

1 PUBLIC HEARING PURSUANT TO
2 SECTIONS 201-203 OF THE EMINENT DOMAIN PROCEDURE LAW

3
4 Allegany County Industrial Development Agency
5 Acquisition for the Great Lakes Cheese Manufacturing
6 Plant Project, Towns of Amity and Angelica
7 Allegany County, New York
8

9
10 HELD ON: March 22, 2021

11 TIME: 11:00 a.m.

12
13 HELD AT: Crossroads Commerce and Conference Center
14 6087 State Route 19 North
15 Belmont, New York
(Also via Webex Teleconference)

16
17
18 BEFORE: TONIA L. TINKER
19 Court Reporter
20
21
22
23
24

1 ***Note from Court Reporter***
2 The use of dashes (--) indicates an interruption or
3 an abrupt change in thought. It does not mean there
4 was a drop in the transcription.

4 MR. EWELL: Good morning. My name
5 is Rich Ewell and I'm the chairman of
6 the board of directors of the Allegany
7 County Industrial Development Agency.

8 Today we are holding this public
9 hearing pursuant to Sections 201 and 203
10 of the New York Eminent Domain Procedure
11 Law with respect to the acquisition of
12 certain parcels of real property.

13 I will entertain a motion to open
14 the public hearing at this time.

15 Do I have a motion? Judy? Okay.

16 MR. JOHNSON: Second.

17 MR. EWELL: Second by Mike.

18 Any discussion by board members?
19 Okay. We will have a roll call vote.
20 Judy?

21 MS. HOPKINS: Yes.

22 MR. EWELL: Mike?

23 MR. JOHNSON: Yes.

24 MR. EWELL: Is there any other

1 board members?

2 UNKNOWN SPEAKER: Randy is on the
3 line.

4 MR. EWELL: Okay. Randy?

5 MR. SHAYLOR: Aye.

6 MR. CLARK: He can't vote.

7 MR. EWELL: Oh, Randy can't vote.

8 Okay. I'm sorry. And I vote yes so
9 that's four yes. Okay.

10 I will now ask our attorney, Dan
11 Spitzer, to make a presentation
12 regarding the purpose, proposed location
13 of the public project and other relevant
14 information pursuant to Section 203 of
15 the Eminent Domain Procedure Law, after
16 which we will hear from members of the
17 public.

18 MR. SPITZER: Thank you,
19 Mr. Chairman. This is our third public
20 hearing on the proposed Great Lakes
21 Cheese project block, each of which has
22 been fully noticed in accordance with
23 the New York State law.

24 This is the second eminent domain

1 procedure law focused hearing and notice
2 was served upon the property owner and I
3 personally spoke with the attorney for
4 the property owner on Friday to confirm
5 their knowledge of and I believe they
6 are here today. As before, we will give
7 them an opportunity to speak first after
8 I conclude my remarks.

9 Due to the COVID-19 pandemic, in
10 addition to being held in person, the
11 public hearing today is also being
12 conducted on Webex and teleconference
13 platform in accordance with executive
14 orders issued by the governor.

15 We ask that everybody mute their
16 phone until members of the public are
17 called upon to speak. This meeting is
18 being recorded and a transcription will
19 be available when completed.

20 As I mentioned, notice of this
21 public hearing was duly served on the
22 assessment record billing owner and its
23 counsel and was published in accordance
24 with Section 202 of the Eminent Domain

1 Procedure Law. As with the past
2 hearing, we have received proof from the
3 newspaper of affidavits of publication.
4 We actually published in two newspapers,
5 the one -- the general circulated paper
6 that serves this area as well as the one
7 that serves Cuba and that was done for
8 both hearings as well as for the initial
9 public hearing and we have the
10 affidavits of publication confirming
11 that was done properly.

12 In accordance with Section 203 of
13 the Eminent Domain Procedure Law, a
14 stenographic record will be made of this
15 hearing. Written comments submitted
16 will be included in the hearing record.

17 I want to confirm that anybody who
18 has made previous written comments,
19 those are included in the records. Any
20 comments already submitted, this
21 material will be available on the
22 agency's website and as required by law.

23 The agency has been accepting
24 written comments and will continue to do

1 so until 5:00 p.m. today to the agency's
2 executive director either at Crossroads
3 or via clarkcr@alleganyco.com.

4 The purpose of this public hearing
5 is to assist the IDA board in
6 determining whether or not to move
7 forward with the potential condemnation
8 of property in support of an application
9 for financial assistance submitted to
10 the agency.

11 The agency will consider, in
12 determining whether or not to move
13 forward with the condemnation, the
14 public use, benefit or purpose to be
15 served by the proposed public project;
16 the approximate location for the
17 proposed public project; the
18 alternatives; the environmental impacts;
19 the reasons for the selection of that
20 location; the general effect of the
21 proposed project on the environment and
22 the residents of the locality; and such
23 other factors as it considers relevant.

24 The project is the latest in a long

1 series of actions by Allegany County and
2 the IDA to address the long undeveloped,
3 underutilized and blighted area known
4 generally as the Crossroads and the
5 hamlet of Belvidere. As one county
6 historical webpage has noted, "There are
7 no road signs leading to Belvidere, but
8 not that many years ago it was a
9 thriving community at the crossroads of
10 mass transportation and a candidate for
11 the county seat. Now its vine-covered,
12 rambling buildings are a shadow of
13 yesteryear."

14 Once an important crossroads of
15 three railroads and roadways with a
16 couple of hundred population, it
17 featured its own train station, post
18 office, three saw mills, a church, a
19 hotel, a saw and stave mill and, yes, a
20 cheese factory, many small stores and
21 mechanic shops and another factory that
22 made among other things, bowling pins.
23 All are long gone, but the blighted
24 remains.

1 There have been a number of
2 redevelopment steps prior to this
3 proposed action, including investment by
4 the county in the construction of a
5 waterline to serve the Crossroads area,
6 the acquisition of the abandoned and
7 contaminated truck stop for
8 redevelopment, pursuit of a landfill gas
9 agreement utilizing the now closed
10 county landfill that dominates the
11 district and other efforts.

12 The Allegany County comprehensive
13 plan identifies, "Build out the
14 Crossroads area that is planned for
15 I-86, Route 19 and CR 20," as the number
16 one immediate priority.

17 In terms of the specific property,
18 the selection was made after careful
19 consideration. Over 80 alternate site
20 were considered by the company and the
21 IDA. The ability of the company to
22 place its new facility is limited by the
23 unique nature of the cheese
24 manufacturing equipment -- and I will

1 talk more specifics in that -- and the
2 supporting infrastructure necessary for
3 the process.

