It may come up again.</p> <p>17 Let's see. The EPA, together</p> <p>18 with GE, has a predesign investigation</p> <p>19 where they outlined a lot of the</p> <p>20 specifics. It's still not in the final</p> <p>21 design phase, but they outlined intention,</p> <p>22 some of the technical characteristics that</p> <p>23 the dump or the landfill will be required</p> <p>24 to have, et cetera.</p>
<p style="text-align: right;">Page 19</p> <p>1 understand: I'm not a professional</p> <p>2 geologist. I'm a professor, so I'm a</p> <p>3 consulting research scientist. I don't</p> <p>4 act in practical situations where a</p> <p>5 licensed professional geologist needs to</p> <p>6 act. I teach them how to become</p> <p>7 professional geologists, but I'm not one</p> <p>8 of them. It's odd how regulations work.</p> <p>9 So I'm just basically here to</p> <p>10 answer questions. I didn't have anything</p> <p>11 planned for you guys.</p> <p>12 MR. WESPIESER: Okay. Thank</p> <p>13 you. We do have a report that was, I</p> <p>14 believe, prepared by you. It's titled --</p> <p>15 and it's one of our exhibits -- Geological</p> <p>16 Evaluation of the Proposed Woods Pond</p> <p>17 Landfill Site. That rings a bell --</p> <p>18 DR. DeSIMONE: Correct.</p> <p>19 MR. WESPIESER: -- obviously?</p> <p>20 Okay. Good.</p> <p>21 There wasn't a date on our</p> <p>22 printed copy as it exists. Could you</p> <p>23 provide us with a --</p> <p>24 MR. DeSIMONE: January 2020.</p>	<p style="text-align: right;">Page 21</p> <p>1 Did you have a chance to</p> <p>2 review that or have some knowledge of</p> <p>3 that?</p> <p>4 DR. DeSIMONE: Any documents</p> <p>5 that postdated my report, I have not</p> <p>6 looked at.</p> <p>7 MR. WESPIESER: Okay.</p> <p>8 DR. DeSIMONE: And I know</p> <p>9 there are some more recent documents that</p> <p>10 are 2020 and forward. I looked at</p> <p>11 documents that related to the</p> <p>12 understanding of the sufficient geology of</p> <p>13 the proposed UDF, and those are sufficient</p> <p>14 geologic maps and reports that came</p> <p>15 through the USGS in the early '60s and</p> <p>16 then the more -- most recent one in 2018.</p> <p>17 MR. WESPIESER: Okay.</p> <p>18 DR. DeSIMONE: So this is very</p> <p>19 new and very reliable mapping from 2018.</p> <p>20 MR. WESPIESER: Thank you.</p> <p>21 Good. I know there are, as you mentioned,</p> <p>22 some older data from the '60s, but just to</p> <p>23 clarify for the record and to note that</p> <p>24 there's been a lot of geological work in</p>

<p style="text-align: right;">Page 22</p> <p>1 the beginning, early 2000s, with some well 2 testing, some flow testing, et cetera, 3 that, as you just mentioned, carry up to 4 and including parts of 2018. 5 Just for the record, were 6 you -- did you have that information with 7 which to -- 8 DR. DeSIMONE: No. 9 MR. WESPIESER: Okay. Thank 10 you. Good. Let's see what else I wanted 11 to ask you. 12 So one of the key points I 13 took away from your report and the board 14 has shared is that there are permeable 15 materials, geologic materials, the gravel, 16 the dirt that's underneath, and that that 17 then provides a risk potentially of 18 escaped chemicals or substances finding 19 its way into groundwater. 20 Could you clarify that and 21 just your understanding of that in brief? 22 I know there's a lot of detail in your 23 record, but for this morning's record, if 24 you could just speak to that briefly.</p>	<p style="text-align: right;">Page 24</p> <p>1 permeable sand and gravel would probably 2 extend down to bedrock; or if there was 3 impermeable till underneath that sand and 4 gravel, it would not be a very consistent, 5 persistent layer of sufficient thickness 6 to, perhaps, impede further downward 7 penetration of any contaminates that might 8 leak through a landfill. 9 That identification of ice 10 contact stratified drift by Holmes in '62 11 was verified by the mapping of Byron and 12 Mary. They're friends and colleagues, 13 Byron Stone of USGS and Mary 14 DiGiacomo-Cohen. They're incredibly good 15 geologic mappers. They produced a 16 beautiful map and recently completed a 17 sufficient geologic map of Massachusetts 18 for the USGS. It's kind of Byron's 19 capstone as an employee. He's about to 20 retire from the USGS. 21 In any event, they used a 22 different designation term. And that's 23 just to update Holmes' identification of 24 ice contact stratified drift, but they</p>
<p style="text-align: right;">Page 23</p> <p>1 DR. DeSIMONE: Sure. The 2 original mapping that I looked at was by 3 G.W. Holmes, a 1962 USGS map, easterly 4 quadrangle. It identified the -- placing 5 sediment at the site as ice contact 6 stratified drift. 7 That, in a very typical way, 8 consists of highly-permeable, 9 highly-porous sand and gravel. And 10 indeed, the location is old gravel pits in 11 that vicinity, so it was mined previously 12 on that basis. 13 In an environment where ice 14 contact stratified drift is the positive 15 by melt water -- melting ice, you 16 typically do not produce consistent or, 17 even if it's present, a very thick layer 18 of impermeable glacial deposit of sediment 19 known as till, which is unsorted, very 20 low-permeability, low-hydraulic 21 conductivity. So you would not expect to 22 find that. 23 So even though I didn't see 24 well logs, I anticipated that the</p>	<p style="text-align: right;">Page 25</p> <p>1 agreed with Holmes that this is a 2 thickness -- a variable thickness of 3 variable permeability, but largely porous 4 and permeable sand and gravel sediment 5 that may or may not extend all the way to 6 bedrock. 7 If there's no till layer 8 underneath the sand and gravel, the 9 bedrock aquifer underneath the sand and 10 gravel -- the sand and gravel itself 11 represents an unconfined overburden, but 12 with no impermeable barrier between the 13 sand and gravel and the bedrock 14 underneath, the bedrock being Stockbridge 15 formation of marble, dolomitic marble, 16 that was mapped by Nick Ratcliffe, 1985. 17 So that's a fairly recent 18 mapping as well, fairly recent. For 19 geologists, I think '85 is recent. 20 So without an impermeable 21 barrier between the sand and gravel and 22 the underlying Stockbridge marble, should 23 there be any contamination that would lead 24 from a landfill, it would not be inhibited</p>

<p style="text-align: right;">Page 26</p> <p>1 from entering the bedrock fractures. And 2 marble, as we know, tends to dissolve, and 3 fractures can be large, which can speed 4 the rate of the travel of groundwater if 5 it's bearing contaminants, contaminated 6 groundwater, in the subsurface in bedrock. 7 Those are ifs, right, without 8 understanding what the exact topography is 9 by looking at well logs from borings that 10 might have been done since 2020. 11 MR. WESPIESER: Okay. Thank 12 you. 13 UNIDENTIFIED MALE SPEAKER: 14 Can you put that in layman's terms for 15 everyone so that everyone understands 16 that? 17 MR. DeSIMONE: In layman's 18 terms, the site -- the engineered proposed 19 landfill, the barrier, the composite 20 liner, and leachate collection system, is 21 designed to be very effective. But should 22 they ever leak, there would not be a 23 barrier to further spread of the 24 contamination.</p>	<p style="text-align: right;">Page 28</p> <p>1 the Board of Health. I'd like to just 2 read, for the purposes of the record, 3 their main concern or criticism of the 4 report, so I'm going to go ahead with that 5 now. 6 And this is a direct case, a 7 direct section, from the EPA's letter. 8 "The primary finding of the DeSimone 9 report confirms what is already known and 10 documented in the administrative record. 11 There are permeable soils underlying the 12 UDF location. The EPA agrees that such 13 soils are permeable and, based upon 14 monitoring well elevation data, that the 15 localized groundwater flow toward the 16 river. EPA, however, has accounted for 17 these facts and has determined that the 18 UDF will be protected of human health and 19 the environment. The report neither 20 addresses or rebuts these findings. At 21 most, the reports expresses a mere 22 difference of opinion. Dr. DeSimone does 23 not address the low-level concentrations 24 of the PCBs designated for the UDF, the</p>
<p style="text-align: right;">Page 27</p> <p>1 UNIDENTIFIED MALE SPEAKER: 2 You said "downward." How about upwards? 3 Because I've experienced it where it was 4 lower land, and it came upwards in my 5 town. And I live there, very concerned 6 about that. 7 MR. WESPIESER: We're going to 8 ask you to hold your question right now -- 9 UNIDENTIFIED MALE SPEAKER: 10 Okay. 11 MR. WESPIESER: -- for the 12 public time frame. 13 UNIDENTIFIED MALE SPEAKER: 14 Sure. 15 MR. WESPIESER: David, thank 16 you. JoAnne, if you don't mind, I was 17 going to ask our expert about the EPA 18 record. 19 MS. SULLIVAN: Yes. 20 MR. WESPIESER: The EPA has 21 been made aware of your report. I think 22 they've seen it several times, and we've 23 asked them to comment on it for the 24 purposes of record we're forming here for</p>	<p style="text-align: right;">Page 29</p> <p>1 chemical nature for PCBs that does not 2 make them prone to migration in 3 groundwater, or, based upon monitoring 4 well data, the upwelling of groundwater 5 near the UDF that would prevent any 6 contamination from receiving the bedrock. 7 Footnotes and citations omitted." 8 So that's the main section of 9 their concern, and you're here and they're 10 not. If you have a brief reflection on 11 that, you're welcome to provide it. 12 DR. DeSIMONE: I have read 13 that in the letter. I can't disagree. 14 They have done work with monitoring wells, 15 borings, and I would wonder and would 16 suggest to them that they have a longer 17 record that -- of groundwater monitoring 18 in those monitoring wells to see if any 19 upward direction of flow from bedrock into 20 overlying sand and gravel is something 21 which is persistent, which lasts through 22 different seasons, precipitation events. 23 Just by way of example, we 24 did -- Vermont geological survey, when I</p>

