

CHAPTER 1

The Place, the Plant, the People, and the Permits

When I first moved to the Hudson Valley people said, “You’re going to see all the problems with the environment that you would find in the country, but you’re also going to find all the solutions.”

—Andy Bicking, volunteer coordinator and
outreach manager for Scenic Hudson

The Hudson Valley, the land surrounding the Hudson River from Albany to Manhattan, is one of the most beautiful regions in the United States. From the time Henry Hudson “discovered” the area in the seventeenth century, it has inspired exploration—into its mountains and waterfalls, and into the self, through art, literature, philosophy, and all passions of the human soul. For many, the Hudson River is a respite, a playground, a shelter for birds, fish, and wildlife, and a magnet drawing city-weary homebuyers to a life of serenity and rejuvenation. They believe that the river has the potential to revitalize the Valley and relieve the poverty and high unemployment rates that have plagued its communities for the past several decades.

When others watch the river as it flows from high in the Adirondack Mountains down to New York City and the Long Island Sound, they see first and foremost a transportation route—a beautiful one, but primarily a means to carry goods from the industries along its banks to the population and shipping centers to the south. Particularly following the building of the Erie Canal and the population boom in New York City, the river was critical to the economies of towns in the Valley. Then, in the 1960s, industries in the Valley, as in the rest of the country,

began shutting down and moving to the southern United States or to other countries with cheaper labor and fewer regulations, littering the abandoned Hudson Valley landscape with shuttered factories.

In recent years, however, industry has been attempting a comeback in the Valley. A *New York Times* front-page article, from March 2000, describes, "Decades after smokestack industries largely disappeared from the Hudson River Valley, leaving behind an environmental and economic mess that took years to reverse, plans are afoot to build more than a dozen industrial plants in the region" (Rozhon 3/13/2000, A1). It cites as examples the proposals for a \$680 million paper recycling and power plant in the town of Ulster, a \$500 million power plant in Athens, and the \$300 million St. Lawrence Cement plant in Greenport. Many Hudson Valley residents have welcomed the return of industry to the region and have faith that the river can again become their economic salvation.

Though questions about the effects of industry on the spiritual and aesthetic values of nature had begun to be raised as early as the mid-nineteenth century, for the most part, the region's economic and aesthetic assets coexisted with few major conflicts. Beginning in the 1960s, however, the relative harmony between these two worlds began to dissolve.

The first, and still most famous, environmental controversy in the Hudson Valley was the battle to prevent Consolidated Edison from building what would have then been the world's largest pumped-storage hydroelectric facility, on and in Storm King Mountain, located on the River in Cornwall. Horrified by an artist's rendering of the proposed facility cutting away a massive chunk of the mountain, conservationists and outdoor enthusiasts rallied to oppose the project (Card 2005: 13). In 1963 they came together to form the Scenic Hudson Preservation Conference, and achieved their first major victory in 1965 when the Second Circuit Court of Appeals acknowledged their interest in protecting the site's recreational and aesthetic qualities and granted them standing as "aggrieved parties" to oppose the project in court (*Scenic Hudson Preservation Conference v. Federal Power Commission*, 354 F.2d 608 (2d Cir. 1965)). In 1980 the case was finally settled and Con Edison abandoned the project.

The 1965 decision to protect aesthetic interests under law is seen by some as the beginning of the modern environmental movement and the spark that led to an increase in national environmental consciousness. It also motivated many local citizens, fearful of the consequences of a return of the manufacturing days along the river, to take a stand for their vision of local planning and development. Numerous grass-

roots organizations emerged in the Hudson Valley, addressing various environmental, economic, and political issues in the region.

From its grassroots origin focusing solely on the Storm King proposal, Scenic Hudson has since grown to become a major voice in regional planning and conservation. The organization currently has a total of forty-three employees and a budget of more than \$5,000,000, which comes from its more than 8,000 individual donors, as well as foundations and government grants. The organization now includes four main program divisions: land preservation (safeguarding farms, parks, and valuable areas), environmental quality (cleaning the air and water, including PCB cleanup and the St. Lawrence Cement plant), riverfront communities (creating partnerships to encourage sustainable development), and communications and public outreach (increasing environmental awareness). According to its own description, it is guided by three main principles: "Outstanding quality of life is achievable only when a clean, healthy environment is a key component of economic development;" "All citizens have a right to outstanding quality of life, including access to our Hudson River, to open space and to participate in community decision-making;" and "Our natural environment is an irreplaceable source of spiritual and artistic vitality and must be preserved forever."