4 This particular site offers many
5 advantages in that it is directly
6 located near the interstate, and the
7 property, while used for agricultural
8 purposes, it is an active farmland, is
9 not within a state agricultural
10 district. It was removed from the state
11 agriculture district at the request of
12 the property owners so they could
13 develop the property, is what they told
14 the state ag district people.

15 The proposal before the IDA is
16 completely in line with prior actions of
17 the county and the comprehensive plans
18 of the county and the towns of Angelica
19 and Amity, should the board choose to
20 proceed.

21 The project is the proposed
22 construction of a new cheese
23 manufacturing facility for Great Lakes
24 Cheese. The proposed facility is a

1 480,000-square-foot manufacturing
2 facility, 50,000-square-foot wastewater
3 treatment plant and supporting access
4 roads and infrastructure.

5 The company reviewed over 70 sites
6 of possible locations for maintaining --
7 in fact, it's actually over 80 -- for
8 maintaining a facility in the region.
9 The company and the IDA focused their
10 efforts on sites within the town of
11 Cuba. Unfortunately, no viable site
12 emerged, including the company's own
13 current holdings, for a number of
14 reasons, including the specialized
15 nature of the manufacturing facility
16 which dictates the size needed,
17 including areas for future expansion.

18 So this equipment comes from a
19 specialized company in Sweden and it is,
20 sort of, in a line and it therefore
21 dictates the size of project that you
22 have to have. You then have facilities
23 for bringing in milk, you have
24 facilities for the wastewater treatment

1 plan, you have facilities for the
2 packaging, everything is handled on-site
3 in order for this company to compete
4 with modern competitors who do this the
5 same way. We are going to be looking at
6 agricultural land no matter what because
7 those are really the only wide-open
8 spaces that we have in the region and
9 they looked at numerous sites, as I
10 said. They looked at quite a few sites.

11 The IDA invested in Geotec at
12 several sites in order to see whether or
13 not those sites could handle the plant,
14 they could not in terms of cost and
15 other technical difficulties, so we
16 settled on this site. It is always
17 best, if we can, to have a site that the
18 property owner is willing to sell and no
19 offer has yet been made.

20 We are still hopeful that a
21 conclusion will occur. We have been
22 negotiating with the property owners, as
23 has the company, for a considerable
24 period of time and, as of last Friday,

1 I, again, asked the property owners and
2 attorney to please push the company to
3 come to an offer with them or once if
4 the IDA goes forward, we will make an
5 offer based on fair market compensation
6 and based on appraisal.

7 We offer the highest appraisal that
8 we receive by law and the appraisal will
9 consider all of the impacts of taking
10 that property based on information
11 that's been provided. We offer that
12 highest base compensation in accordance
13 with the state law.

14 And that also doesn't end the
15 eminent domain process in terms of it
16 having to take that offer, if it does
17 get to that point, to a negotiation that
18 will lead to a sale that properly
19 compensates the owner.

20 In terms of why -- what we are
21 looking at. As I said, the new facility
22 will contain the entire cheese
23 manufacturing process. The main
24 facility will include provision for

1 receiving raw materials by truck, the
2 manufacturing process itself, packaging,
3 shipping and distribution, and office
4 space in a single-level, 45-foot-tall
5 building except for an approximately
6 130-foot-tall multi-stage drying tower,
7 truck scales, guard shack, employee
8 parking and access roads, a water tower
9 and fire pump building and storm water
10 containment basins.

11 In addition to a wastewater
12 treatment plant, including a treatment
13 building, tanks and impoundments, for
14 manufacturing waste, a septic system
15 will serve the plant employees. The
16 wastewater will be discharged to the
17 Genesee River.

18 The construction will take place
19 over multiple years with the project
20 breaking ground the third quarter of
21 2021, if on schedule, site and building
22 construction from that time through the
23 third quarter of 2023, equipment
24 installation through the start up from

1 second quarter 2022 through third
2 quarter 2024, with packaging operation
3 starting as early as the third quarter
4 of 2024. Cheese manufacturing testing
5 will start Q2 2024 and the plant should
6 be fully operational by January 1st of
7 2025.

8 The heart of the manufacturing
9 facility, as I mentioned, is the turnkey
10 equipment package which effectively
11 dictates the shape and size of the
12 property this new facility can be
13 located on. As a result, the sites of
14 available in the region -- I apologize.
15 I already covered that.

16 The project site is located at an
17 elevation of 1,344 feet above mean sea
18 level along CR 20, sloping to the
19 northeast. Road drainage on CR 20 flows
20 north away from the site. The Genesee
21 River and tributaries are present on the
22 edge of the site. A wildlife evaluation
23 is ongoing at the site; a historical
24 evaluation is ongoing at the site; a

1 wetlands evaluation is going on at the
2 site. There are no established drainage
3 ways on the other side of the road other
4 than roadside storm water ditches, nor
5 any surface water features other than
6 the Genesee River and the lowlands
7 surrounding it.

8 Soils mapped by USDA are generally
9 Allard, A-L-L-A-R-D, silt loam, gently
10 sloping 0 to 3 percent. These soils are
11 moderately well-drained soils formed in
12 glacial till, with a hydrologic soil
13 class B and classified as prime
14 farmlands. The soils are not subject to
15 flooding and have a depth to water table
16 of greater than 80 inches. Topsoil is
17 likely impacted by past farming
18 activities. The site vegetation is
19 active agricultural fields. There will
20 be an irretrievable commitment of
21 agricultural lands if this project goes
22 forward.

23 There are no curbs preventing
24 access to the site, however there is a

1 small ditch and drop off on the west
2 side of the site along CR 20. There are
3 no additional fences on the site. There
4 is no public water service or sanitary
5 sewer currently available to the site.
6 A new substation will be built as part
7 of the utility upgrade. There is no gas
8 service to the site. An investigation
9 has determined that the site has no
10 hazardous or other substances of
11 concern.

12 There are trees mainly in the
13 north, south and east edges of the site
14 adjacent to the Genesee River. Minimal
15 disturbance of the treed areas is
16 anticipated. The eastern portion is
17 located in Zones A and B of the FEMA
18 flood zones. Additionally, there may be
19 a federal wetland located in the center
20 of the site, and we are presuming there
21 is, and the Genesee River is a Class C
22 stream.

23 Before I get to the specifics of
24 the public purpose, as I said, the

1 company has submitted to the IDA an
2 application for financial incentives and
3 the assistance requested includes the
4 potential acquisition of part of three
5 parcels of land in the towns of Amity
6 and Angelica.

7 The three tax parcels to be
8 acquired in part, which make up the
9 subject property, are as follows: One,
10 Old State Road, town of Amity,
11 158.-1-2.1; two, Trianna, T-R-I-A-N-N-A,
12 Road, town of Amity, 158.-1-31; and,
13 three, County Road 20, town of Angelica,
14 145.-1-5.1.

