

1. IHCC Intro public comment

Good evening. My name is Sybil Kolon, and I am the president of Irish Hills Concerned Citizens. I live in Manchester Township, just three miles from Watkins Lake State Park and County Preserve.

Tonight you'll hear four brief comments from us, including this one. Together they'll address a few key questions: whether, under Michigan law, approving Levy's permit is in the township's best interest, and whether a decision to deny this permit could be successfully defended if challenged in court.

Before you hear those comments, I'd like to suggest one way of thinking about the decision before you. The question in front of you is actually quite narrow:

Is this the right location for this particular mining proposal?

This isn't a vote on whether gravel mining is good or bad or anything else. State law protects gravel mining in Michigan. **BUT** it also gives local governments an important responsibility. It asks you to evaluate **this specific proposal at this specific location** and to decide whether it would create very serious consequences.

In other words, your job is not to decide whether gravel mining belongs somewhere. Your job is to decide whether **this** mine belongs **here**. And when you compare this proposal with other gravel mines, the differences in location become impossible to ignore.

Before I turn things over, I also want to briefly mention what's happening outside this room. Our efforts were recently featured on WXYZ TV in Detroit. They asked to interview us at Watkins Lake State Park and County Preserve, to give their viewers an idea of what's at stake if this gravel mine is permitted to operate right next to it. Many of you also saw our group in Brooklyn's Fourth of July parade. I mention those because it's important for you to know that public concern continues to grow. This isn't a one-time response. It's a sustained community effort that continues to build, and demonstrates the wider public is paying attention and is overwhelmingly opposed to a sand and gravel mine in this location.

With that, I'll turn it over to my fellow speakers, who will talk about why the law, the facts, and the evidence all lead to the same conclusion: This is the wrong location for this proposal. Thank you.

2. Not inevitable public comment

Hi, my name is Bill Patteuw and I live in Norvell Township. I'd like to talk today about whether the proposed Levy mine is inevitable. In conversations that many of us have had with you and other Township officials, we sometimes get the impression that some think you really don't have any choice to deny the permit: that there's this huge company, they have tons of lawyers and consultants and money, that one way or the other they're going to force this mine on the township, and that your only option is to try to get some concessions from them to reduce the damage.

I understand that feeling, but the law says otherwise. I've distributed a fact sheet that quotes the relevant laws. The Township ordinance is very clear: the conditional use permit cannot be issued unless **the applicant proves** that there are no very serious consequences and that there's need for the gravel. The burden is on **the applicant**, on Levy, to prove it, not on you and not on us.

Then the state law, the Michigan Zoning Enabling Act, goes farther: it defines what very serious consequences are. As you can see from the fact sheet, they include impacts on nearby properties, traffic, property values, and health and safety. If those impacts are present, the state law says the application should be denied.

So the law—state law and township ordinance—give you the power and the responsibility to deny the mining permit if there are very serious consequences. And you've heard from many of us and our experts, and you'll hear from a lot more, that yes, there will be very serious consequences. We keep repeating that phrase because there's six different very serious consequences from the proposed mine, and each one justifies a denial of the permit.

The township ordinance also says the mining application must conform to the township master plan. You've heard us talk a lot about that, too—again because this application's failure to conform with the master plan gives the township the power and responsibility to deny the application.

So is the mine inevitable? The law says no, the facts say no, and more than 850 Norvell Township property owners and residents say no.

But the real question is whether Levy has proved that there would be no very serious consequences. Based on the evidence, the answer is clear: Levy has **not** met that burden, and this permit **should be denied**.

Thank you, and please let us know if you have any questions.

3. Pleasant Lake Aggregates (PLA) public comment

Good evening. My name is Emily Foley, and I live in Norvell Township.

The state law that Bill spoke about doesn't ask you whether gravel mining is good or bad. It asks you to evaluate **this** proposal at **this** location. Specifically, it directs you to consider the relationship between the mine and existing land uses, its impacts on nearby properties, traffic, public safety, and other health, safety, and welfare interests of the township.

That's why I want to talk about the Pleasant Lake Aggregates tour.

I understand it made a strong impression. But a tour cannot speak to how the proposal would impact Norvell Township unless the two sites are actually comparable.

The biggest difference is location. Pleasant Lake Aggregates sits next to another gravel mine. The proposed Norvell-Levy mine would sit next to Watkins Lake State Park, 300 feet from Watkins Lake (as currently proposed) and 100 feet from globally rare prairie fens. Its primary haul route would pass over 4,500 parcels within a ¼ mile, nearly six times as many as Pleasant Lake's route, while traveling through Hayes State Park, alongside Wamplers and Evans Lakes, directly past schools and churches, through the historic downtowns of Clinton and Saline, past literally thousands of residences and businesses. These aren't incidental differences. **They go to the heart of the question before you: whether this proposal, at this location, would result in the very serious consequences that give you both the authority and the responsibility to deny Levy's permit.**

The tour also couldn't show you one of the most significant features of the proposed Norvell mine: a permanent crushing operation. According to EGLE records, Pleasant Lake's mobile crusher operates only intermittently and often is not even on site. **If the crusher wasn't operating during your visit, then you didn't experience one of the primary noise sources proposed for this mine.** And if you couldn't experience it, you couldn't evaluate its impacts on nearby properties, public health and safety, and the welfare of the surrounding community, some of the very factors the law asks you to weigh.

Finally, let's consider what happens when something doesn't go according to plan. PLA has experienced at least two runoff containment failures that reached Pleasant Lake in the past 16 months. Even seemingly well-operated mines can experience unexpected failures. At the proposed Norvell site, a similar unanticipated event would occur immediately adjacent to Watkins Lake State Park, with its lake and globally rare prairie fens, where the impacts could be far more serious because of this very consequential location. These are just the kinds of site-specific factors the state law is designed to protect.

Thank you.

Legal defense public comment

Hi, my name is Nicki Kennedy and I live in Norvell Township.

Thanks for the chance to provide comments today. I'd like to address one of the big concerns from the township officials we've talked to: what happens if you deny the Levy permit and they sue?

We've consulted with a lot of lawyers about that question, and they all agree: if you have evidence in the record of very serious consequences, you'll win in court. They tell us that the legal standard is "substantial evidence"—that the courts will uphold a township decision that's backed up by substantial evidence. What does that mean? It means there's evidence in the record—that is, submitted to you in writing-- that supports the township decision. The courts don't require you to have the majority of evidence, or the best evidence, or more evidence than Levy—just enough evidence to support your decision.

Do you have that evidence? Yes, you have it now and you'll soon be getting more. The evidence you already have includes the comments we submitted last meeting, the reports we've provided, the letters from residents and other government agencies—that's the only evidence you'll need. And we'll be submitting more; we have at least three experts who will soon be submitting reports that all show very serious consequences.

Of course you'll need to confirm this with your own township attorneys, but we're confident they'll agree. Other townships, like Sharon Township, have denied gravel mine permits and their decisions have been upheld by the courts.

What about the litigation expenses, if the permit is denied and Levy sues? First, litigation is possible regardless of how you decide. Second, if litigation does occur, the township has substantial resources at its disposal. The township has an insurance policy, which we understand would cover \$100,000 of litigation costs. And we at IHCC are raising money for a legal defense fund to defend the township if it denies the permit. That should be more than enough to defend the township's decision.

Levy is trying to woo you and intimidate you at the same time. Don't let them do either. Please do what's best for the township and deny the permit. We will help make sure you win in court.

Thank you.