Friends of Hudson, another Hudson Valley grassroots environmental organization, emerged in January 1999 from the living room of Sam Pratt, a national journalist who had written for such publications as *Esquire* and *New York Magazine*. Pratt, along with Peter Jung, the owner of Peter Jung Art & Antiques, which deals in paintings, furniture, and musical instruments, and Claudia Bruce, co-director of the Hudson arts and cultural center Time and Space Limited, brought together forty residents of Hudson to combat Americlean, a Canadian company proposing to truck millions of gallons annually of perchloroethylene, or "perc," a highly toxic solvent used in dry cleaning, to a waste plant on the waterfront in downtown Hudson. However, following a public hearing in which a company executive said he "could not remember" the location of the company's pilot plant, the company was forced to retreat.

Then, just as Friends of Hudson was energized by its victory, the St. Lawrence Cement Company, the second-largest cement producer in the world, announced to the New York State Department of Environmental Conservation that it intended to move its cement operations from the west side of the Hudson River, in Catskill, New York, to a new, much larger manufacturing facility at its quarry in Greenport, New York, just south of the City of Hudson. The proposed facility

would have covered 1,800 acres, an area twenty percent larger than the City of Hudson.

After thoroughly examining St. Lawrence's proposal, Friends of Hudson, followed shortly by Scenic Hudson and others, ignited a movement to oppose the permitting of the proposed plant. The opposition movement sparked a countermovement, and the debate soon became a conflagration that would last almost six years. It inflamed environmentalists, politicians, celebrities, wealthy homeowners, laid-off blue collar workers—just about everyone in the Hudson Valley and many in the surrounding states. The dispute would invade front lawns and car bumpers with ubiquitous "Stop the Plant" and "Support the Plan(e)t" signs and would dominate letters to the editor and bar-stool conversations throughout the region.

What was this behemoth that stirred such passion, and what was the road that led from the initial confident announcement to the plant's ultimate demise?

The Proposal

St. Lawrence Cement (SLC) is a branch of Holcim (US), Inc., a subsidiary of Holcim Ltd., which is based in Switzerland and Canada. As of 2003, SLC owned and operated thirteen cement plants in the United States, one of which is located on the Western side of the Hudson River in the town of Catskill, New York. It proposed to close down most of its operations at the Catskill plant in order to build a much larger, more modern, coal-fired facility just across the river, increasing its cement production capacity threefold.

SLC chose this location for several reasons. It had owned the land where it planned to build the new plant, on Becraft Mountain in the town of Greenport (outside the city of Hudson on the eastern side of the river in Columbia County), since 1976. In addition, there was a large source of available limestone, a necessary ingredient in cement manufacturing; the Hudson River was available for transport of finished cement product; and the location was close to important consumer sources throughout the northeast, including New York City, Albany, and Boston.

The cement production of New York State declined significantly in the second half of the twentieth century—from over five million metric tons per year (mty) in the early nineteenth century to only three million mty in 1997. Despite this decrease in production capacity, demand for cement increased, leading to an increase in the use of imported cement. Importing cement, according to SLC, is problematic for several reasons. It takes away potential benefits to the domestic economy that

would result from new sources of employment and tax contributions, and it necessitates the transportation of goods over long distances, using resources and creating unnecessary sources of pollution. Further, many of the overseas plants do not have the same degree of environmental regulation that exist in the United States, thereby creating more avoidable damage to the global environment. The proposed plant in Greenport would have produced two million mty, more than double the production levels in the Catskill plant, and would have “decrease[d] the country’s dependence on imported cement by seven percent (assuming the 1998 level of about 20 million mty in finished cement imports)” (DEIS: 1.3).

The proposed plant, which is described many times throughout the SLC Draft Environmental Impact Statement (DEIS) as a “state-of-the-art” facility, would have included three main components: the manufacturing plant and limestone mine on Becraft Mountain, the Hudson River dock facility, and the conveyor system connecting the two.¹ One of the most conspicuous elements of the plant was to have been a 406-foot (forty-story) tall smokestack, surrounded by twenty facilities over twenty stories high. Even according to the company, the plume from the smokestack could have stretched more than six miles.

The plant complex would also have included a two-and-a-half-mile tube conveyor system to transport the finished cement product from the plant to its dock on the river, which would have been expanded from its current size to accommodate the increased activity. The dock area would have served as the shipment site of the finished cement to cement distribution locations throughout the northeast, which in turn ship the cement to concrete producers.² It was estimated that eighty percent of the cement produced in Greenport would have been transported from the dock facility by barge. The dock would also have been used as a receiving site for the delivery of items needed in the manufacturing process.

The waterfront would have been made accessible to the public by pedestrian walkway, shielded from views of the railroad tracks and the waterfront industrial activity. The walkway would have culminated at a lookout area, with signs describing the natural features of the landscape, the nature of the Hudson Valley as a historical heritage area, the cement-making industry, and the nature of the SLC dock activities.