15 Those addresses are from the county
16 tax roll. In each of the parcels, less
17 than full amount is being taken. We
18 have handed out today the copy of the
19 acquisition map of 229 acres, which is
20 now being confirmed by survey. You may
21 recall in the past meeting we said it
22 was approximately 210. Once they
23 finished the survey and figured out what
24 they needed, they only seek to acquire

1 the minimum amount that's needed for the
2 project, and it came to 229 acres and
3 that's where that information comes
4 from.

5 A map of the subject property upon
6 which the facility would be constructed
7 is available also on the agency's
8 website at www.acida.org. You can
9 access the map by clicking on
10 "projects," selecting the "Great Lakes
11 Cheese Project." That's also where all
12 of the other information we have been
13 talking about is posted. This map shows
14 the adjacent properties as well along
15 with the other information related to
16 the proposed project.

17 Turning to the reasons why this may
18 fit a public purpose if the IDA so
19 decides. The purpose of the acquisition
20 is to promote economic development,
21 consistent with the agency's statutory
22 purpose. The Allegany County IDA was
23 created to promote the economic welfare
24 and prosperity of county inhabitants and

1 to actively promote, attract, encourage
2 and develop economically sound commerce
3 and industry, including projects that
4 retain and expand employment.

5 This project provides a significant
6 economic development opportunity and
7 will serve an underutilized area. The
8 IDA acknowledges that a private party
9 will benefit should the condemnation go
10 forward and, as part of its
11 deliberations, the agency will consider
12 whether or not the public purpose is
13 dominant.

14 There are significant economic
15 benefits, directly or indirectly, from
16 the project. According to the company,
17 it currently employs 229 full-time
18 equivalent jobs. Should this project
19 not go forward, the company will leave
20 the region as it is unable to stay in
21 the current plant, which has reached the
22 end of its useful life, and these jobs
23 will be lost.

24 The current payroll is

1 approximately \$12 million annually. The
2 company states it will ramp up
3 production starting in 2025 and that
4 ramp up will eventually produce 200 new
5 jobs. They have also provided us
6 evidence that they may even start to
7 ramp up before then if the project goes
8 forward.

9 That ramp up will produce 200 new
10 jobs within several years, reaching an
11 additional annual payroll of
12 approximately \$9 million a year. The
13 county and region have lost significant
14 numbers of manufacturing jobs and the
15 retention of existing jobs, and
16 availability of new manufacturing jobs,
17 presents a significant potential benefit
18 to the entire county.

19 Pursuant to the IDA's labor policy,
20 the company is committed to using local
21 labor for the construction and eventual
22 hiring of new jobs to the extend
23 possible. There have been no
24 construction projects of scale in the

1 county in recent memory. Further, most
2 projects have been public projects such
3 as the county courthouse and school
4 upgrades.

5 This project would mean a \$30
6 million equity investment by the company
7 in the county, with the remainder of the
8 project, estimated at \$505 million,
9 financed. The project is expected to
10 create an average of 240 new
11 construction jobs over the duration of
12 the project, peaking at around 480 mid
13 project. The total \$505 million
14 investment is, obviously, a significant
15 economic benefit that will be felt
16 across the county.

17 The main beneficiaries are the
18 agricultural industry in the county and
19 the region, which will suffer
20 significant long-term harm if the
21 project does not go forward and the
22 company leaves the state in 2025.

23 The company currently purchases
24 2 million pounds of milk daily through

1 dairy cooperatives. This is one of the
2 largest food manufacturing operations
3 supporting local farms in the region.
4 The loss of this facility will have
5 significant negative impacts on the
6 agricultural industry and the ability of
7 farms to maintain current levels of
8 dairy herds and contribute to the tax
9 base and workforce in the region.

10 Cornell Cooperative informs us that
11 the trend has been for a loss of dairy
12 farms in the region. The inability to
13 maintain this facility in this area will
14 accelerate that trend. If the project
15 goes forwards, the company expects to
16 purchase an additional 2 million pounds
17 of milk daily from dairy farms. This is
18 estimated to add 600 farm jobs.

19 Job retention and job creation have
20 multipliers which represent the jobs
21 that would be created by indirect
22 spending of the employees and the
23 company if the project goes forward.
24 According to the New York State

1 Department of Labor, manufacturing has a
2 multiplier of 3.04 jobs associated with
3 each manufacturing job and construction
4 has a multiplier of 2.24 jobs indirectly
5 created by construction jobs. Thus, the
6 retention of jobs and addition of jobs
7 will have a significant widespread
8 public benefit.

9 The proposed project and the
10 potential public impact has been
11 discussed with a number of agencies that
12 support this action. The Allegany
13 County Legislature has adopted a
14 resolution in support of this project,
15 noting the important economic benefits
16 that this project currently provides and
17 that it would provide if approved.

18 The importance of the project in
19 the region is also noted by resolutions
20 adopted by Southern Tier West and Invest
21 Buffalo Niagara, which has indicated
22 their support for the project, also
23 indicating that this benefit is
24 significant to the region.

1 Invest Buffalo has assisted us with
2 putting together the cost benefit
3 analysis that the IDA will examine as
4 part of its financial analysis. The
5 widespread importance of this company,
6 these jobs and the benefit they provide
7 to the dairy industry and the key role
8 in dairy farm employment has been
9 confirmed by letters of support for the
10 project from the two largest dairy
11 cooperatives serving the area. There
12 has been significant evidence acquired
13 by the IDA as it determines to make its
14 decision.

15 Part of the reason that the IDA is
16 considering this project is because the
17 proposed location is in a blighted area.
18 As noted, the IDA has previously
19 purchased, using money borrowed from the
20 county, an abandoned gas station, which
21 was the site of petroleum spills and
22 contained, among other abandoned
23 structures, underground gas tanks which
24 were not being maintained.

1 The census tract is dominated by
2 the now closed Allegany County landfill.
3 There are abandoned farm buildings
4 directly north of the site and the small
5 hamlet next to the site featuring a now
6 closed restaurant, several abandoned
7 homes.

8 Just north of the highway, south of
9 the IDA office, that would be just south
10 of this property for those of you who
11 are here, is a small repair shop which
12 has used the area along the highway as a
13 junkyard. There are numerous abandoned
14 properties, including across the street
15 from the new Quicklees, southwest corner
16 of State Route 19 and County Road 20.

17 The census tract in which the
18 target property is located is an
19 impoverished area. Families with
20 incomes below the poverty level
21 represent 19.9 percent of the population
22 compared to 11.7 percent for the county.

