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DEC Greenlights Risky Flooding of Portion of Salt Mine Under Cayuga Lake Despite Public Outcry

Environmental group CLEAN denounces agency decision to allow flooding of mine area without an environmental impact statement or public hearing.

Ithaca, New York – Last week, the New York State Department of Environmental Conservation (DEC) issued a renewed 5-year mining permit for Cargill’s Cayuga Salt Mine. The new permit includes a modification allowing Cargill to continue flooding the abandoned S3 Zone of the mine beneath Cayuga Lake with mine wastewater. DEC issued the permit without requiring either an environmental impact statement or public hearing, even though more than 100 stakeholders including residents, environmental groups, municipalities, and local officials had identified serious concerns regarding Cargill’s proposed activities in relation to the health and safety of Cayuga Lake.

Cayuga Lake Environmental Action Now (CLEAN) and its technical experts had highlighted in public comments submitted to the agency the grave risks to global mine stability in the areas beneath the Lake posed by flooding the area with undersaturated brine wastewaters. In the opinion of CLEAN’s experts, Cargill had not adequately evaluated the risks posed by the flooding based on the subset of records that had been made publicly available.

Rather than engage the public further on these issues, DEC issued the permit without requiring either an environmental impact statement or public hearing. In doing so, DEC stated in its response to public comments that the agency “has not identified any potentially significant adverse impacts based on the public comment[s].” Yet DEC also acknowledged that much of the critical technical data and analyses prepared by Cargill and its consultants regarding mine stability were not made available to the agency, including a model that assumed that the flooded area rock ceiling would lose 95% of its strength at the commencement of flooding. Indeed, many of the records relating to the Mine’s stability have been shielded from public disclosure, either because they have not been provided by Cargill to DEC, or because DEC has upheld broad assertions by Cargill of confidential business information.

A mine collapse in the S3 Zone would occur under Cayuga Lake, which is already jeopardized by harmful algae blooms, invasive species, inadequate treatment of wastewater, and emerging contaminants. The consequences of a mine collapse and

subsequent flooding of the Mine would be catastrophic. Even a minor roof collapse in the area beneath the Lake could lead to a rubble chimney, creating a hydraulic connection between the Mine and Cayuga Lake. A collapse event would threaten the Lake as a drinking supply for more than 100,000 people.

DEC reported that it had received 143 written comments regarding the proposed permit, most of them from Cayuga Lake stakeholders opposed to the proposed flooding based on its potential impact on the Lake and surrounding environment. DEC nevertheless denied the requests for further environmental review and public engagement and issued the permit.

Brian Eden, co-founder and steering committee member of CLEAN, views this decision by DEC as another in a line in which DEC has chosen to shield Cargill's Mine from the scrutiny it deserves: "I have been concerned about the safety of mining beneath Cayuga Lake for more than 25 years. For decades, DEC has prevented public access to the data that would be required for the conduct of an independent third-party scientific review. Twenty years on, the DEC continues to block access to most of the important scientific data."

John V. Dennis, also a co-founder and steering committee member, shares the same concern about DEC's refusal to release records and information about the Mine's stability. He states: "If Cargill's operation of Cayuga Salt Mine is such a paragon of excellence, why is the DEC colluding with Cargill to release less and less information about the mine to the public? American Rock Salt is implementing continuous mining technology at its Hampton Corners Salt Mine, while Cargill is sticking with last-century use of explosions several times a day. The idea that American Rock Salt could gain a competitive edge by learning more about Cayuga Salt Mine is ludicrous."

Geologist Raymond Vaughan, a consultant to CLEAN, expresses his concern that DEC has simply brushed off dozens of detailed issues raised by commenters, including those regarding the risk of a catastrophic mine collapse. Dr. Vaughan points to DEC's own regulatory requirement that a potentially catastrophic event, even one with a low probability of occurrence, should be assessed relative to its potential magnitude, setting, irreversibility, geographic scope, and the number of people potentially affected, and yet DEC simply dismissed concerns about a mine collapse as not "reasonably expected" to occur. This is particularly concerning, Dr. Vaughan states, because "it appears that some of the relevant studies on mine stability on which DEC relies have been farmed out to consultants and never seen by DEC."

Andrew Michalski, hydrogeologist consultant to CLEAN, states as follows: "Yes, DEC, Boyd, and Cargill are all correct to point out that load transfer to abutment pillars will

occur as small-yielding pillars are weakened by the undersaturated waste brine that Cargill is now permitted to discharge into the mine under the lake. But the crux of the matter is not in the abutments but in the upward increasing overstressing of the roof rock, a setup that produced the Retsof mine collapse. The authors of the Agapito study admit that the overall mine stability was not in the scope of their S3 assessment. Furthermore, Cargill's reduction in brine pressure above mining panel U12 by drilling into a brine pocket results in the effective stress transfer upward into the dolomite. We know of no Cargill consultant addressing this risk. And, if it really is just an isolated brine pocket, why is it discharging for more than six years? Show us the inflow rates and water chemistry over this entire period."

Stephen D. Daly, Esq., outside counsel to CLEAN, states: "DEC is responsible for upholding the public trust in Cayuga Lake, an irreplaceable resource. DEC's reliance on the say-so of Cargill regarding the stability of the Mine cannot be reconciled with the agency's responsibilities to the people of this State."

DEC's decision to issue the permit without an environmental impact statement or public hearing is another instance of the agency hastening approvals for Cargill's Mine, notwithstanding its sensitive location beneath the Lake. Cargill has never been required to prepare an environmental impact statement in connection with any of its activities at the Mine, even though DEC has required American Rock Salt to prepare two environmental impact statements for its mine in nearby Livingston County. Cargill's Mine is also the only active salt mine in New York State occurring beneath a Lake, a natural resource held in trust for the public by the State.

CLEAN is continuing to evaluate DEC's decision and will explore all potential avenues for holding DEC accountable, including possible legal action. CLEAN is also exploring other avenues to protect the critical drinking water resources provided by the Lake and surrounding aquifers.

Cayuga Lake Environmental Action Now (CLEAN) is an independent advocacy group that is working to protect Cayuga Lake. Based in Ithaca, CLEAN is working with researchers, local environmental groups, and a legal team to address water quality issues on Cayuga Lake. We work in partnership with many local organizations including the Cayuga Lake Watershed Network. CLEAN is working to hold industry polluters accountable and the NYS Department of Environmental Conservation responsible for protecting a resource that belongs to ALL of us: Cayuga Lake - *from the waves up above to the salt down below.*

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