The Opposition

More than thirty local, regional, and national groups organized to oppose the building of the proposed plant. They raised numerous con-

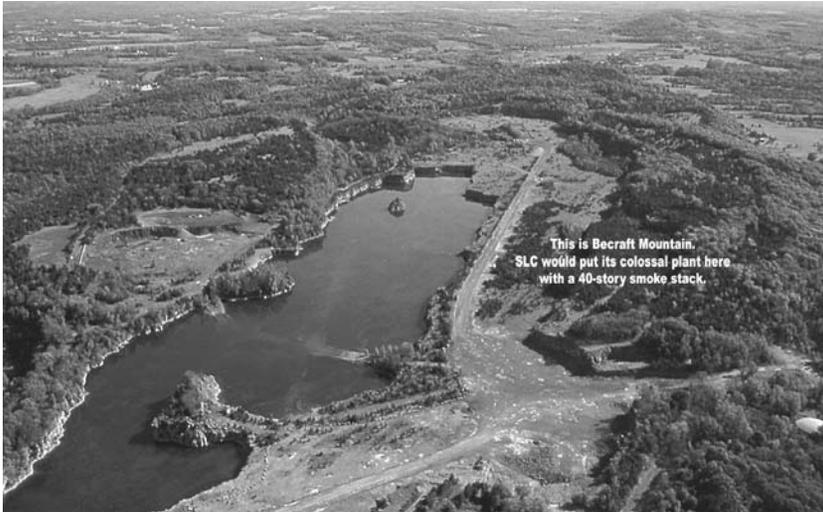


Figure 3. Photograph by B. Docktor “Looking southwest above Becraft Mountain.”

cerns about the impacts the plant could have on the region. One prominent theme in the opposition discourse was the potential visual impact on the beauty of the Hudson Valley resulting from the immense size of the proposed project. Second, many opponents doubted the economic benefits of the plant and believed the plant would harm other aspects of the economy, such as tourism and real estate. The third principle concern was environmental and health damage resulting from the plant, particularly from air emissions, including, among others: nitrogen oxides, sulfur dioxide, carbon monoxide, lead, mercury, volatile organic compounds, and fine particulate matter. The plant opposition also feared noise pollution, truck traffic, effects of blasting on building foundations, impact on historic resources, harm to wildlife, and the bad track record of other SLC and Holcim plants in complying with pollution regulations.

Friends of Hudson and Scenic Hudson were on the front line of the battle against the SLC Greenport plant. Friends of Hudson had two full-time staff members, a full-time volunteer executive director, as well as many other active or occasional volunteers from the community, and focused almost solely on the SLC issue during the six-plus-year span of the controversy. The organization collected 15,000 signatures opposing SLC and raised more than \$2 million to finance the challenge against SLC, sixty percent of it from individuals in the



Figure 4. Photograph by B. Docktor "Looking northwest over SLC quarry."

region and the remainder from various foundations. Most of the funds raised were spent on expert consultants, the high caliber of which is generally unheard of for small grassroots organizations but which it felt was necessary in order to defeat such a huge, wealthy corporation. Scenic Hudson had one person working full-time exclusively on the SLC issue as well as five or six working on the issue part-time.

Scenic Hudson was also part of a larger coalition of organizations, called the Hudson Valley Preservation Coalition (HVPC), formed early in the SLC struggle as a larger, united front against the plant. At the time of the defeat of the SLC proposal, the Coalition was made up of twenty-one organizations: the New York Chapter of the American Lung Association, Citizens' Environmental Coalition, Citizens for a Healthy Environment, Citizens for the Hudson Valley, Clover Reach, Concerned Women of Claverack, Environmental Advocates of New York, Environmental Defense, Friends of Clermont, Germantown Neighbors Association, Historic Hudson, Inc., Historic Hudson Valley, Hudson Antiques Dealers Association, Hudson River Heritage, Hudson River Sloop Clearwater, Inc., Natural Resources Defense Council, New York League of Conservation Voters, Riverkeeper, Inc., Scenic America, Scenic Hudson, and the Atlantic Chapter of the Sierra Club. In addition to the official members of the coalition, numerous

other New York, Massachusetts, and Connecticut organizations came out in opposition to the project.³

Another group active in opposition to the plant was The Olana Partnership (TOP). TOP is the nonprofit segment of the Olana State Historic Site, which includes the home and gardens of Frederic Church, a member of the Hudson River School of painters. In the mid-nineteenth century, the landscape painters made the beauty of the Hudson Valley known nationally through their artwork. TOP feared that the visual blight from the SLC plant would damage its “viewshed” and worried that emissions from the stack would impact the buildings and grounds of the historic site. Olana, just three miles from the site of the proposed plant, is one of the top tourist attractions in the region, and TOP was apprehensive that the plant might deter tourists from visiting the area.