23 For families with related children
24 of the householder under 18 years, 32.8

1 percent are below the poverty level
2 compared to 20.3 percent to the county.
3 And for families with related children
4 of the householder under five years
5 only, a staggering 55.3 percent have
6 incomes below the poverty level compared
7 to 18.2 percent for the county.

8 The unemployment rate is almost
9 twice the county average, at 8.5 percent
10 compared to 4.9 percent for the county.
11 That information was provided to us by
12 Southern Tier West from the U.S. Census
13 Department.

14 Other economic development goals
15 and reduction of blight will be served
16 by the improvements to the area
17 necessary to serve this project,
18 including the upgrade to utilities. The
19 redevelopment of the Belvidere area
20 becomes economically feasible with the
21 number of new jobs associated with this
22 project.

23 Property values will be increased
24 by the project, new housing may well be

1 built. There's opportunities for new
2 housing in Belmont and Angelica as well
3 as retaining employment, which is mostly
4 located in the Cuba area. This is close
5 enough for people to keep their jobs.
6 That was a key point for the company and
7 why this site was important.

8 At this point, we will now hear
9 from members of the public or
10 representatives who wish to speak. If
11 you wish to speak, please unmute your
12 phone if you are online. If you in
13 person, we will recognize you here, of
14 course.

15 Once have you been recognized,
16 please state your name, address and
17 affiliation for the record prior to your
18 remarks. Speakers may also prepare or
19 provide written statements to the
20 agency's executive director, Craig Clark
21 at clarkcr@alleganyco.com or by mail to
22 the agency until 5:00 p.m. today.

23 The purpose of the public hearing
24 is not to field questions, but to

1 solicit public comment to the project.

2 And with that, I will first turn to
3 Mr. McNamara, assuming you are going to
4 be the one speaking as the
5 representative of the company?

6 MR. McNAMARA: Yes.

7 MR. SPITZER: At this time we will
8 turn it over to the representative of
9 the company.

10 MR. McNAMARA: Good morning. My
11 name is Mark McNamara. I'm an attorney
12 with the law firm of Barclay Damon. We
13 are counsel of Charlie Bares and Marsh
14 Acres, LLC. Mr. Bares is its managing
15 member and Marsh Acres is the owner of
16 the real property located at Old State
17 Road, Trianna Road and County Route 20
18 in the towns of Amity and Angelica with
19 the SBL numbers Mr. Spitzer has already
20 referenced.

21 I will refer to that property as
22 the Marsh Acres property that is at
23 issue in this Eminent Domain Procedure
24 Law Article 2 public hearing, the second

1 that we have had here. And I will
2 recall that the EDPL when I refer to the
3 Eminent Domain Procedure Law.

4 The subject of today's hearing, as
5 stated in the Allegany County Industrial
6 Development Agency, which I will refer
7 to henceforth as the agency, in its
8 published notice, which is the notice,
9 is its consideration of the Great Lakes
10 Cheese manufacturing plant project,
11 which will be an industrial cheese
12 manufacturing and packaging facility of
13 480,000 square feet and a
14 50,000-square-foot wastewater treatment
15 plant, which is the project, that's how
16 I will refer to it, for which the agency
17 states it seeks to acquire approximately
18 229 acres of the Marsh Acres property.

19 I also spoke on behalf of Charlie
20 Bares and Marsh Acres at the agency's
21 initial February 22, 2021 EDPL Article 2
22 public hearing regarding the project.
23 While today's hearing appears to be a
24 do-over to address the fatal

1 deficiencies of the February 22nd
2 hearing, a number of those deficiencies,
3 equally fatal, remain. Accordingly,
4 there is an unavoidable redundancy to my
5 presentation today.

6 An industrial development agency's
7 power to seize the private real property
8 over that owner's strenuous objection is
9 as extraordinary as it is brutal.

10 Accordingly, the law imposes a variety
11 of very specific constitutional and
12 statutory limitations and requirements
13 on the exercise of this power.

14 Marsh Acres and Charlie Bares
15 object to the proposed taking of its
16 property by the Agency as violating the
17 5th and 14th amendments to the United
18 States Constitution; Article 1, Sections
19 6 and 7 of the New York State
20 Constitution; the EDPL; the General
21 Municipal Law; the State Environmental
22 Quality Review Act, which I will refer
23 to as SEQRA; and each of the
24 comprehensive plans of the towns of

1 Amity and Angelica.

2 The irony here is that in addition
3 to being unsupported by law, the
4 agency's proposed taking is at odds with
5 its own mission statement goals, its
6 decades long policy of promoting
7 agricultural development and agritourism
8 and each of the comprehensive plans of
9 the towns of Amity and Angelica while at
10 the same time harming the town of Cuba.

11 To state the obvious, and as I
12 noted on February 22nd, while there are
13 constitutional and statutory limitations
14 on the agency's exercise of its powers,
15 there is no practical nor legal
16 limitation on Great Lakes Cheese simply
17 negotiating and purchasing whatever
18 property it concludes is best for the
19 development of its facilities.

20 According to Forbes Magazine, as of
21 November 2020, Great Lakes Cheese had
22 annual revenues of \$3.3 billion, over
23 3,000 employees and is the 139th largest
24 private company in the United States.

1 Surely this great company can afford to
2 negotiate with a private land owner to
3 purchase the property it needs for a
4 \$500 million project without relying on
5 a governmental agency to forcibly take
6 that property.

7 The agency stepping in to do so at
8 the behest of Great Lakes Cheese is at
9 odds with the notion of public purpose,
10 let alone basic fairness.

11 Background of the property. The
12 property identified in the agency's
13 notice of this hearing are three parcels
14 of exceptional agricultural land which
15 total approximately 320 acres and are an
16 integral part of one of the largest
17 dairy farm operations in New York State
18 and the largest in this area.

19 Marsh Acres, LLC and Mallards Dairy
20 manage a herd of 3,000 cows, over 6,000
21 acres, produce 200,000 pounds of milk
22 per day and employ 40 people. A dairy
23 farm operation of this size requires
24 substantial land for agricultural

1 production and recycling the nutrients
2 produced by the Mallards Dairy herd and
3 to satisfy the New York Agricultural and
4 Markets regulatory and permitting
5 requirements.

6 Charlie Bares and his partner have
7 farmed the Marsh Acres property for over
8 25 years and the loss of this acreage to
9 taking of 229 acres of the Marsh Acres
10 property by the agency for Great Lakes
11 Cheese will have a direct and
12 substantial negative impact on Mallards
13 Dairy operations.

14 As was noted at the February 22nd
15 hearing by more than one speaker, this
16 is prime agricultural land, which is
17 exactly how it is being used by my
18 clients. This is the opposite of
19 blighted property.