<p style="text-align: right;">Page 30</p> <p>1 was working for them under contract, we 2 drilled side-by-side wells in the town of 3 Manchester's, the village of Manchester's, 4 water supply well, which is about a 5 95-foot well in sandy gravel that sits 6 directly on similar bedrock. We drilled 7 side-by-side wells, one through the top of 8 bedrock in the sand and gravel and one 9 sealed and cased from the sand and gravel 10 in penetrated bedrock. We monitored those 11 wells and other wells around the village 12 aquifer's pumping well for changes in 13 groundwater over about a period of a year. 14 We did find that only during 15 pumping conditions was there a reversal of 16 flow, which had recharged to the gravel 17 aquifer coming up from bedrock. So there 18 are times -- there are hydrogeologic 19 conditions when flows may give downward or 20 upward between bedrock and sand and 21 gravel. As long as there's no barrier in 22 between -- and there isn't a barrier here, 23 and there isn't a barrier in Manchester's 24 water supply level.</p>	<p style="text-align: right;">Page 32</p> <p>1 record that will actually go to the EPA 2 and their administrative record, and we'll 3 see if their attorney can dig out a 4 specific reflection maybe with more well 5 data et cetera. 6 But because he -- because 7 Dr. DeSimone mentioned a specific question 8 for an expert, being an expert himself, 9 that's our process. 10 MR. WILUSZ: Absolutely. 11 MR. WESPIESER: All right. 12 Thank you. Because it's being recorded, 13 we'll have a chance to do that. 14 Now, I mean, maybe our last 15 and most important question is: What is 16 your opinion as to whether this disposal 17 facility, as described, is or -- in the 18 Exhibits 5 and 9 is a risk or not to the 19 health of residents of Lee? 20 DR. DeSIMONE: I'll paraphrase 21 what I said and stated in the report. And 22 that is, when we would teach environmental 23 geology at Williams, one thing we would 24 teach would be how do you select the site</p>
<p style="text-align: right;">Page 31</p> <p>1 So yes, I appreciate that they 2 may have data. They do have data that I 3 may not have seen, nor studied, that 4 indicates an upward flow from bedrock into 5 sand and gravel. If that's persistent and 6 always there, that does protect the 7 bedrock aquifer. It doesn't impact the 8 overlying sand and gravel aquifer, and 9 contamination there can be flow, perhaps 10 even seat back, to the surface and flow 11 downward toward the river. 12 So that's something I didn't 13 see addressed in their letter. I think a 14 longer time series of data from monitoring 15 wells would be useful data to have. 16 MR. WESPIESER: Thank you. 17 Jim, I would like to ask a favor, and that 18 is that we could get a -- I know this will 19 be transcribed, but the section of 20 Dr. DeSimone's last comment in the 21 beginning was a question to the EPA or a 22 recommendation for comment. I'd like to, 23 for the record, ask that we just get that 24 capsulized as one of the questions for the</p>	<p style="text-align: right;">Page 33</p> <p>1 for an underground facility, whether it's 2 highly-contaminated waste or low-level 3 waste, nuclear waste, or whatever. 4 And we would always state that 5 yes, double, triple composite liner 6 landfills with leachate collection are 7 great. They're fantastic bits of 8 engineering, and they work really, really 9 well until they leak. Once they leak, you 10 need to have -- I feel you need to have a 11 natural environment beneath that landfill 12 which contains impermeable sediment, and 13 that would be a thickness of till, 14 impermeable sediment. You'd probably want 15 a good ten feet of till, and I'm just 16 pulling that number out of memory. 17 If not till, you'd like 18 something similarly impermeable in the 19 overburden, like glacial lake clays and 20 silts, barbs. The valley where the 21 proposed UDF would be located did not have 22 a glacial lake with that kind of a setting 23 where you would accumulate ten or more 24 feet of barb sediment, which would have</p>

<p style="text-align: right;">Page 34</p> <p>1 very low permeability.</p> <p>2 The idea of all this is to</p> <p>3 protect the bedrock aquifer, expecting --</p> <p>4 anticipating that if there's an overlying</p> <p>5 unconfined aquifer above the impermeable</p> <p>6 sediment, it's likely to become</p> <p>7 contaminated should there ever be a leak.</p> <p>8 And it's hard -- you know, I mean, it's</p> <p>9 really hard to anticipate whether leaks</p> <p>10 form or not.</p> <p>11 A leak could form during</p> <p>12 construction. It could tear the liner,</p> <p>13 and you would not know it. And the liner</p> <p>14 could be torn, and you could have a leak.</p> <p>15 You just never know.</p> <p>16 MR. WESPIESER: Doctor, in</p> <p>17 your experience as an expert in this</p> <p>18 field, did you have any reflections for</p> <p>19 the board regarding the frequency of liner</p> <p>20 failure or leaks for these -- not just</p> <p>21 PCB, but hazardous waste facilities?</p> <p>22 DR. DeSIMONE: I have no data</p> <p>23 about how frequently they do fail. I do</p> <p>24 know it does happen. And I believe the</p>	<p style="text-align: right;">Page 36</p> <p>1 Facility. You mentioned that you haven't</p> <p>2 had a chance -- I had asked you that in</p> <p>3 the beginning -- you haven't had a chance</p> <p>4 to see that, just to clarify for the</p> <p>5 record.</p> <p>6 And then 9 -- Exhibit 9 is</p> <p>7 another EPA document. And just for the</p> <p>8 record, to be specific about it, it's a</p> <p>9 letter from the EPA dated November 8, 2022</p> <p>10 to the Board of Health. Just to reiterate</p> <p>11 the component that you mentioned earlier</p> <p>12 in your discussion, and that's that "the</p> <p>13 primary finding of the DeSimone report</p> <p>14 confirms what is already known and</p> <p>15 documented in the administrative record."</p> <p>16 This, you might remember, was</p> <p>17 part of the paragraph I read.</p> <p>18 "There are permeable soils</p> <p>19 underlying the UDF location, and the EPA</p> <p>20 agrees that such soils are permeable.</p> <p>21 Based on monitoring well information, this</p> <p>22 localized groundwater flows to the river."</p> <p>23 Would you agree with that</p> <p>24 statement?</p>
<p style="text-align: right;">Page 35</p> <p>1 EPA stated, in a long-ago report, that</p> <p>2 leaks are inevitable. And some of that</p> <p>3 can just come from freeze/thaw in the</p> <p>4 environment with no one's human error</p> <p>5 involved in construction or running over</p> <p>6 the -- during completion of the landfill</p> <p>7 to somehow penetrate the liner.</p> <p>8 MR. WESPIESER: Okay. Thank</p> <p>9 you for that.</p> <p>10 JoAnne and I just conferred</p> <p>11 briefly, and I was asking her if she had</p> <p>12 any other questions. JoAnne mentioned no.</p> <p>13 I would -- before we allow you</p> <p>14 to sit down and -- we are very grateful</p> <p>15 for your time today. Thank you.</p> <p>16 I do want to ask colleagues if</p> <p>17 I've forgotten a question I wanted to ask</p> <p>18 you -- or we wanted to ask you, so if you</p> <p>19 just hold for a second.</p> <p>20 So I'm going to go in my</p> <p>21 exhibit binder to Exhibits 5 and 9 and</p> <p>22 just bring those to note. Exhibit 5 --</p> <p>23 Exhibit 5 is the Predesign Investigation</p> <p>24 Work Plan for the Upland Disposal</p>	<p style="text-align: right;">Page 37</p> <p>1 DR. DeSIMONE: Yes.</p> <p>2 MR. WESPIESER: Okay. Thank</p> <p>3 you. The EPA, however, has concluded that</p> <p>4 the design of the UDF will be protected of</p> <p>5 human health. And your report neither</p> <p>6 addresses the human health aspects, I</p> <p>7 suspect, because your report doesn't</p> <p>8 necessarily address the technical aspects</p> <p>9 of the design and follow-up monitoring; is</p> <p>10 that fair to say?</p> <p>11 DR. DeSIMONE: Yes, that's</p> <p>12 very fair.</p> <p>13 MR. WESPIESER: Okay. Do you</p> <p>14 agree that -- I think you alluded to it,</p> <p>15 but to be clear, this -- the report in</p> <p>16 there, a rebuttal of sorts has --</p> <p>17 comprises of difference of opinion?</p> <p>18 DR. DeSIMONE: Yes.</p> <p>19 MR. WESPIESER: Okay. Good.</p> <p>20 Thank you.</p> <p>21 DR. DeSIMONE: And also,</p> <p>22 perhaps, a difference of opinion as to the</p> <p>23 long-term effectiveness of the liner in a</p> <p>24 landfill.</p>