With so many different groups working closely to oppose the plant, the potential certainly existed for conflicts to arise. Several participants described how there were, at times, disagreements about strategies or priorities, as can be expected in any type of coalition work. Andy Bicking, volunteer coordinator and outreach manager for Scenic Hudson, explained that each group had a different “culture”—different missions, organizational structures, budget constraints, and attitudes or perspectives on the issue—that led to some minor conflicts among them. He described some problems that arose when one group was publicly recognized and another felt like its thunder was wrongly stolen, perhaps because it had provided greater funding or staffing for the project or had been involved for a longer period of time. He also recognized, however, what many others opposing this project observed—that everyone involved was so dedicated to fighting this issue that those conflicts were minimal, and any disagreements merely served to make their arguments stronger. Alix Gerosa, director of environmental quality at Scenic Hudson, stated that when it came to the big picture there was total consensus: “Everyone denies the entire plant.”

The Permitting Process

In order to build and operate a new plant in Greenport, St. Lawrence needed a total of seventeen permits granted by local, state, and federal public agencies, including Greenport, Catskill, the City of Hudson, Columbia County Planning Board, New York State Department of Environmental Conservation (DEC), New York State Department of Transportation (NYSDOT), New York State Office of General Services

(NYSOGS), U.S. Army Corps of Engineers (ACOE), New York State Department of State (NYSDOS), Federal Aviation Administration (FAA) and United States Environmental Protection Agency (EPA). Numerous and extensive documents were required, most significant of which were the Draft Environmental Impact Statement (DEIS), the Air Permit Application, and the Joint Permit Application.

The long and arduous process began in early 1999 when SLC announced to the DEC its intention to build the new plant. This announcement precipitated the most critical aspect of the permitting process—the State Environmental Quality Review (SEQR), performed by the DEC as the “lead agency.” This review process is guided by the State Environmental Quality Review Act (SEQRA), part of the Environmental Conservation Law (ECL) and Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR). In addition to a thorough examination of a proposed project for determination of its consistency with existing environmental law, the SEQR process also provides an opportunity for citizens’ groups to participate in the permitting process, an opportunity that would dramatically alter the nature, and arguably the outcome, of the SLC controversy.

The first step in the SEQR process, once an “action” has been identified as subject to SEQR, is to identify whether the action is a Type I, Type II, or Unlisted action, according to the severity of its impact on the environment. On April 8, 1999, the DEC identified the SLC proposal as a Type I action, meaning it “may have a significant impact on the environment,” and required the company to produce a DEIS. Though not mandatory, often the next step in the process is a procedure called “scoping,” intended to focus plans for the DEIS on “potentially adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant” (6 NYCRR §617.8). The “project sponsor,” in this case SLC, was required to complete a draft scope that was submitted to all involved agencies. Scoping must also include a chance for public participation, either through written comments or an open meeting. A public scoping meeting for the SLC project was held on June 24, 1999. According to Dan Odescalchi, SLC’s Greenport Project Representative, public concerns voiced at this initial scoping meeting, particularly those in reference to perceived visual impacts, influenced certain company decisions about the plant, and the DEIS reflects changes from the original design plans.

The next critical step in the SEQR process was the submission of the DEIS to the DEC for review. The St. Lawrence DEIS is a 1,600-page document describing the plant’s expected operations as well as what impacts these operations would have on the economy, environment, and general “community character” of the region.⁴ The first draft of the

**THE
NorthEast
HAS SPOKEN:**

The Berkshire Eagle
 “SLC has not made its case economically or environmentally.”
WRONG PLANT IN THE WRONG PLACE | 7/9/02

Bangor Daily News
 “Air laden with pollution [is] not neighborly; not at all.”
GETTING THEIR DRIFT | 12-9-03

The Boston Globe
 “A new coal-burning plant in the Northeast is a nonstarter.”
ILL WIND FROM NEW YORK | 11-16-03

Independent
 “Not in the best interests of the people of Columbia County.”
THE CEMENT PLANT | 10-26-01

The Boston Globe
 “A new coal-burning plant in the Northeast is a nonstarter.”
ILL WIND FROM NEW YORK | 11-16-03

Poughkeepsie Journal
 “The facility would do the area far more harm than good.”
REJECT CEMENT PLANT PROPOSAL | 7/27/03

Hartford Courant
 “Connecticut should do everything possible to block [SLC].”
STOP THIS CEMENT PLANT | 12/18/03

New York Times
 “The SLC plant would endanger everyone downwind.”
POLITICAL WILL CAN STOP PLANT | 11/18/03

New Haven Register
 “New England states should protest strongly.”
STOP CEMENT PLANT ON HUDSON | 11-28-03

Links to full text of editorials:
www.FRIENDSOFHudson.org

“To build a coal-burning cement plant on the Hudson makes no sense at all.”