20 The agency failed to authorize
21 today's EDPL public hearing. The agency
22 scheduled this hearing pursuant to its
23 January 7, 2021, quote, "Resolution
24 Authorizing Preliminary Action

1 Condemnation Proceedings Great Lakes
2 Cheese, LLC Project Block Project."

3 That resolution provides in
4 Section 3 of the resolution's operative
5 provisions that, quote, "The chair, or
6 vice chair, or executive director of the
7 agency are hereby authorized to take the
8 actions described in Section 2 hereof."
9 There is no Section 2 to the resolution;
10 so any such authorization is null and
11 void with respect to those officers and
12 the executive director.

13 In addition, the agency failed to
14 comply with the EDPL Article 2 public
15 hearing notice requirements for both the
16 public and the property owner. EDPL 202
17 provides specific and stringent notice
18 requirements to both the public at large
19 and the owner of the property whose
20 acquisition the condemnor is purportedly
21 considering.

22 In this case, the agency failed to
23 publish in a daily newspaper. Failure
24 to adhere to the publication

1 requirements of EDPL 202 renders any
2 proceedings based on the notice hearing
3 jurisdictionally defective, both
4 substantively and procedurally with
5 respect to the public and the property
6 owner.

7 Pursuant to EDPL Section 202, the
8 condemnor was required to give notice to
9 the public of the purpose, time and
10 location of this hearing, setting forth
11 the proposed location and any alternate
12 locations of the project at least ten,
13 but no more than 30, days before the
14 hearing.

15 Such notice must be published in at
16 least five successive issues of an
17 official daily newspaper if one is
18 designated in the locality where the
19 project will be located and in at least
20 five successive issues of a daily
21 newspaper of general circulation in the
22 locality. In this instance, the agency
23 published notice of this hearing in the
24 Spectator on March 9, 10, 11, 12, 14 and

1 16, 2021 apparently on the assumption it
2 is a daily newspaper. It is not. The
3 Spectator publishes every day except
4 Monday and Saturday.

5 According the New York General
6 Construction Law, Section 60(b), the
7 term "daily newspaper" in a statute,
8 contract or any public or private
9 instrument means a newspaper customarily
10 published on each business day of the
11 year, whether or not such newspaper is
12 published on any other day. The
13 Spectator is not a daily newspaper
14 because it does not publish on Mondays,
15 which is a business day.

16 Accordingly, the agency failed to
17 meet the minimum statutory requirements
18 set forth in EDPL 202. The notice for
19 this public hearing is fatally deficient
20 and defective and jurisdictionally
21 defective.

22 There is no public use, benefit or
23 purpose for the proposed taking. The
24 thrust of the agency's stated public

1 purpose for this project is economic
2 development and maintaining jobs with
3 respect to the Allegany County dairy
4 industry. Harming the largest dairy
5 producer in this area, one of the
6 largest in the state, to effect that
7 supposed public purpose is more than
8 ironic. It defeats the agency's
9 purported economic development public
10 purpose for the project itself.

11 As noted earlier, the dairy and
12 agricultural operations of Mallards
13 Dairy and Marsh Acres are spread over
14 6,000 acres, manage 3,000 cows, employ
15 40 people and produce over 200,000
16 pounds of milk per day. The Marsh Acres
17 property targeted by the agency is by
18 its nature and size critical to Mallards
19 Dairy's continued operations.

20 Qualitatively there is no better
21 agricultural land in Allegany County
22 than the Marsh Acres property. The
23 quality of its soil and its level
24 topography make it ideal for growing

1 crops and recycling the nutrients
2 produced by the Mallards Dairy herd and
3 essential to its continued compliance
4 with the New York State Agricultural and
5 Markets regulatory and permitting
6 requirements for a dairy operation of
7 this size.

8 The agency's proposed acquisition
9 of 229 acres of the property will harm
10 my client's dairy business and, in turn,
11 Allegany County's dairy industry, which
12 is the exact opposite of an economic
13 development based public use, benefit or
14 purpose.

15 This reality is highlighted by the
16 fact this project, as described later,
17 is at odds with each of the
18 comprehensive plans developed and
19 adopted by the towns of Amity and
20 Angelica where the proposed project is
21 to be located. It is also at odds with
22 the agency's own mission statement whose
23 state goals are, quote, "Manage growth
24 and development, conserve rural and

1 scenic areas and protect agricultural
2 resources," close quote.

3 The acquisition of prime and
4 essential agricultural land from the
5 largest dairy producer in the area does
6 violence to those goals and undermines
7 any claim of public purpose.

8 As detailed in the February 9, 2021
9 letter to the agency from Jenny Bilotta,
10 Great Lakes Cheese already owns
11 substantial land in the town of Cuba,
12 providing a variety of alternatives to
13 develop a new facility. Dr. Clark's
14 February 17, 2021 letter sets forth the
15 agency's response to Ms. Bilotta, the
16 public at large and, apparently, my
17 client, the property owner, to, quote,
18 "Please keep in mind only GLC makes the
19 final determination of final site
20 selection."

21 Respectfully, the agency should
22 keep in mind that only it can forcibly
23 take property for the project and the
24 constitutional and statutory

1 requirements behind the exercise of that
2 power should make considerations of the
3 existing acreage in Cuba and the impacts
4 on that community relevant to its
5 determination of public purpose. It is
6 no answer to say the agency must follow
7 the dictates of a private company in
8 exercising its power of eminent domain,
9 which is the case here.

10 Again, as noted early, there is no
11 practical nor legal limitation on Great
12 Lakes Cheese simply negotiating and
13 purchasing whatever property it
14 concludes is best for the development of
15 its current and future facilities.

16 I have already noted and described
17 its employees, its revenues and its
18 impressive size in terms of one of the
19 largest private companies in the
20 country. They should be negotiating
21 with the property owner. The agency
22 stepping in to do so the behest of Great
23 Lakes Cheese to forcibly take that
24 property is at odds with the concept of

1 public use, benefit or purpose and,
2 again, as well as basic fairness.

3 The agency's statements demonstrate
4 it has already made up its mind to take
5 the Marsh Acres property for this
6 project. The taking is a fait accompli,
7 which, by definition, violates the
8 letter and the spirit of EDPL Article 2.

9 In its response to Ms. Bilotta's
10 letter, the agency states the proposed
11 PILOT agreement will, quote, "have no
12 immediate impact on taxes or taxpayers"
13 because the agency is exempting a
14 company from future taxes on a facility
15 that has not been built. This statement
16 that a PILOT agreement on a \$500 million
17 project facility which provides,
18 according to the agency's uniform tax
19 exemption policy proposed February 11,
20 2021 deviation notice to the affected
21 tax jurisdictions, a \$191,593,211.45
22 real property tax abatement over a
23 20-year period, including a 100 percent
24 abatement of property taxes for the

1 first 15 years, is at least nonsensical,
2 perhaps disingenuous and, in any event,
3 wrong.