<p style="text-align: right;">Page 38</p> <p>1 MR. WESPIESER: Okay. Very 2 good. Thank you. I'm sorry to go back 3 and kind of hammer you on it. We're going 4 to be much better at holding these 5 hearings after we practice in this one. I 6 appreciate it. I'd like to just see if 7 Attorney Bonifaz has had anything else. 8 Are there any questions you would like to 9 ask?</p> <p>10 MR. BONIFAZ: No. You asked 11 everything.</p> <p>12 MR. WESPIESER: Okay. Good. 13 JoAnne?</p> <p>14 MS. SULLIVAN: No thanks. No, 15 I have no questions.</p> <p>16 MR. WESPIESER: Jim? 17 MR. WILUSZ: No. 18 MR. WESPIESER: Okay. Thank 19 you again.</p> <p>20 DR. DeSIMONE: You're very 21 welcome.</p> <p>22 MR. WESPIESER: We were 23 anticipating a second expert, 24 Dr. Carpenter, I think, from the Albany</p>	<p style="text-align: right;">Page 40</p> <p>1 taking questions later under advisement, 2 we can supply additional data or reports 3 after this meeting adjourns as long as 4 we're following the due process and the 5 characteristic, you know, rule of evidence 6 that we're trying to preserve in the 7 interest of potential further legal 8 action.</p> <p>9 So, Mr. Gray, let me open it 10 up to you to provide, as specifically as 11 you can, what Dr. Carpenter was intending 12 to offer as expert testimony today.</p> <p>13 MR. GRAY: Okay. As you know, 14 Dr. Carpenter got hurt last week, and he 15 was supposed to be on the Zoom today. I 16 don't know what's happening here, but I 17 will do my best.</p> <p>18 We've known David for 35 19 years, and David has worked for us pro 20 bono for 35 years. He's one of the 21 leading PCB scientists and probably the 22 most published scientist in the world on 23 PCBs, and his expertise -- he's a medical 24 doctor, but he's also very well versed in</p>
<p style="text-align: right;">Page 39</p> <p>1 area, University of Albany. He's not 2 online at this time. We were hoping that 3 he would present himself in the hybrid 4 format. So we're going to have to defer.</p> <p>5 Has he supplied any materials? 6 I'm not aware of a report or a specific --</p> <p>7 MR. WILUSZ: Maybe through 8 you, Mr. Chair, to Tim because I know Tim 9 has contact with Dr. Carpenter. Maybe Tim 10 could come down and you could request 11 documentation from him so we can enter it 12 into the record later on.</p> <p>13 MR. WESPIESER: Yes. As a 14 proxy of sorts for what Dr. Carpenter 15 might offer in terms of his expert 16 opinion, I would invite Tim Gray to at 17 least outline the technical 18 characteristics of what Dr. Carpenter 19 might offer. And we can at least weigh in 20 and provide to him more precise questions 21 or requests around that, again, technical 22 information around the potential safety 23 and health hazards that this Upland facil- 24 -- this UDF -- and as we're going to be</p>	<p style="text-align: right;">Page 41</p> <p>1 PCBs and what they do to people and how 2 they can harm people.</p> <p>3 So I assume Dr. Carpenter 4 would come in and talk about two of his 5 most famous studies. His first study that 6 he would probably talk about is what we 7 know as a ZIP Code study. You folks, I do 8 think -- I mean, the packet that I sent to 9 you months ago has that report in it. And 10 basically, a ZIP Code study was a study 11 that was done in New York state, and it 12 went to -- they got -- where hazardous 13 landfills are, and they studied the 14 hazardous landfills and then looked up the 15 diseases around these landfills.</p> <p>16 In New York state they keep a 17 record, the hospitals, of what diseases 18 that people have. And what he found in 19 that study is that at hazardous waste 20 sites that have POCs, persistent organic 21 chemicals, and PCBs being one of them, 22 that they create diseases around these 23 facilities. And if you read his report, 24 it comes up with probably 10 -- 8 or 10</p>

<p style="text-align: right;">Page 42</p> <p>1 diseases that they have verified around 2 hazardous waste sites in New York at a 3 time. 4 So that's a very important 5 study because it's the first time that was 6 ever done. And it shows that if you live 7 next to a hazardous waste site, you're 8 much more likely to get these, you know, 9 like I say, seven to ten, maybe, diseases 10 that David writes up in that article. 11 His other article is about the 12 volatilization of PCBs, which is something 13 that's very important for everybody to 14 understand. PCBs are -- so anyway, he's 15 been studying volatilization for years, 16 and he got the Housatonic River Initiative 17 interested in volatilization. And we've 18 come, through the years, to understand 19 that PCBs get into the air. And why this 20 is sort of important is because they -- as 21 they travel through the air, they get 22 everybody, okay. They can get into a pond 23 that's a mile away, they can get up in the 24 atmosphere, and they end up in the Artic</p>	<p style="text-align: right;">Page 44</p> <p>1 So that volatilization is so 2 important. It's also very important to 3 folks who live along the Housatonic River. 4 You know, if you've ever been along the 5 Housatonic River -- 6 MR. WESPIESER: Tim? 7 MR. GRAY: Yes. 8 MR. WESPIESER: Tim, let me 9 interrupt you. Is this detail now you're 10 supplying part of Dr. Carpenter's proposed 11 expert testimony or is this -- excuse me, 12 but is this your own? 13 MR. GRAY: No. This is stuff 14 that we've learned from Dave. I mean, it 15 is -- 16 MR. WESPIESER: Okay. So 17 he'll be providing us potentially detail 18 around this. I just want to keep our 19 focus on the expert testimony. I've asked 20 you to come up to talk about, you know, 21 what he'll be bringing to -- and we're 22 going to, you know, really welcome a 23 report or a series of reports from 24 Dr. Carpenter, but I want to focus on what</p>
<p style="text-align: right;">Page 43</p> <p>1 and they rain down on polar bears. You 2 know, it's the food chain thing. 3 And PCBs, because they are one 4 of the most persistent organic chemicals 5 in the world, travel around the world like 6 that. And so it would be HRI's 7 assumption, I would say, but this is what 8 we've learned from David Carpenter, is 9 that having a water supply near a source 10 of persistent organic chemicals is not a 11 good thing. 12 Back in about -- in the '90s, 13 EPA picked a pond. I think it was in 14 Sheffield, and I believe it's called Three 15 Mile Pond, if my memory serves me right. 16 And that was supposed to be the -- you 17 know, sort of the test pond that didn't 18 have any PCBs. And I don't have to go one 19 step further and tell you what happened is 20 that this little test pond that was not 21 supposed to have PCBs had PCBs. How? 22 Because they volatilized. They move 23 through the air and they get into the 24 environment that way.</p>	<p style="text-align: right;">Page 45</p> <p>1 he'll be able to supply us, if at all 2 possible. 3 MR. GRAY: Well, I'm having a 4 little -- you know, I'm having trouble 5 understanding you, Bob, because the -- all 6 of these reports are in your possession, 7 and these are the published reports that 8 David has -- have peer reviewed and have 9 been published, you know, around the 10 world. So -- and that's what I'm talking 11 about, so I'm not quite sure where I'm 12 going astray here. 13 MR. WESPIESER: There is -- 14 well, I just -- we want to focus on what 15 is the -- 16 UNIDENTIFIED MALE SPEAKER: 17 Nobody's mentioned the fact that it's 18 carcinogenic? 19 MR. WESPIESER: What's that? 20 UNIDENTIFIED MALE SPEAKER: 21 Nobody's mentioned the fact that it's 22 carcinogenic at all. 23 [Cross talking] 24 UNIDENTIFIED MALE SPEAKER:</p>