THE NEW YORK TIMES
THE HUDSON AT RISK | 10-7-02

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TELL THE TRUTH. STOP THE PLANT.

Figure 5. Friends of Hudson Advertisement, “The Northeast Has Spoken,” listing anti-plant sentiments from eight regional newspapers; reprinted by permission of Friends of Hudson.

DEIS was submitted on March 7, 2000. After some communication between SLC and the DEC, the final DEIS was submitted on May 2, 2001, almost two years after the initial scoping meeting. During this period SLC had been busy compiling all the plans and research for the extensive document, while Friends of Hudson, soon joined by Scenic Hudson and others, was working hard to gather information and spread knowledge about the proposal. Both sides were working actively to gain support for their position through advertisements, lawn signs, and public forums. As early as February 22, 2000, an article appeared in Hudson’s *Register Star* with the headline “St. Lawrence foes pick up momentum” and Friends of Hudson’s membership increased significantly from 300 in 1999 to 1,500 in 2000 to 2,400 in 2001. The debate was beginning to be loudly featured in the local community discourse.

Once the DEIS was deemed a complete document by the DEC, a public comment period began in May 2001 and lasted until July 2.⁵ A public hearing was held at Columbia-Greene Community College on June 20, which was attended by more than 1,000 people. During the hearing—which lasted from 1:00 p.m. until after midnight on June

21—121 people spoke, only fifteen of whom spoke in favor of the project. In addition, 982 written comments were submitted (561 in opposition and 421 in support) and petitions presented containing 16,576 signatures (11,342 in opposition and 5,234 in support) (ALJ Ruling 12/7/2001).

The next significant event was the Issues Conference, held from July 18–31 and August 15, 2001, which was presided over by two Administrative Law Judges (ALJs) from the DEC Office of Hearings and Mediation Services (OHMS), Helene Goldberger and Maria Villa. The conference was attended by all groups or individuals intending to apply for “party status,” which would give them the ability to participate fully as “intervenor” in the permit hearing process. The DEC and the applicant, SLC, were automatically parties to the hearing. All other prospective intervenors, to secure full party status, had to prove that they would “raise a substantive and significant issue or be able to make a meaningful contribution to the record regarding a substantive and significant issue raised by another party” and had to “demonstrate adequate environmental interest” (6 NYCRR § 624.5, cited in ALJ Ruling 12/7/2001).

The purpose of the Issues Conference, in addition to determining which groups were able to make a “meaningful contribution,” was to look into concerns that had emerged, in order to determine which issues required adjudication. An issue is adjudicable if “it is proposed by a potential party and is both substantive and significant” (6 NYCRR § 624.4, cited in the First Interim Decision 12/6/2002). An issue is “substantive” if “there is sufficient doubt about the applicant’s ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry,” and is “significant” if “it has the potential to result in the denial of a permit, a major modification to the proposed project or the imposition of significant permit conditions in addition to those proposed in the draft permit” (First Interim Decision 12/6/2002).

In December 2001 the ALJs issued their decision regarding party status and issues for adjudication. At 138 pages, plus attachments, it is the longest ruling in the history of the DEC. Three groups were given full party status by the ALJs—Friends of Hudson, The Hudson Valley Preservation Coalition, and the Olana Partnership. In addition, more limited amicus status was granted to the National Trust for Historic Preservation, the Preservation League, and the village of Athens, which allowed them to contribute information on individual issues in which they had particular interest and knowledge, but without the responsibilities of party status. The ALJs denied the petitions for amicus status from Columbia Hudson Partnership, Natural Resources

Defense Council, the town of Greenport, and Columbia County, stating in regards to the latter, "The County has played virtually no role in these proceedings. It has made two submissions that state its support for the project generally and its view that the county encompasses diverse land uses. We do not find that the county has shown expertise or a special perspective through these submission that would warrant its further participation as an *amicus*" (ALJ Ruling 12/7/2001). (According to Citizens for a Healthy Environment, "The judges' words are chilling when one realizes that they are applied to the leadership of the county" (2002: 66).)

Of the issues addressed at the Issues Conference, a total of eight were deemed adjudicable: air dispersion modeling, short-term limits for Nitrogen Oxides (NO_x), Lowest Achievable Emissions Rates (LAER) with respect to Volatile Organic Compounds (VOCs), particulate matter smaller than 2.5 microns in diameter (PM 2.5), noise impacts, riverine habitat mitigation plan, visual impacts, and economic impacts (ALJ Ruling 12/7/2001). In addition, supplementation of the record was required on nine topics and twenty-eight amendments were mandated for the draft permit.