4 The agency's position ignores both
5 the impact of the dramatic drop in taxes
6 resulting from the closing of the
7 existing Great Lakes Cheese facility in
8 Cuba and the future demands on municipal
9 services and infrastructure resulting
10 from the proposed new facility.

11 In addition, the tax jurisdictions
12 will forego most or all of the 4186,000
13 in annual property taxes paid by Marsh
14 Acres on its property when the proposed
15 no payment PILOT takes effect, the no
16 payment for the first 15 years takes
17 effect.

18 Finally, while New York law
19 recognizes the exercise of the power of
20 eminent domain where there is an
21 incidental private benefit to a company
22 so long as there is a dominant public
23 use, benefit or purpose, such is not the
24 case here. Here the private benefit is

1 dominant and any public benefit is
2 incidental.

3 In short, the agency has failed to
4 identify any public purpose to support
5 the exercise of its power of eminent
6 domain in acquiring the Marsh Acres
7 property for the project and such
8 acquisition by eminent domain should not
9 be allowed.

10 The proposed project conflicts with
11 the comprehensive plans of the towns of
12 Amity and Angelica. The town of Amity's
13 comprehensive plan was drafted with the
14 intent of protecting the agricultural
15 property located through the town.

16 As required by the New York State
17 Farmland Protection Act, Allegany County
18 offers agricultural districts as an
19 opt-in program to landowners. There are
20 up to 87 parcels of these districts
21 within the town's boundaries. This
22 program offers protection to
23 agricultural lands against unwanted
24 development of farmlands.

1 Amity's comprehensive plan is based
2 on the goal of keeping the agricultural
3 lands in use while allowing for
4 development in the area of the town near
5 the intersection of New York State Route
6 19 and I-86.

7 Specifically, the plan states, at
8 page 18, it's a long quote, "The area
9 near the intersection of New York State
10 Route 19 and I-86 is presently in
11 agricultural use; yet most people
12 understand that this location is likely
13 to be the next area of growth in the
14 county. The remainder of the lands that
15 border the Genesee River/New York State
16 Route 19 corridor should be carefully
17 planned to allow a mixed use of mostly
18 agriculture with a narrow corridor for
19 development directly along New York
20 State Route 19. No other large tracts
21 should be taken out of farm use for
22 development."

23 The 229 acres of the Marsh Acres
24 property the agency now seeks to acquire

1 for industrial development is mostly
2 located between Old State Road, County
3 Road 20 and the Genesee River in exactly
4 the area which the Amity comprehensive
5 plan provides should continue to be
6 mostly agricultural.

7 It is an understatement to say that
8 a 48,000-square-foot manufacturing
9 facility with a 50,000-square-foot water
10 treatment plant is inconsistent with the
11 goals and specific provisions of the
12 Amity Comprehensive plan. The Marsh
13 Acres property is located in, quote,
14 "the remainder of the lands that border
15 the Genesee River/New York State Route
16 19," close quote, which should remain
17 agricultural.

18 In short, locating this project on
19 the Marsh Acres property contradicts the
20 town's goals and objectives and the
21 specific provisions of it's
22 comprehensive plan.

23 Similar to Amity, the town of
24 Angelica's comprehensive plan is

1 targeted at protecting and promoting
2 agriculture lands. Specifically, at
3 page IV-4, the plan states that a key
4 town goal is to, quote, "Promote
5 agriculture as a desirable use of land
6 and protect farmland by recognizing the
7 unique role that agriculture can play in
8 supporting economic prosperity and
9 protecting and preserving Angelica's
10 rural heritage."

11 The strategies in support of this
12 goal and its supporting objectives as
13 detailed in the Angelica comprehensive
14 plan at page IV-4 are to consider land
15 use regulations, quote, "that protect
16 and promote farming," close quote,
17 research the feasibility of a
18 conservation easement program to provide
19 tax relief to large landowners and farms
20 and support local farmers and encourage
21 agritourism by establishing a farmers
22 market.

23 There is no reference whatsoever to
24 promoting or even considering large

1 scale industrial development as a goal
2 or objective in the town of Angelica.
3 To do so would be directly as odds with
4 the rest of its comprehensive plan. The
5 proposed project is directly in conflict
6 with the goals contained in Angelica's
7 comprehensive plan in that it would
8 destroy farmland rather than protecting
9 it and promoting agricultural land use.

10 The agency's exercise of its power
11 of eminent domain in furtherance of a
12 project which violates the comprehensive
13 plans of the two towns in which the
14 project is proposed to be located in
15 unlawful.

16 Excess taking. It is a
17 well-established principle that a
18 condemnor has no right to condemn real
19 property interests in excess of what is
20 needed for the public purposes of its
21 proposed project. The agency seeks to
22 acquire substantially more property than
23 what is needed for the project.

24 As noted earlier, the agency seeks

1 to acquire 229 acres of the Marsh Acres
2 property, which is most of the land.

3 The project application, II.B, and its
4 attached short environmental assessment
5 form identify all or some of the three
6 parcels as the project location.

7 The full environmental assessment
8 form, part I.A, submitted by the agency
9 with its notice of intent to act as lead
10 agency states the project will be
11 located, quote, "on a 100-plus acre
12 parcel in the towns of Amity and
13 Angelica," and now, as Mr. Spitzer
14 describes, and consistent with the maps
15 that have been handed out here, it's
16 settled at 229 acres.

17 Meanwhile, the project is described
18 as 480-square-foot manufacturing
19 facility and 50,000-square-foot
20 wastewater treatment plant. These
21 building improvements cover
22 approximately 12 acres. Even with the
23 additional land necessarily for an
24 industrial operation and the general

1 utility necessary for such a large
2 facility, the area being targeted for
3 acquisition is in excess of what is
4 necessary to accomplish the purported
5 public purposes claimed by the agency
6 based on the size, scale and needs of
7 the project.

8 As such, the proposed acquisition
9 would be an unconstitutional excess
10 taking.

11 Just compensation. Pursuant to the
12 United States and New York State
13 Constitutions and the EDPL, the agency
14 is required to pay just compensation, as
15 Mr. Spitzer previously described, for
16 interests it acquires with respect to
17 the project.

18 The determination of just
19 compensation is ultimately a judicial
20 function independent of what the
21 condemnor's opinion as to the amount of
22 damages caused by its just taking or its
23 highest approved appraisal. Most
24 critically, quote, "just compensation,"

1 close quote, has been interpreted by New
2 York courts to mean, quote, "sure and
3 certain," close quote, compensation.
4 That is a mechanism in place to
5 guarantee there is a source of funds
6 from which to pay the ultimate
7 judicially-determined just compensation
8 damages.