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<p>1 Transportation or distribution, when you 2 pull the truck in, does it go into the 3 air? You didn't address that. I wish you 4 would have.</p> <p>5 MR. WESPIESER: Thank you. 6 I've asked you to hold your comments, and 7 I'll ask you again. 8 [Cross talking]</p> <p>9 UNIDENTIFIED MALE SPEAKER: 10 But you didn't address what we need.</p> <p>11 UNIDENTIFIED MALE SPEAKER: I 12 just wanted to mention that for legal 13 purposes.</p> <p>14 MR. WESPIESER: Thank you.</p> <p>15 UNIDENTIFIED MALE SPEAKER: 16 Well, in David Carpenter's study, too, he 17 does talk about potential of cancer. It's 18 a real thing. It changed from probable 19 carcinogen to a known carcinogen in the 20 last couple of years.</p> <p>21 MR. WESPIESER: Thank you.</p> <p>22 MR. BONIFAZ: I want to make a 23 comment. If you look at Exhibits 1 24 through 14, Exhibit 4 is an exhibit from</p>	<p>1 posted on the web. There's no question 2 about it, and all of those diseases have 3 been covered.</p> <p>4 MR. WESPIESER: Thank you. 5 That was well said. That was my point. 6 Thank you, Tim. Tim, we'll follow up with 7 a formal request to Dr. Carpenter coming 8 from us and just swing that by you in 9 terms of the nature of our request because 10 clearly you have a lot of information and 11 contact with him over, as you mentioned, 12 30-plus years. So it's valuable. Thank 13 you.</p> <p>14 MR. GRAY: Thank you.</p> <p>15 MR. WESPIESER: Cristobal, we 16 were going to conclude the expert 17 testimony part of our record soon, but I 18 wanted to ask you if this was a good time 19 to do that or if there's other additional 20 items that JoAnne and I should pursue from 21 the perspective of the Board of Health and 22 the recorded record?</p> <p>23 MR. BONIFAZ: Well, see, not 24 all the testimony is in. We can give</p>
Page 47	Page 49
<p>1 EPA, which recognizes every single thing 2 that they all say. It recognizes all the 3 disease, including cancer, including all 4 kinds of other diseases that are caused by 5 PCBs. So that is part of the record.</p> <p>6 What we need is a report from 7 Dr. Carpenter after he has read the 8 record, Exhibits 1 through 14, to tell us 9 what he thinks about this specific 10 location and what is the (inaudible) 11 towards this specific location. That is 12 the testimony that we can accept because 13 basically when you get up there and you 14 say these things, it's all hearsay 15 testimony. It's not going to work in any 16 court.</p> <p>17 So we need this report signed, 18 executed by him, submitted. And we will 19 love to give him 30 days, 60 days, 20 whatever he wants to do, to prepare this 21 report, then we will get it into the 22 record because we can sit over here and 23 read -- read the entire record, but the 24 record is for all of you to see. It's</p>	<p>1 people 30 days or 60 days to supply any 2 other expert testimony that they may want 3 to enter into the record.</p> <p>4 The position of the Board of 5 Health -- for the Board of Health is 6 established. I mean, we have all of this 7 documentation on the record. I suggest 8 that you read the record before you see if 9 we didn't do the job right, but the stuff 10 is here. If you want to add anything to 11 this, great. We will wait 30 days to 12 decide, but everything is here. Please 13 read the record.</p> <p>14 MR. WESPIESER: Okay. Very 15 good. Thank you. With that clarified, 16 we -- I would look for a motion to close 17 the expert testimony.</p> <p>18 UNIDENTIFIED FEMALE SPEAKER: 19 I have Dr. Carpenter on the phone. He 20 never received the Zoom link.</p> <p>21 MR. WESPIESER: Yeah, we'll 22 wait a minute for technical 23 considerations, see if we can get him.</p> <p>24 UNIDENTIFIED MALE SPEAKER:</p>

<p style="text-align: right;">Page 50</p> <p>1 Hi. Can I be recognized?</p> <p>2 MR. WESPIESER: Not --</p> <p>3 UNIDENTIFIED MALE SPEAKER:</p> <p>4 It's an expert report. I wanted to</p> <p>5 provide this to the Board of Health. And</p> <p>6 I just wanted to submit it as</p> <p>7 documentation. I think it's an additional</p> <p>8 report. It's on landfill failures, the</p> <p>9 very truth. It's from the Center for</p> <p>10 Health, Environment, and Justice from</p> <p>11 Falls Church, Virginia, and it outlines</p> <p>12 and documents the failure processes on</p> <p>13 these landfills and that it's not a</p> <p>14 question of if the landfill will fail,</p> <p>15 it's when.</p> <p>16 MR. WESPIESER: Of course you</p> <p>17 can enter it. We just need you to sign</p> <p>18 in. There's -- I think we have an expert</p> <p>19 testimony sign-in sheet right at the front</p> <p>20 here. And if you can please print, we</p> <p>21 will definitely accept that.</p> <p>22 UNIDENTIFIED MALE SPEAKER:</p> <p>23 Thank you.</p> <p>24 MR. BONIFAZ: Is this prepared</p>	<p style="text-align: right;">Page 52</p> <p>1 specific issue here. The obvious specific</p> <p>2 issue of this record is whether the UDF</p> <p>3 projected to the town of Lee (inaudible).</p> <p>4 UNIDENTIFIED MALE SPEAKER: It</p> <p>5 is a risk of health. It will fail.</p> <p>6 MR. BONIFAZ: But why -- what</p> <p>7 basis do you have to say that?</p> <p>8 UNIDENTIFIED MALE SPEAKER:</p> <p>9 This report --</p> <p>10 [Cross talking]</p> <p>11 UNIDENTIFIED MALE SPEAKER:</p> <p>12 It's documented throughout the country</p> <p>13 numerous times and in numerous locations</p> <p>14 that these fail.</p> <p>15 MR. BONIFAZ: The topic that's</p> <p>16 up for discussion --</p> <p>17 UNIDENTIFIED FEMALE SPEAKER:</p> <p>18 Can you give him the mic so --</p> <p>19 UNIDENTIFIED MALE SPEAKER:</p> <p>20 Why don't you take your thing off? You're</p> <p>21 protecting yourself, unless you have a</p> <p>22 problem.</p> <p>23 And I don't like what you said</p> <p>24 in the beginning. You said "good</p>
<p style="text-align: right;">Page 51</p> <p>1 by you?</p> <p>2 UNIDENTIFIED MALE SPEAKER:</p> <p>3 It's not prepared by me.</p> <p>4 MR. BONIFAZ: So what is this</p> <p>5 a document from?</p> <p>6 UNIDENTIFIED MALE SPEAKER:</p> <p>7 It's from the Center -- it says it there</p> <p>8 on the bottom there, yeah.</p> <p>9 MR. BONIFAZ: Yeah, we'll put</p> <p>10 it as part of the exhibits.</p> <p>11 UNIDENTIFIED MALE SPEAKER:</p> <p>12 It's a Wells Research document. It's a</p> <p>13 175-page document. I only gave you the</p> <p>14 ten pages. It's online, the complete</p> <p>15 document, and it thoroughly outlines on</p> <p>16 how this failed.</p> <p>17 MR. BONIFAZ: Is it referenced</p> <p>18 in this report about the UDF in</p> <p>19 particular?</p> <p>20 UNIDENTIFIED MALE SPEAKER:</p> <p>21 It's all about that.</p> <p>22 MS. SULLIVAN: No. The</p> <p>23 particular one here in Lee.</p> <p>24 MR. BONIFAZ: We have one</p>	<p style="text-align: right;">Page 53</p> <p>1 morning." It's not a good morning. And</p> <p>2 furthermore, the town isn't here speaking,</p> <p>3 okay, and you're going through paperwork.</p> <p>4 I've lived through it, death, smog,</p> <p>5 chemical factory, two-block town, across</p> <p>6 the street. My neighbor, my wonderful</p> <p>7 neighbor, got a brain tumor, same thing</p> <p>8 PCBs. There's a creek below us, just a</p> <p>9 little bit below us but a creek.</p> <p>10 Oh, okay. Guess what happened</p> <p>11 to my neighbor after he had the brain</p> <p>12 tumor? He got it again. Guess what</p> <p>13 happened to my next-door neighbor? He got</p> <p>14 a brain tumor and died, okay. Guess what</p> <p>15 happened to his wife who took care of him</p> <p>16 the whole time? She got breast cancer and</p> <p>17 then got it again. And then the neighbor</p> <p>18 next to me got cancer and died.</p> <p>19 And at the end of the</p> <p>20 street -- I was warned when I moved in</p> <p>21 that town, okay, that they had a chemical</p> <p>22 spill through vapor, okay, and it only</p> <p>23 went through that town. All of them died.</p> <p>24 Then I moved there, and that's</p>