Even though both sides expressed satisfaction with the ALJs' ruling, extensive appeals were filed, as well as briefs responding to the other side's appeals. Following examination of the appeals, briefs, and the ALJs' ruling, DEC Commissioner Erin Crotty, who had the final say in granting or denying DEC permits, released the First Interim Decision of the SEQR proceedings on December 6, 2002. Crotty upheld the ALJs' decisions to adjudicate noise impacts and added air pollution impacts to Olana to the list of issues requiring adjudication. She also reversed their decisions to adjudicate air modeling and economic impacts, stating in regard to the latter that economic impacts may prove to be adjudicable later in the decision-making process once more information was obtained regarding other environmental impacts.

In addition, Crotty added to the list of issues to be adjudicated an examination of SLC's proposed mining operations. According to SLC, the Greenport project's mining operations should be "grandfathered" in the permitting process, that is, should not be subject to SEQR because its initial mining approval predated the effective date of SEQRA. However, according to New York State's Environmental Conservation Law (ECL § 8-011), SEQRA grandfathers all actions approved before September 1, 1976 *except* "in the case of an action where the responsible agency proposes a modification of the action and the modification may result in a significant adverse effect on the environment." Since SLC proposed to increase its mining operations from their

approved rate of 1.8 million metric tons per year (mty) to 6.1 mty (an increase of 338 percent), Crotty decided that it could not be assumed that the proposed mining operations were grandfathered, and thus adjudication was required.

Adjudicatory hearings began at the Greenport Town Hall in 2003, beginning in March with hearings on grandfathering of the mine, presided over by ALJs Goldberger and Villa. On June 12 of that year, the ALJs issued a decision recommending that SLC's mining operations be ungrandfathered, stating that "[w]hile the applicant's argument that current mining methods reduce impacts even when extraction rates are greatly increased is persuasive, such facts are more appropriately assessed during a hearing on the specific environmental issues that are identified for adjudication" and "it would be remiss on the part of this agency to bind its review based upon mining activities that never reached the dimensions proposed by SLC and which were never subject to the scrutiny SEQRA requires" (ALJ Ruling 6/12/2003). Adjudication continued later that year with hearings regarding traffic impacts held in November and hearings addressing noise impacts held in late November and early December.

Commissioner Crotty issued the long-awaited Second Interim Decision on September 8, 2004. It upheld the ALJs' decision regarding the ungrandfathering of the SLC mine and called for full adjudication of all remaining issues, such as air impacts and impacts on visual and historic resources. Opponents of the plant lauded Crotty's decision and described it as a strong message to SLC about the reality of its situation. According to a statement by Sam Pratt, executive director of Friends of Hudson from 1999 to 2005, "We have always said that on a level playing field, St. Lawrence Cement will lose. That's why St. Lawrence Cement has tried to tilt the process in its favor with lobbying, public relations, and saturation advertising. What the Commissioner has done today is to give opponents that level playing field we've asked for—and made clear to the company that it's got a long, hard road ahead, with little certainty of success." And according to Friends of Hudson, "This ruling today validates years of work by our lawyers, engineers, and other experts, and the strong commitment of thousands of citizens to stop this dangerous project. It also demonstrates that St. Lawrence Cement no longer calls the shots in Albany, and that opponents have an opportunity to stop SLC on the merits."

Another significant event occurred in 2004 when SLC announced several design changes to the plant, intended to address some of the concerns raised during the permitting process. The most significant element of the change was a shift of the forty acres of buildings one-quarter mile south, and thus seventy-two feet lower in the proposed