9 Here there is no such mechanism to
10 guarantee payment of just compensation.
11 There is no evidence the agency will be
12 able to provide a, quote, "sure and
13 certain," close quote, source of
14 compensation and, in fact, the evidence
15 is to the contrary. The agency, unlike
16 a municipality or the state, has no
17 power to tax. It's only revenue source
18 is project fees and there are a limited
19 number of projects listed on its
20 website.

21 Its financial statements are
22 identified on its website, but the links
23 to the statement do not work so I wasn't
24 able to examine them, but based on the

1 description of those projects and the
2 magnitude of those projects, the income
3 is not there to support the acquisition
4 of this property in terms of paying.

5 With respect to the project at
6 issue here, Great Lakes Cheese is the
7 project applicant, but no preferred
8 developer agreement has been disclosed
9 and, in any event, the property owner
10 can legally look only to the agency for
11 just compensation. In short, there is
12 no evidence the agency has the financial
13 resources to satisfy its obligation to
14 pay just compensation for its
15 acquisition of the Marsh Acres property
16 and the damages to the remainder and no
17 other mechanism is in place to guarantee
18 payment. This, by definition, is not
19 sure and certain compensation.

20 Accordingly, the proposed taking of
21 the property for the project is in
22 violation of the 5th and 14th amendments
23 of the United States Constitution,
24 Article 1, Section 7 of the New York

1 State Constitution and EDPL Articles 1,
2 3, 4 and 5.

3 The agency violated GML 859-a by
4 failing to provide the required notice
5 of its February 9, 2021 financial
6 assistance public hearing. GML 859-a
7 requires the agency give at least ten
8 days published notice of any public
9 hearing held pursuant to that section.
10 The agency published its notice of the
11 February 9, 2021 public hearing in the
12 Cuba "Patriot and Free Press" in the
13 February 3-9, 2021 edition of this
14 weekly publication well short of the
15 ten-day requirement. The IDA has thus
16 failed in its minimum requirements of
17 notice under 859-a(3).

18 Finally, the SEQRA, the State
19 Environmental Quality Review Act.
20 Charlie Bares and Marsh Acres reserve
21 their rights to challenge the agency's
22 SEQRA review. To date, the agency has
23 states its environmental review of the
24 project is ongoing. Mr. Spitzer

1 described that in his own statement in
2 terms of the ingoing investigation and,
3 indeed, the agency cited the incomplete
4 nature of its environmental evaluation
5 of the Marsh Acres property, in part, as
6 justification for its entry onto this
7 land in its recent EDPL 404 court
8 proceeding against Marsh Acres to enjoin
9 Marsh Acres from impeding such entry,
10 testing and investigation.

11 The agency has classified the
12 project as a Type I action and submitted
13 a full environmental assessment form
14 with its notice of intent to act as lead
15 agency. According to the agency's
16 environmental assessment form, the
17 project includes a 50,000-sqaure-foot
18 wastewater treatment plant, the creation
19 of storm water and wastewater retention
20 ponds holding 7.3 million gallons with a
21 surface area of 2.5 acres, the
22 disturbance of 80 acres of land along
23 the Genesee River, disturbance of
24 wetlands, the generation of 706,000

1 gallons of liquid waste per day and
2 27,000 tons of methane per year, which
3 will result in a substantial increase of
4 traffic with 200 semi trailers and 15
5 delivery trucks per day in a
6 historically significant and
7 archeologically sensitive area.

8 The project will clearly result in
9 a number of significant adverse
10 environmental impacts and require the
11 preparation of an environmental impact
12 statement. Once the agency has
13 completed its environmental review,
14 Mr. Bares and Marsh Acres will comment
15 as appropriate.

16 This is the conclusion. The
17 agency's proposed acquisition by eminent
18 domain of real property interests in any
19 or all of the Marsh Acres property for
20 purposes of the proposed Great Lakes
21 Cheese manufacturing plant project,
22 again, violates the 5th and 14th
23 amendments of the United States
24 Constitution; Article 1, Sections 6 and

1 7 of the New York State Constitution;
2 New York's EDPL; the GML, General
3 Municipal Law; the State Environmental
4 Quality Review Act; and the
5 comprehensive plans of the towns of
6 Amity and Angelica.

7 Respectfully, the agency should not
8 attempt to exercise its power of eminent
9 domain for this project. And I thank
10 you very much for having to listen to a
11 lengthy presentation just reading it out
12 loud.

13 MR. SPITZER: Mr. McNamara, does
14 either of the property owners or any
15 other representative of the property
16 owners wish to say anything before we
17 move on?

18 MR. McNAMARA: No.

19 MR. BARES: Does it have to be now?

20 MR. SPITZER: You can wait if you
21 prefer. We give the opportunity to make
22 comments to the applicant or the
23 property owner first, but it certainly
24 doesn't have to be now.

1 MR. BARES: I will wait.

2 MR. SPITZER: Okay. Mr. Chairman,
3 at this time I would like to open the
4 floor, including to anybody who is on
5 the phone. Does anybody else wish to
6 make a comment?

7 Hearing no comments, if Mr. Bares
8 wishes to make a comment, otherwise we
9 are going to close the hearing.

10 MR. BARES: We believe that the IDA
11 should not --

12 MR. SPITZER: I'm sorry.
13 Mr. McNamara, will you have him state
14 his name. I know it's Mr. Bares, but
15 just for the record.

16 MR. BARES: My name is Charlie
17 Bares, B-A-R-E-S, I'm a partner of Joe
18 Strzelec sitting beside me, and we own
19 Marsh Acres and Mallards Dairy, Inc.

20 We believe that this IDA taking of
21 our property is a full reflection of our
22 county leaders and there are just too
23 many unknowns to warrant such an obscene
24 taking. All of this promise of jobs,

1 there's no -- in my opinion, there is
2 very little hope that it will all become
3 true because when you build something
4 twice as big, 30 years newer, chances
5 are the whole reason you do that is to
6 make it more efficient. And, by
7 definition, more efficient means less
8 labor.

9 This is going to be Allegany
10 County's seizure here will be one of the
11 biggest -- I couldn't find any bigger
12 eminent domain seizures in New York
13 State history of agricultural land.
14 This will change the whole area here,
15 this prime farmland, it will turn into a
16 giant industrial site and someday that
17 will be -- someday, in some of our
18 lifetimes, imagine that, that too will
19 be -- they will have to turn their back
20 on it because that's the way human
21 society goes on. Eventually that will
22 be obsolete and we will be stuck with
23 that concrete edifice to figure out what
24 to do with.