<p style="text-align: right;">Page 54</p> <p>1 when the brain tumors happened, after --</p> <p>2 my friend, who I went to school with, was</p> <p>3 a politician and walked me through it and</p> <p>4 said how they layer it. All the -- they</p> <p>5 put eight layers in soil, in toxic -- and</p> <p>6 it came up and screwed us, okay, everyone.</p> <p>7 And then you talk about the</p> <p>8 water supply. The water supply was in the</p> <p>9 next town over, and it was a little bit</p> <p>10 higher. They had to cut it and go through</p> <p>11 the other towns, and then it costs us more</p> <p>12 money for water. In this day and age,</p> <p>13 look at our water problems. They're</p> <p>14 setting you up for maybe for your future,</p> <p>15 okay, that you're going to have to rely on</p> <p>16 another town or have it trucked in. And</p> <p>17 we, in this beautiful Berkshires, okay --</p> <p>18 MR. WESPIESER: Sir, finish</p> <p>19 up, please.</p> <p>20 UNIDENTIFIED MALE SPEAKER: I</p> <p>21 just want to say this. Three or four</p> <p>22 years ago, we were recognized as one of --</p> <p>23 the cleanest air in the United States.</p> <p>24 How could we let this happen here? What I</p>	<p style="text-align: right;">Page 56</p> <p>1 increase, we will beat you. Finished.</p> <p>2 MR. WESPIESER: Thank you.</p> <p>3 You're welcome to sign in as an expert as</p> <p>4 part of our expert testimony.</p> <p>5 UNIDENTIFIED MALE SPEAKER:</p> <p>6 I'm not an expert. I just lived through</p> <p>7 death, and I ain't going to live through</p> <p>8 it. I lived here for --</p> <p>9 [Cross talking]</p> <p>10 MR. WESPIESER: Thank you.</p> <p>11 [Cross talking]</p> <p>12 UNIDENTIFIED MALE SPEAKER: I</p> <p>13 lived through it. I lived here for 20</p> <p>14 years, good people, and I'm here.</p> <p>15 MR. WESPIESER: Thank you.</p> <p>16 UNIDENTIFIED MALE SPEAKER:</p> <p>17 And I thank you for being on the board and</p> <p>18 everything you do.</p> <p>19 MR. WESPIESER: Yes.</p> <p>20 UNIDENTIFIED MALE SPEAKER: Do</p> <p>21 the right thing, though. Don't let</p> <p>22 anybody catch you taking in a till or</p> <p>23 something. We need this going somewhere</p> <p>24 else.</p>
<p style="text-align: right;">Page 55</p> <p>1 went through in a small town, okay --</p> <p>2 MR. WESPIESER: Thank you.</p> <p>3 UNIDENTIFIED MALE SPEAKER:</p> <p>4 You look just like my brother, and my</p> <p>5 brother did the same thing. He went to</p> <p>6 Rutgers. I'm going to tell you what I</p> <p>7 tell my mom. Don't look at that stack of</p> <p>8 paper there. Look at common sense, where</p> <p>9 I come from, and all the people that died</p> <p>10 from cancer on a small street. And my</p> <p>11 town was just like Lee, okay, and it's not</p> <p>12 anymore.</p> <p>13 They're not going to tell</p> <p>14 you -- what are they going to tell you</p> <p>15 when your house value goes down and the</p> <p>16 trucks come through the street, okay, to</p> <p>17 transport this stuff and your house value</p> <p>18 goes down? I'm going to go right to the</p> <p>19 level of lawyer, and I'm going to lawyer</p> <p>20 up and I know a lawyer.</p> <p>21 MR. WESPIESER: Sir --</p> <p>22 UNIDENTIFIED MALE SPEAKER: I</p> <p>23 know a lawyer that would match you on your</p> <p>24 house values. And when you see the</p>	<p style="text-align: right;">Page 57</p> <p>1 [Cross talking]</p> <p>2 MR. WESPIESER: I'm going to</p> <p>3 redirect here.</p> <p>4 UNIDENTIFIED MALE SPEAKER:</p> <p>5 You misstated on the publication, when you</p> <p>6 were showing the presentation. You were</p> <p>7 speaking out the dates, but you were</p> <p>8 actually misstating it to what was on the</p> <p>9 publication of it. And also, you can</p> <p>10 leave me alone, please. I'm literally</p> <p>11 just stating something that --</p> <p>12 MR. WESPIESER: Thank you. I</p> <p>13 want to get back to the possibility of an</p> <p>14 expert being on the line. Is</p> <p>15 Dr. Carpenter --</p> <p>16 MR. WILUSZ: He's not on the</p> <p>17 line yet.</p> <p>18 MR. WESPIESER: Okay. Do we</p> <p>19 suspect -- do we know if that's going to</p> <p>20 happen? I don't think so.</p> <p>21 UNIDENTIFIED MALE SPEAKER: I</p> <p>22 just wanted to get back to the report I</p> <p>23 submitted, where it addresses the issues</p> <p>24 item by item on how exactly this type of</p>

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<p>1 landfill -- it's not a new technology 2 that's coming in. This is old technology. 3 The report scientifically, you 4 know, studied Lee, outlines why and how it 5 will fail. The vinyl itself, assume it's 6 placed into the ground, is reactive. And 7 then you put the elements on top of it, 8 more reactive. The plastic pipes, 9 reactive to the elements in there. All of 10 this is -- will fail. There's no question 11 about it. 12 MS. SULLIVAN: I think we 13 understand that. We understand your 14 passion. We have passion too, but I think 15 what Attorney Bonifaz says is it doesn't 16 matter in a court of law what happens 17 around the whole United States. It 18 matters what happens here in Lee and 19 what's going to be -- 20 [Cross talking] 21 UNIDENTIFIED MALE SPEAKER: 22 You're going to lose. You're going to 23 lose. 24 MS. SULLIVAN: Excuse me, I'm</p>	<p>1 [Cross talking] 2 MR. McQUEARY: I'm Charles 3 McQueary (phonetic). I submitted a letter 4 of technical comments. I wanted to 5 subsidize that. 6 MR. WESPIESER: A letter of 7 technical comments. Can you please sign 8 in as an expert? It's very important that 9 we record that. Again, this is being 10 recorded, not to give people a hard time 11 but so that we can observe the process for 12 later action if it becomes important or 13 available. 14 So this is information about 15 dioxin? 16 MR. McQUEARY: That's correct. 17 MR. WESPIESER: Thank you. 18 MR. McQUEARY: If you want to 19 hear about it, I'm prepared to -- 20 MR. WESPIESER: We'll review 21 it. It's not -- it doesn't pertain 22 specifically until we have a chance to see 23 and review how it does pertain to the 24 technical aspects of this dump.</p>
Page 59	Page 61
<p>1 not going to be yelled at by you. 2 UNIDENTIFIED MALE SPEAKER: 3 I'll yell. I'll yell and fight. I know 4 what's right. I've seen it. 5 MS. SULLIVAN: This is not 6 public comment time. 7 UNIDENTIFIED MALE SPEAKER: 8 This started with toxic, the word "toxic." 9 This is toxic. 10 UNIDENTIFIED FEMALE SPEAKER: 11 They're doing their job. 12 UNIDENTIFIED MALE SPEAKER: 13 They're not doing their job. 14 UNIDENTIFIED FEMALE SPEAKER: 15 Yes, they are. 16 UNIDENTIFIED MALE SPEAKER: 17 There's data and there's facts. It's a 18 175-page report. It's very well 19 documented. (Inaudible). I submit this 20 report as evidence. It is useful. It's 21 scientific. It provides information 22 exactly pertaining to this toxic dump. 23 MR. WESPIESER: Well taken. 24 Thank you. And thank you for signing in.</p>	<p>1 MR. McQUEARY: This woman 2 would like me to give my name. Charles 3 McQueary. I'm from Franklin, 4 Massachusetts. I'm a former LSP and a 5 former Department of Interior water 6 quality subject matter expert. 7 MR. WESPIESER: What is LSP? 8 MR. McQUEARY: Licensed site 9 professional. 10 MR. WESPIESER: Thank you. 11 Thank you very much. If Dr. Carpenter is 12 available, we'll proceed. If not, we're 13 going to close the expert testimony part 14 of our hearing today. 15 MR. BAILEY: Just a point of 16 order, if I could. 17 MR. WESPIESER: Point of 18 order? 19 MR. BAILEY: Thank you. 20 Gordon Bailey, 734 Pleasant Street in Lee. 21 Somebody's yelling from the back. And I 22 have to confirm that when you were reading 23 out the different documents, you did 24 misstate two or three of the dates. And</p>

<p style="text-align: right;">Page 62</p> <p>1 if that is a legal consideration, you may 2 want to revisit those. I know one was in 3 October, but you said November. I don't 4 know if that even matters, but I know that 5 somebody was yelling it out. And I just 6 want to point out if that's a concern 7 legally, then we should readdress those. 8 MR. BONIFAZ: You say that the 9 document is mislabeled, the date? 10 MR. BAILEY: No. 11 MR. WESPIESER: I misspoke. 12 MR. BAILEY: It was read 13 wrong. 14 MR. BONIFAZ: I think his 15 writing was -- 16 MR. BAILEY: Okay. That was 17 someone's concern, and I just wanted to 18 point that out in case it mattered to the 19 case as it goes down the road. 20 MR. WESPIESER: Thank you. I 21 think Attorney Bonifaz's plan is that the 22 written record, as present in the binder, 23 is accurate and as stated. And that is 24 going to be the key piece or the concrete</p>	<p style="text-align: right;">Page 64</p> <p>1 how dangerous PCBs are. 2 None of that is in question. 3 We know the detail around the danger of 4 PCBs. That's not our goal today. We 5 accept that as a priority. It is present 6 and well established. So none of our 7 comments or process is meant to discount 8 the importance that these chemicals are 9 dangerous to human health. 10 The trick for the Board of 11 Health -- the task for the Board of Health 12 is to decide is this UDF -- is this dump 13 facility a danger to human health as the 14 planning exists at this time. 15 So with that in mind, I would 16 entertain a motion -- 17 MS. LAHEY: I would like to 18 present as an expert witness, as a 19 statistical analyst with an MS in 20 operation of research. I thought about 21 asking to be an expert witness. I have 22 read every single document right up 23 through all of those exhibits. 24 MR. WESPIESER: Very good. I</p>
<p style="text-align: right;">Page 63</p> <p>1 piece that we move ahead with. 2 All right. JoAnne 3 mentioned -- and we're just informally 4 going to talk as we go through this 5 process because we're trying to be 6 resilient and flexible here, given 7 unexpected changes, circumstances, 8 mentioned to take a break, but then if we 9 have that break and -- we would want to 10 let the recorder and the attorney go, but 11 then if the expert's here, we can't do 12 that. 13 So I think if we end, then 14 we'll invite, right, as the attorney 15 stated -- we'll invite a report or reports 16 from Dr. Carpenter. And I am aware, based 17 on information HRI has given us, an 18 extent -- Dr. Carpenter does have an 19 extensive CV with hundreds of articles he 20 is an expert in is what's -- a lot of what 21 is in Exhibit 4 in our documents, and that 22 exhibit, as Attorney Bonifaz mentioned, 23 outlines a lot of the up-to-date and 24 recent well study, peer-reviewed data on</p>	<p style="text-align: right;">Page 65</p> <p>1 invite you. And you're clear to sign in 2 as an expert and provide reports as you 3 have them, and we'll be happy -- and it's 4 important that we'll review them and have 5 them reviewed as important parts of our 6 process. 7 Could you -- we would need to 8 state your qualifications again, I know, 9 for the purposes of the record. 10 MS. LAHEY: Most of you know 11 I'm Clare Lahey, 110 Mill Street, Lee. I 12 live right across from the river. And you 13 all know me as a tennis coach, but my 14 career before that was a statistical 15 analyst with my MS in operations research. 16 I actually took all my courses at Union 17 College with a whole class of GE 18 engineers. 19 So they were studying the same 20 things I was. They were getting ready to 21 be the analysts for GE. I have read this 22 report, looking at it as a statistical 23 analyst, looking for the reliability of 24 their statements throughout this report,</p>