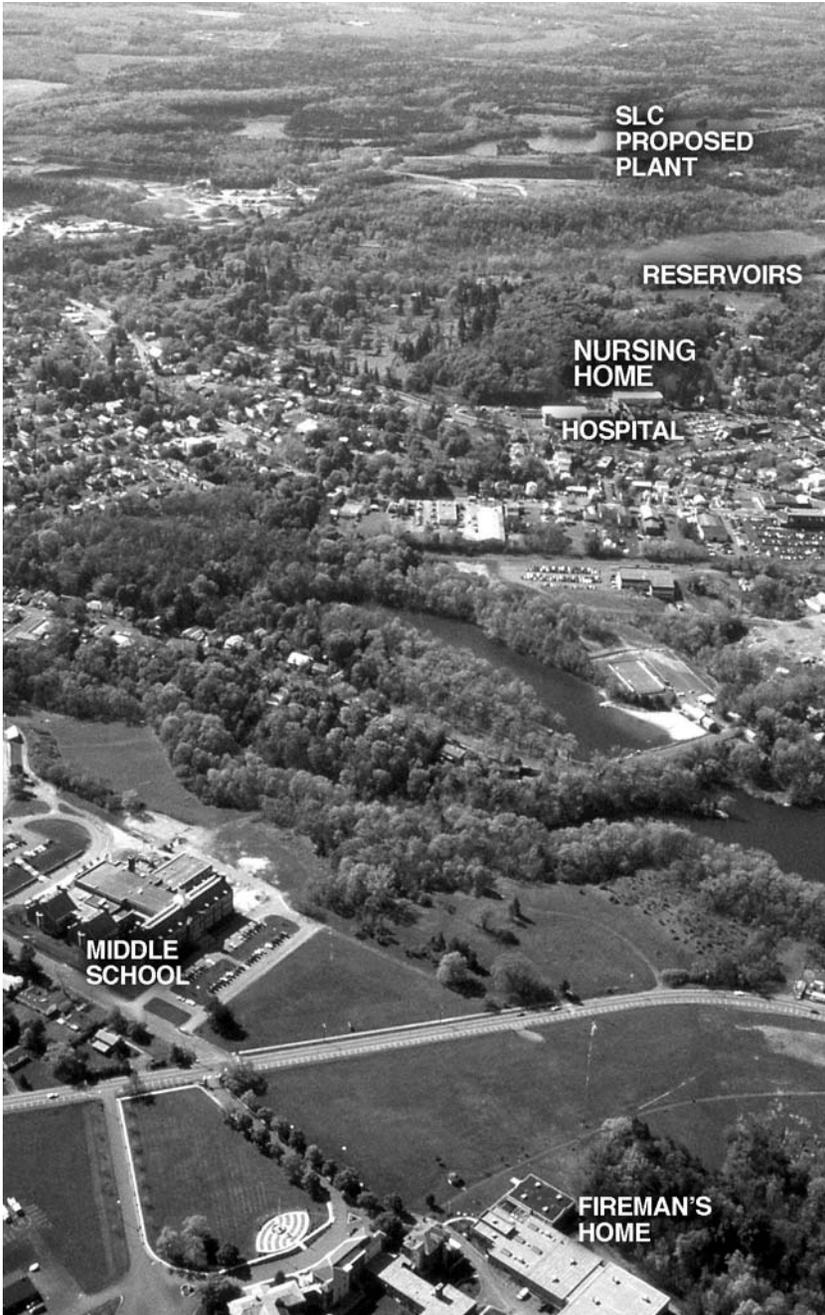


Figure 6. Photograph by B. Docktor "Looking southeast over school."

mine quarry. According to the company, this change, along with the proposed elimination of one section from the smokestack, would have resulted in lowering the stack height from 406 feet to less than 290 feet. While the change would have mitigated some of the visual impacts, opposition groups expressed concern that lowering the smokestack would lower the plume and thus would result in an increase in the volume of toxic pollution dispersed locally. Given that the plant was within a mile of a hospital, a nursing home, a school, and a densely populated area, increasing the level of pollution was a great concern. Opposition groups insisted that a new environmental impact statement would be required.

The controversy finally came to a close in April 2005 when the Department of State (DOS) issued a decision objecting to SLC's certificate of consistency, in essence denying SLC one of the permits it needed to build the plant. Despite the fact that the focus during the dispute had been mainly on the DEC permits, SLC needed to obtain all seventeen required permits in order to proceed with construction. Only a few days after the DOS decision, SLC announced its decision not to appeal and officially withdrew its proposal.

The plant had been stopped.

Gauging Success

Interestingly, throughout the permitting process, both sides seemed completely sure that they would prevail in the end. An opponent of the plant stated that he hoped the process would not go on for fifteen to twenty years like it did in the Storm King case, but even if it did, he was prepared to see it through to the end. He was optimistic about the outcome:

At this stage I'm so fully convinced, not just in my bones, but because of the information our experts and our attorneys have researched, that this project cannot be built. . . . I think St. Lawrence is going to be in the situation of appealing and then losing on their appeals if they decide to waste their time on it, because the facts don't back them up. And I don't by the way that think the DEC will approve the project anyway. . . . Basically St. Lawrence's argument was that there should be no hearing, that there should be no proceedings, that the State should give them their permits based on the application that they filed and they should just take it at face value. . . . They cried bloody murder when we applied for party status and

then we got party status. They said that even if there's parties recognized, there should be no issues adjudicated. Then the judge ordered the issues adjudicated. Then they started adjudicating the issues and they started losing. Every major decision that's come up they haven't appeared very confident and that ratifies the fact that they're not telling the truth in their application. . . . As I said, all we need is to win on one issue, on one permit. . . . I also should say the longer it goes on the less support they have because the more people know about it the less they like it. If a decision were made in the first three months it would have been permitted.