1 So I just think that most of us,
2 most of our distant relatives like to
3 come here because they're looking for a
4 better world and most -- I think the
5 reason most people left is because of
6 the tyrannical government and I just
7 urge you to give this thought before you
8 go down this road. Thank you.

9 MR. SPITZER: Thank you, Mr. Bares.
10 Does anyone else have -- yes, if you
11 would just state your name.

12 MS. BIGELOW: My name is Debbie
13 Bigelow, I live here in the town of
14 Amity. And from the start, and it has
15 bothered me tremendously, something that
16 the attorney pointed out, that this
17 appears to be much more to the benefit
18 of a private company than for public
19 benefit, and that is a violation, as
20 they pointed out, of the whole idea of
21 seizing land for public domain.

22 And I also -- I don't -- at this
23 point, I would just ask please go back
24 to Cuba, ask Great Lakes Cheese, please

1 go back to Cuba. If they have that much
2 money, there has to be some other
3 solution. I beg them, please look at
4 Cuba again and see what can be done.
5 Thank you.

6 MR. SPITZER: Thank you very much.
7 Person in the back, if you can identify
8 yourself for the record, please.

9 MR. DeGOLYER: Yes. My name is
10 David DeGolyer. I work for a company
11 called Western New York Crop Management
12 Association. I work with Mallards
13 Dairy. This parcel, looking it over
14 just a few years ago on very similar
15 type of soil, Mallards planted a crop of
16 corn and put it in the yield contest and
17 it won the yield contest in New York
18 State on this very similar soil type.

19 This parcel of land is highly,
20 highly valuable. Usually that average
21 sized section of land doesn't get up --
22 in New York State is roughly about 10
23 acres. This is well over 100 acres.
24 And it makes the farms much more

1 efficient to grow quality crops and I
2 think it would be a shame to -- we
3 really need to take a look at that
4 because I call this prime farmland plus
5 because the nature of this soil, it's
6 not just the best in New York State.
7 It's the best in the world.

8 It's well drained. It doesn't have
9 any issues. It's deep, deep, soil. If
10 you dig in the soil, you can go very,
11 very deep in the soil and you won't run
12 into any hard pan or anything like that
13 and it makes it very highly valuable to
14 farming resources.

15 The other thing to think about too
16 is this farm employs 40 employees, but
17 we don't look at how many employees are
18 able to work to support these farms,
19 like the veterinarians, the suppliers.
20 In our industry as well there's a
21 multiplier effect of the people who work
22 for these farms; so it's important to
23 keep prime farm -- to keep this farm
24 operable, they have to protect their

1 farmland. We have to be protect it and
2 to give up this piece of land does not
3 make any sense to me. I think you need
4 to look at other resources. That's my
5 comment.

6 MR. SPITZER: Thank you, sir.

7 Yes, Mr. Strzelec?

8 MR. STRZELEC: Yes, I'm Joe
9 Strzelec, I'm a partner with Charlie
10 Bares on this property. I had admired
11 this year for more than 50 years when I
12 drove past it and some decades ago when
13 operation was much smaller it became
14 available. It was a bit of a hardship
15 at that time to travel that distance,
16 which is about 20 miles from the dairy.
17 It was not as important at that time,
18 there were 2,000 cows, as today when
19 there are 3,000. There's 50 percent
20 more cattle.

21 I think it was about 15 years ago
22 there was a proposed project on a small
23 portion of that property. It was to be
24 a water park, it was an IDA project. At

1 that time, I was called to a meeting
2 with John Foels, who was the director of
3 the IDA at the time, and he sat there
4 and said, "The financing for that
5 project is in place, it's all set. Go
6 arrange for your 1031 exchange and
7 please take your property out of the ag
8 district."

9 Time went on, there was a deadline
10 for us to reapply for the ag district.
11 Unfortunately we -- it was an oversight
12 that we missed that deadline to put it
13 back in, but it was the IDA that led us
14 to do that. John Foels lied to me about
15 the financing being in place. In any
16 event, today, that property is very
17 important to the operation.

18 I think now, in terms of any
19 speculative nature of that purchase,
20 maybe I should have made that in
21 Zimbabwe or some place. Thank you.

22 MR. EWELL: Thank you.

23 MR. SPITZER: Is there anyone else
24 who wishes to make a comment today?

1 MR. EWELL: Did we give a chance to
2 anybody who has called in, just in case
3 they don't realize they can -- would
4 anybody on the call like to speak?

5 MS. JAMES: Hi, this is Lee James,
6 town of Cuba.

7 MR. EWELL: Go ahead, Lee.

8 MS. JAMES: Thank you for having
9 this again, but I would say that the --
10 lastly, I just want to -- 29 acres are
11 being --

12 (Technical difficulties.)

13 MR. EWELL: Excuse me, Lee, we
14 couldn't hear anything you said. Could
15 you try again, please?

16 MS. JAMES: Actually, I put it in
17 the chat.

18 MR. EWELL: Okay.

19 MR. SPITZER: Dan, can you read
20 what's in the chat, please?

21 UNKNOWN SPEAKER: I can't read it,
22 but if your host can download it, it can
23 go in the record anyway.

24 MR. FRANK: I have a question here.

1 MR. SPITZER: Go ahead, Doug.

2 MR. FRANK: Why 229 acres when the
3 last property evaluated in Cuba was
4 approximately 130 acres? Why is a flood
5 zone acceptable at this location, but
6 was dismissed elsewhere as not
7 acceptable? End question.

8 MR. FRANK: So This public hearing
9 is not to answer questions. We are
10 going to field questions. That's why we
11 are not going to have that, for example,
12 the property that he was talking about.
13 It's not these parcels. We are not
14 answering questions, we are taking
15 comments, but the IDA board will
16 certainly address that question as part
17 of its deliberation.

18 MR. EWELL: Okay. Do any of the
19 people who are on the call, would anyone
20 like to speak?

21 Okay. I will entertain a motion to
22 adjourn.

23 MR. JOHNSON: So moved.

24 MR. EWELL: Mike.

1 MS. HOPKINS: Second.

2 MR. EWELL: Judy. I'll do a roll
3 call. Is there any discussion about
4 adjourning the meeting by board members?
5 Okay. Roll call. Judy?

6 MS. HOPKINS: Yes.

7 MR. EWELL: Doug?

8 MR. FRANK: Yes.

9 MR. EWELL: Mike?

10 MR. JOHNSON: Yes.

11 MR. EWELL: I vote yes. Meeting is
12 adjourned. Thank you, everybody.

13 (Hearing concluded.)

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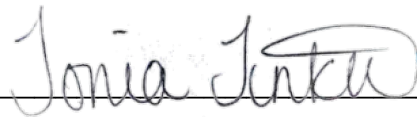
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CERTIFICATION:

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



TONIA L. TINKER