<p style="text-align: right;">Page 66</p> <p>1 just to confirm that survey right now 2 about the number of failures that was 3 presented by The Center for Environment, 4 Health, & Justice. 5 One of my questions in here 6 was, how can GE keep asserting so 7 vehemently that this -- that they very 8 seldom leak? What surveys have they done? 9 Absolutely none. The data is out there. 10 We have The Center for Environment, 11 Health, & Justice that is ready to give us 12 so much technical information. They're 13 willing to look at our -- the reports that 14 are being done to see if they are valid, 15 to look at the reports that we're getting 16 from corporations. 17 I went through that report and 18 I was planning to read my document, but 19 that would take ten minutes because it's a 20 lot of information. I'll just highlight 21 real quick some of my big questions. 22 On -- I was -- this is 23 regarding the last preinvestigative report 24 on the UDF. It was just sent out a few</p>	<p style="text-align: right;">Page 68</p> <p>1 the data they collected in the past year. 2 They given -- done the tests quarterly. 3 One of my comments on that is, just as 4 somebody else stated, you have to have a 5 longer period because of all the 6 variables. They're not considering 7 climate change and the affect that that is 8 going to have on future groundwater 9 levels. 10 Groundwater level is very 11 important, is crucial to this, because the 12 liner -- the bottom liner has to be 15 13 feet above groundwater. If the 14 groundwater is uprising or getting higher 15 because of increased rain downfall, storm 16 runoff, whatever, then the liner's 17 positioning will change. And they have to 18 do a forecast based on so many factors, 19 climate change, that -- you know, within 20 the next ten years, we could be seeing, 21 according to studies recently, 100-year 22 floods. Rather than every 100 years, 23 we'll see them every ten years. 24 MR. WESPIESER: Are these</p>
<p style="text-align: right;">Page 67</p> <p>1 days ago, and it's quite lengthy. That's 2 the latest data that gives all the 3 information with the borings they've done, 4 how they plan to use that, and their -- it 5 mentioned in there that they have pretty 6 much just assumed about -- I'm going to 7 talk about the direction of groundwater 8 flow and the depth of groundwater. 9 This is what this whole report 10 was just recently. So they -- their 11 groundwater flow direction that they say 12 is based on assumption. And they say 13 this, that because the landfill that Lee 14 has nearby has an east-to-west flow 15 towards the river. They have not based it 16 yet on any borings or tests that they have 17 done. They haven't revealed those tests. 18 They started back in November a year ago, 19 said that they were going to test, do 20 these borings for groundwater depth. 21 Piezometer wells have been set up, and 22 ground wells, for monitoring at the base 23 of the (inaudible). 24 They have not revealed any of</p>	<p style="text-align: right;">Page 69</p> <p>1 questions outlined in your document? 2 MS. LAHEY: Yes, they are. 3 MR. WESPIESER: Okay. Thank 4 you. Good. 5 MS. LAHEY: So that's about 6 the flow that -- they have that 7 information. They're saying that they're 8 going to give -- tell us the results of 9 the studies they've done so far of the 10 borings, December 6 at the earliest. This 11 is what they told our conservation 12 commission. Why are they waiting until 13 then? This would help so much with our 14 decision. 15 You do not have the data you 16 need in order to -- they have not 17 established, for the record, or showed any 18 proof of predicting exactly what it's 19 going to be. They can take tests for a 20 year, but that's only going to show them 21 for a year. 22 As a statistical analyst, we 23 set up models for every factor, climate 24 change, the cutting the trees, the record</p>

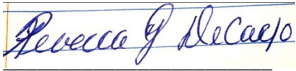
<p style="text-align: right;">Page 70</p> <p>1 of groundwater storm events, and so on. 2 And that's all put into the model, and we 3 test every one of those factors for 4 reliability. This is a very complicated 5 prediction they're trying to make, and 6 they haven't even shown a process that 7 they will be using to make this 8 determination. They're simply basing it 9 on time-series analysis, which is just a 10 short period of data. 11 And we know from 12 statistical -- from the way that you're 13 taught, you have to have at least ten 14 years of data really to do a time-series 15 analysis, and that's the most basic kind 16 of analysis. It's not setting up a model 17 where you can put it into a computer. 18 UMass had a webinar just 19 recently, and I've been watching every 20 webinar that UMass does on 21 environmental -- and that's in there, 22 okay. It has -- they did a webinar on 23 their models for predicting the effect of 24 cutting trees, the effect of many</p>	<p style="text-align: right;">Page 72</p> <p>1 that GE has or that the consultants have 2 with regard to the well data that they've 3 been accumulating most recently. And we 4 would, of course, want that data as well. 5 So the other thing is you 6 mentioned in the initial expert -- 7 Mr. Manoli mentioned The Center for 8 Health, Environment, & Justice, and JoAnne 9 brought up that we would certainly 10 entertain if they were -- if it made sense 11 for interested parties to have them 12 present to us any specific -- again, as 13 Attorney Bonifaz has held us to the 14 fire -- specific insights and technical 15 information and analysis of our particular 16 design and situation. 17 That is going to be the most 18 important piece for us to reflect on. 19 MS. LAHEY: Right. 20 MR. WESPIESER: We're really 21 importantly focused on that. Again, we 22 know, both by Exhibit 4, by Dr. DeSimone's 23 testimony, that there's a lot of variables 24 here, too many for us to consider, except</p>
<p style="text-align: right;">Page 71</p> <p>1 different factors. 2 MR. WESPIESER: I hate to 3 interrupt you, but does this pertain to 4 our -- 5 MS. LAHEY: Yes, because they 6 have -- GE could be using i-Tree, i-Care, 7 which is the most up-to-date predictor. 8 [Cross talking] 9 MR. WESPIESER: The board is 10 going to want to have all important 11 technical contributions in order to make 12 them part of the record and to review them 13 in terms of our decision. 14 MS. LAHEY: Okay. 15 MR. WESPIESER: So if you 16 could make sure that we get the especially 17 technical data. We do have a lot of data 18 on the geological element. We heard it 19 today from Dr. DeSimone. So we know there 20 are, you know, potentially many decades of 21 information from surveys on the geologic 22 status, but I know from your previous 23 comments at a different meeting that 24 there's potentially some data coming out</p>	<p style="text-align: right;">Page 73</p> <p>1 as it applies to the potential impact on 2 health. 3 MS. LAHEY: Right. 4 MR. WESPIESER: So -- 5 MS. LAHEY: So they have to 6 give you a -- prove to you without any -- 7 with a really clear -- you know, there's 8 maybe only a 1 percent chance this will 9 fail or is it a 40 percent chance it's 10 going to fail? They should be able to do 11 that study and back it up and prove to 12 you. 13 Okay. So Dr. Carpenter is 14 waiting, and I appreciate your time. 15 MR. WESPIESER: Yes. Thank 16 you. 17 MS. LAHEY: Thank you so much. 18 MR. WESPIESER: Thank you very 19 much. Okay. So we have Dr. Carpenter on 20 the line. Dr. Carpenter, can you hear me? 21 Dr. Carpenter, can you hear me? 22 DR. CARPENTER: Yes, I can. 23 MR. WESPIESER: My name is 24 Robert Wespieser. This is JoAnne</p>

<p style="text-align: right;">Page 74</p> <p>1 Sullivan. We're both members of the Board 2 of Health.</p> <p>3 DR. CARPENTER: I'm very sorry 4 that I'm not there in person.</p> <p>5 MR. WESPIESER: Okay. Very 6 good. You know then that this is the 7 Board of Health of Lee. This is an 8 adjudicatory hearing. Our purpose is to 9 gather expert testimony around a decision 10 coming up, and that is, is this particular 11 dump facility a danger to the health and 12 well-being of the people of Lee's health 13 specifically.</p> <p>14 So with that in mind, if you 15 don't mind introducing yourself.</p> <p>16 DR. CARPENTER: Yes. I'm 17 David Carpenter. I'm a public health 18 physician. I'm a former director of the 19 New York State Department of Health 20 Laboratories, and then I became the dean 21 of the School of Public Health. I've 22 worked on PCBs. It has been my major 23 research institute since the late 1980s. 24 I've done a lot of work primarily along</p>	<p style="text-align: right;">Page 76</p> <p>1 asking.</p> <p>2 Are you aware of this 3 particular facility, aware of, for 4 instance, its design characteristics, 5 its -- there's was a preimplementation 6 design document. It was processed. And 7 you may be familiar with that, but could 8 you state for us what your familiarity is 9 with this particular facility?</p> <p>10 DR. CARPENTER: I have a 11 number of those documents. I can't say 12 that I've reviewed them very carefully. 13 As I understand, this facility is actually 14 in the town of Lee city limits. It's not 15 very far from the Housatonic.</p> <p>16 And one of the concerns is 17 that they would be leaching from the 18 landfill back into the river. That's 19 certainly an appropriate concern. It 20 varies with the geology of the area. 21 Also, the issues of what kind of 22 containment, especially the liner.</p> <p>23 Now, let me just quickly tell 24 you my experience. The major</p>
<p style="text-align: right;">Page 75</p> <p>1 the St. Lawrence River with the Native 2 American Mohawk Tribe.</p> <p>3 I've been very much involved 4 with the issues of the Hudson River, and I 5 certainly conferred with people around 6 Housatonic over the years, although that's 7 not been the site of my research. I've 8 had probably 80 or 90 publications on 9 health effects of PCBs, again, many of 10 those with the Mohawks and Iroquois in 11 Northern New York.</p> <p>12 And the diseases that come 13 from PCB exposure are just many. I won't 14 go into that right now, unless you have 15 questions about those specific diseases.</p> <p>16 MR. WESPIESER: Thank you. 17 Thank you. We do have some questions for 18 you.</p> <p>19 First, I'd like to mention 20 that we're specif- -- as I mentioned 21 briefly, we're specifically interested in 22 a focus on this particular PCB disposal 23 facility. And I did prepare a couple of 24 questions for you, if you don't mind me</p>	<p style="text-align: right;">Page 77</p> <p>1 contamination site from the General Motors 2 facility near the -- scenic New York was 3 dredged and cleaned up, but within five 4 years, there was leaching of the PCBs from 5 the landfill such that that landfill did 6 not have a liner, which is the difference, 7 of course, with what you're proposing, but 8 the contamination is now actually worse 9 than it was before the remediation five 10 years ago.</p> <p>11 There is almost no way that 12 even with a good liner it's going to be 13 permanent because in time there will be 14 breaks in lining, and you will have decay 15 coming from a landfill. This means it's 16 extremely important. I mean, I understand 17 the need to dredge to get contaminated 18 sediments out. That's very obvious, you 19 know.</p> <p>20 And what's extremely important 21 is if you're going to take contaminated 22 sediments and put them in a landfill, that 23 you put them in a landfill that's as far 24 as away from people, as far away from</p>

<p style="text-align: right;">Page 78</p> <p>1 rivers, as far away from any possible 2 source of harm, as possible. 3 UNIDENTIFIED FEMALE SPEAKER: 4 Yes. 5 MR. WESPIESER: Thank you. 6 The board understands you received 7 documents from us. We have them listed as 8 Exhibits 5 and 9. Are you familiar with 9 that, these documents? 10 DR. CARPENTER: I can't say I 11 know them by their numbers, but I received 12 documents. 13 MR. WESPIESER: Well, 14 descriptively, 5 is the predesign 15 investigative work that is available on 16 the website but also outlines the 17 predesign specific requirements short of 18 exact drafted plans because there's still 19 some things uncertain, of course, but it's 20 the predesign characteristics of this 21 particular disposal facility. 22 It sounds considerably 23 different than the example you gave, where 24 there was an unlined facility, but I</p>	<p style="text-align: right;">Page 80</p> <p>1 leak. 2 The other major concern I have 3 is escaping of PCBs from the surface of 4 the landfill into the air. A lot of my 5 work recently, both along the Hudson 6 River, along the St. Lawrence River, and 7 the studies I've done in Anniston, Alabama 8 around the Monsanto plant where PCBs were 9 manufactured, is inhaling PCBs has a very 10 important route of exposure. It hasn't 11 been given the consideration that it's 12 due. 13 But in our work both along the 14 St. Lawrence and my colleagues' work along 15 the Hudson River, if you live near a 16 contaminated site that is not totally 17 enclosed, PCBs escape into the air, 18 especially during warm weather, and 19 they -- you inhale them constantly. Well, 20 what I didn't see in the documents, but, 21 perhaps, this is because I didn't review 22 them as carefully as I should have, was 23 what the top enclosure was to be. 24 Usually, it will be a liner</p>
<p style="text-align: right;">Page 79</p> <p>1 just -- for the record, I wanted to ask 2 you if you're familiar with the specifics 3 of the design outlined in that predesign 4 documents. 5 DR. CARPENTER: Yes, I did 6 review that document. You know, I can't 7 say that I reviewed it as carefully as I 8 should have, but I'm aware of the contents 9 of the document. 10 MR. WESPIESER: And do you 11 have any comment on it with regard to 12 safety or its potential impact with regard 13 to the health of the citizens of Lee? 14 DR. CARPENTER: Well, I think 15 there are two issues of major concern. 16 The first is -- well, as I said, I think 17 it should be placed as far away from 18 people and the river as possible, but the 19 source of exposure once you have a 20 landfill. Number one is leachate coming 21 out -- escaping from the underground 22 liner. I understand the risk to be the 23 liner. That may contain PCBs for a period 24 of years, but ultimately, they're going to</p>	<p style="text-align: right;">Page 81</p> <p>1 plus a clean fill and then grass on top of 2 it. Perhaps, that's what was proposed, 3 but again, I don't recall (inaudible). 4 MR. WESPIESER: It is what's 5 proposed. I'm not an expert on the design 6 of these dumps, but the predesign document 7 that we call Exhibit 5 does outline a lot 8 of the detail around the specifics of that 9 upper liner plus the -- down to what, you 10 know, potential plans, et cetera, that 11 they'll be using on top of it. It talks 12 about the thickness of fill. It will be a 13 completely enclosed dump from the 14 description that's provided in the 15 predesign work. 16 Our Exhibit 9, I'd like to 17 have -- you're going to remember it, but 18 for the purposes of our record is a 19 response from the EPA with regard to 20 Dr. DeSimone's expert testimony with 21 regard to permeability and the flow of 22 groundwater from this site. 23 It also has specific detail 24 around concerns raised with regard to the</p>

<p style="text-align: right;">Page 82</p> <p>1 transportation of PCBs to and from this 2 site. As you may or may not know, some of 3 them were highly-contaminated sediment, 4 will be leaving the area, hence, will be 5 needed to be transported through our 6 region.</p> <p>7 The other aspects that are 8 addressed in this document -- Exhibit, I'm 9 sorry, 9 from the EPA involve the 10 commentary around the safety of the liner. 11 Are you aware -- do you remember that 12 document? We were told you were 13 potentially going to be aware of that 14 document. Does that ring a bell, do you 15 know?</p> <p>16 DR. CARPENTER: Yes, I'm aware 17 of it, but again, I can't (inaudible) --</p> <p>18 MR. WESPIESER: Okay. Would 19 it be possible for us to make sure you see 20 these documents, and then potentially have 21 you comment on them?</p> <p>22 DR. CARPENTER: I'd be happy 23 to, yes.</p> <p>24 MR. WESPIESER: Okay. Very</p>	<p style="text-align: right;">Page 84</p> <p>1 We're particularly focused on -- not the 2 diseases that PCBs can cause, where -- I 3 know from your CV, you've done just a 4 tremendous amount of work.</p> <p>5 We have those outlined. And I 6 suspect you're a reference in our Exhibit 7 4, which is the EPA's own document about 8 how dangerous these chemicals, the PCBs, 9 can be. And that's a very important -- we 10 wouldn't be here if they weren't so 11 dangerous, but our specific focus is this 12 Upland facility and how it might impact 13 the health of our citizens.</p> <p>14 So we can get you those two 15 documents, and then correspond with you 16 with regard to getting us back a -- some 17 comments and your expert opinion on those 18 safety characteristics. We'll then enter 19 those into our record, our adjudicatory 20 record, really. It won't, obviously, be 21 part of this hearing, but we'll be ready 22 to take those under consideration and use 23 them as we formulate an opinion on safety 24 risk of health, et cetera.</p>
<p style="text-align: right;">Page 83</p> <p>1 good.</p> <p>2 DR. CARPENTER: I apologize 3 again. I actually received it last night, 4 but in any case, I know I haven't reviewed 5 it carefully.</p> <p>6 MR. WESPIESER: Okay. Good. 7 We will be specifically looking for, 8 again, your vast knowledge, but as it 9 applies to the description of this 10 particular dump as outlined in 5 -- and 11 there are other places too we can assist 12 you with regard to the description and the 13 technological or engineering 14 characteristics, but also from the 15 perspective of the alternative opinion, so 16 to speak, of the EPA's commentary that 17 they outline with regard to several 18 aspects, the dump, the liner, the expert 19 testimony regarding the geological 20 characteristics.</p> <p>21 So we will be looking forward. 22 And we will frame this for you with copies 23 and then look for some input back from you 24 with regard to, again, I mean, the safety.</p>	<p style="text-align: right;">Page 85</p> <p>1 DR. CARPENTER: I'd be very 2 happy to do that.</p> <p>3 MR. WESPIESER: Thank you.</p> <p>4 DR. CARPENTER: Let me say 5 very briefly that I'm very much in favor 6 of getting PCB-contaminated sediments and 7 soils out. If you don't get them out, 8 they will be there forever. And 9 certainly, the process of removing them -- 10 there may be a transient increase in 11 exposure to people, but if you don't 12 remove them, that's going to continue 13 forever.</p> <p>14 So I'm certainly not opposed 15 to having landfills that are secure, but 16 they should be secure and secured for the 17 duration, not just the two years.</p> <p>18 MR. WESPIESER: Excellent. 19 Thank you.</p> <p>20 All right. I want to just 21 take a minute before we let go of this 22 hard one connection, just to check with my 23 colleagues to see if I'm -- if I was 24 thinking of saying anything else here.</p>

<p style="text-align: right;">Page 86</p> <p>1 JoAnne?</p> <p>2 MS. SULLIVAN: Could you</p> <p>3 please provide your name and your direct</p> <p>4 address for this hearing?</p> <p>5 DR. CARPENTER: My name is</p> <p>6 David Carpenter, M.D. I'll use my home</p> <p>7 address, which is 2749 Old Estate Road,</p> <p>8 Schenectady, New York 12303.</p> <p>9 MS. SULLIVAN: Thank you. And</p> <p>10 your e-mail address?</p> <p>11 DR. CARPENTER:</p> <p>12 Dcarpenter@albany.edu.</p> <p>13 MS. SULLIVAN: We'll send you</p> <p>14 all the documents. Thank you.</p> <p>15 DR. CARPENTER: Thank you very</p> <p>16 much.</p> <p>17 MR. WESPIESER: A personal</p> <p>18 comment, we want to thank you. And I</p> <p>19 think I speak for the board and your</p> <p>20 auditorium. We hope you're feeling</p> <p>21 better.</p> <p>22 DR. CARPENTER: Well, again,</p> <p>23 I'm sorry I'm not there in person.</p> <p>24 MR. WESPIESER: We appreciate</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. WESPIESER: All right. So</p> <p>2 then it will be appropriately part of the</p> <p>3 record and usable. You know, we can refer</p> <p>4 to it later.</p> <p>5 UNIDENTIFIED MALE SPEAKER:</p> <p>6 Thank you to the board and thank you to</p> <p>7 Dr. Carpenter.</p> <p>8 MR. WESPIESER: Yes. Thank</p> <p>9 you.</p> <p>10 All right. So, Attorney</p> <p>11 Bonifaz, is there anything else that you'd</p> <p>12 like to bring up at this time while --</p> <p>13 before we let Dr. Carpenter go?</p> <p>14 MR. BONIFAZ: I think that you</p> <p>15 saw the testimony of Dr. Carpenter or</p> <p>16 Dr. DeSimone. If you have any questions,</p> <p>17 just send it to us. Dr. Carpenter has</p> <p>18 volunteered to answer the questions from</p> <p>19 everyone, including the ones we have,</p> <p>20 which is wonderful because we didn't have</p> <p>21 that before.</p> <p>22 So as soon as we get the</p> <p>23 materials, we will send it to</p> <p>24 Dr. Carpenter. And he has volunteered to</p>
<p style="text-align: right;">Page 87</p> <p>1 any input you can give us. We know the</p> <p>2 rate of pay is not particularly high, but</p> <p>3 we appreciate it so much. And clearly,</p> <p>4 your expert is both valued, and the</p> <p>5 specifics of it will be greatly</p> <p>6 anticipated. Thank you again.</p> <p>7 DR. CARPENTER: Thanks very</p> <p>8 much.</p> <p>9 UNIDENTIFIED FEMALE SPEAKER:</p> <p>10 Can we ask him a question?</p> <p>11 UNIDENTIFIED MALE SPEAKER: I</p> <p>12 have a question for Dr. Carpenter. Is</p> <p>13 that possible?</p> <p>14 MR. WESPIESER: We have not</p> <p>15 received his testimony yet. So you will</p> <p>16 be invited to ask him a question, but we</p> <p>17 would like you to ask it to the board and</p> <p>18 we will provide it to Dr. Carpenter.</p> <p>19 MS. SULLIVAN: To submit it in</p> <p>20 writing.</p> <p>21 MR. WESPIESER: To submit it</p> <p>22 in writing.</p> <p>23 UNIDENTIFIED MALE SPEAKER:</p> <p>24 Okay.</p>	<p style="text-align: right;">Page 89</p> <p>1 provide whatever answers we ask him to do,</p> <p>2 and we will do that. Okay. So we will</p> <p>3 wait to do anything on this case until the</p> <p>4 record's closed, and the record is still</p> <p>5 opened until we have -- everybody feels</p> <p>6 they did whatever they wanted to do.</p> <p>7 MR. WESPIESER: Thank you.</p> <p>8 JoAnne?</p> <p>9 MS. SULLIVAN: Thank you. I</p> <p>10 have no further questions for</p> <p>11 Dr. Carpenter. Thank you for your time.</p> <p>12 MR. WESPIESER: Jim or Zach,</p> <p>13 are there any other items that we wanted</p> <p>14 to --</p> <p>15 MR. WILUSZ: I think we've got</p> <p>16 them all.</p> <p>17 MR. WESPIESER: Very good.</p> <p>18 Thank you.</p> <p>19 DR. CARPENTER: Thank you.</p> <p>20 MR. WESPIESER: Good day.</p> <p>21 UNIDENTIFIED FEMALE SPEAKER:</p> <p>22 Will you be posting the questions online?</p> <p>23 MR. BONIFAZ: This is a matter</p> <p>24 of expertise. If you have any questions</p>

<p style="text-align: right;">Page 90</p> <p>1 at all, we have heard Dr. Carpenter 2 volunteer to answer anything you want. So 3 it's not our opinion. It's not the 4 board's opinion. So send us the 5 questions. We will send them to 6 Dr. Carpenter and we let him answer them, 7 which you can't have it any better than 8 that.</p> <p>9 UNIDENTIFIED FEMALE SPEAKER: 10 Yes, which is great.</p> <p>11 MR. WESPIESER: Just e-mail 12 your questions directly to me, 13 jim@tritownhealth.org, and I will get them 14 to the attorney and Dr. Carpenter.</p> <p>15 UNIDENTIFIED FEMALE SPEAKER: 16 I understand that. And I think that's 17 wonderful, but for the people who are here 18 today, when this gentleman got up and said 19 he had a question for Dr. Carpenter, no 20 one else in the audience knows what his 21 question is going to be. So it would be 22 helpful if the questions that are posted 23 for Dr. Carpenter, if they could be posted 24 online --</p>	<p style="text-align: right;">Page 92</p> <p>1 MR. WESPIESER: -- because we 2 have to do that. So I'm ready --</p> <p>3 MS. SULLIVAN: I make a motion 4 that we take the time to close this expert 5 witness time, take a break, and we will 6 come back for public comment.</p> <p>7 MR. WESPIESER: A five-minute 8 break. 9 (Hearing expert testimony concluded)</p>
<p style="text-align: right;">Page 91</p> <p>1 MR. BONIFAZ: Sure.</p> <p>2 UNIDENTIFIED FEMALE SPEAKER: 3 -- it would be great, and then I know he's 4 already asked the important question. I'm 5 not going to ask it a second time. It 6 would be wonderful. That's all.</p> <p>7 MR. BONIFAZ: Very good.</p> <p>8 UNIDENTIFIED FEMALE SPEAKER: 9 Thank you.</p> <p>10 UNIDENTIFIED FEMALE SPEAKER: 11 If you put it up there, we can 12 (inaudible).</p> <p>13 MR. WESPIESER: Good idea. 14 We'll do that.</p> <p>15 UNIDENTIFIED FEMALE SPEAKER: 16 Will you have another open hearing after 17 you get all the additional expert 18 testimony and questions? Will there ever 19 be another open forum like this?</p> <p>20 MS. SULLIVAN: I don't know 21 that it will be like this, but we'll have 22 to have a posted meeting to deliberate --</p> <p>23 UNIDENTIFIED FEMALE SPEAKER: 24 Okay.</p>	<p style="text-align: right;">Page 93</p> <p>COMMONWEALTH OF MASSACHUSETTS</p> <p>I, REBECCA J. DeCARLO, Notary Public Court</p> <p>Reporter do hereby certify that the foregoing</p> <p>testimony is true and accurate, to the best of</p> <p>my knowledge and belief.</p> <p>WITNESS MY HAND December 5, 2022.</p> <div data-bbox="1110 1465 1403 1535"></div> <p>Rebecca J. DeCarlo</p> <p>Notary Public</p> <p>My Commission expires:</p> <p>July 28, 2028</p>

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