This observer believed that the state was parceling out the project bit by bit, sending people to do more and more reviews of various topics, because it wanted to avoid making a decision. He thought that, if pushed, the State would deny the permits but it hoped that either the project or the opposition would disappear, "because what politicians like to avoid is anything controversial sticking to them, so why make a decision until you absolutely have to."

Although some new information was revealed or clarified after the project was first proposed, other than the quarter mile location modification made in 2004, the basics of the proposal remained largely unchanged. Thus, the belief that the proposal would have been permitted in the first few months carries with it an important conclusion about the crucial role the opposition played in this process. Without opposition, the proposal would not have been examined nearly so carefully, and thus it was the dedication and perseverance of the opposition that forced the ultimate denial of the permits.

Conversely, Dan Odescalchi, a representative for SLC, stated that he was sure the project would be approved:

They've been at this for a while, and if there were any doubts of us meeting any of these requirements I think we would have tossed in the towel. I don't think that's really an option for us. We're pretty much ready to see this through and seeing as we're not going to have any problems meeting any of our regulatory requirements, we don't see this as a problem.

A representative of the Hudson Valley Environmental/Economic Coalition, a local organization supporting the plant, also believed that the permits would be granted by the DEC.⁶ He was certain that SLC would meet the regulatory requirements and that there was "overwhelming support" for the plant throughout the county. He stated that



Figure 7. "The Results Are In!" Cartoon by Mark Teague.

any minimal increases in the size of the opposition was due to a strategic switch from emphasizing aesthetic concerns about the landscape to using scare tactics regarding toxic emission. Both he and Odescalchi stated that three surveys were done that all showed majority support

for the plant and they cited recent elections, in which plant supporters were overwhelmingly successful throughout the county. Odescalchi displayed an article from a local newspaper with a large headline declaring "Anti-Cement Plant Candidates Paved Over."

According to Cyndy Hall, one of the founders of Concerned Women of Claverack, a grassroots organization opposing the plant, the assertion that the plant was the determinative issue in the local elections was an example of the arrogance of SLC and its supporters. She thought the election results were not an accurate representation of the size of the opposition. Many members of the opposition also expressed the opinion that the polls to which Odescalchi was referring did not accurately represent the breakdown. A leader of the plant opposition went so far as to call these polls "unethical" because they only surveyed certain segments of the population and worded the questions in such a way as to sway the objectivity of the answers. A cartoon published in the *Hudson Valley Record* shows a drawing of SLC representatives doing a poll and asking questions such as, "Which would you prefer: SLC's 'replacement plant' or being poked in the eye with a sharp stick?" (Teague, Spring 2003: 2).

Hostilities, Suspicions, and Stereotypes

The relative size of the two opposing camps is not, at least for the purpose of this discussion, the most critical issue. What is extremely significant, and indisputable, is that the issue deeply divided the region, and most dramatically the local Hudson community, causing tremendous hostility. Oftentimes the way the disagreements were expressed was not pretty. Cyndy Hall described how she had a sign on her front lawn that read "TLC, not SLC." When someone broke the sign in half, Hall left it on her lawn as a statement. She also told a story of a time when she went away on vacation around Easter and returned to find huge chunks of cement on her front lawn and a note on her door that said "Happy Ether." At another point all the "Stop the Plant" signs in Claverack were spray painted black and two anti-plant billboards were ripped down, frightening many of the local residents. According to Hall, since the plant supporters were capable of defacing property, people began to wonder what else they might be capable of doing.

In Red Hook, a town close to the proposed site, one local restaurant owner who had a large "Stop the Plant" sign up in the window of his restaurant told of having a bullet shot through his restaurant window. The police investigating the incident believed that the attack was probably due to the presence of the sign in his window. He

expressed some doubt, but for the police even to have made such a suggestion reflected the depths of the hostilities.

One of the biggest complaints expressed by members of the opposition concerned not just the actions of plant supporters in the community but also the tactics of employees of SLC itself. In April 2000 SLC's public relations representative was caught trying to steal the sign-in sheet at a Friends of Hudson event in Chatham and was subsequently fired.⁷ Residents opposed to the plant cited numerous examples of SLC either blatantly changing its position on various facts regarding the plant or attempting to conceal inconsistencies. And, the most often cited example, SLC was caught "ghostwriting" a number of letters to the editor in support of the plant, an action viewed by the opposition as evidence of the unethical nature of the company and the lack of community support for the plant. Friends of Hudson described how SLC claimed as an excuse that "its ghostwriting was a 'service' performed on behalf of supporters" (5th Anniversary Commemorative Edition: 10).

Conversely, plant supporters also questioned the honesty of some of the opposition's statements and the ethics of their strategies. For example, one supporter accused Scenic Hudson of telling a number of lies at a presentation given at Bard College in December 2003. For example, he noted, Scenic Hudson stated as "fact" that SLC would not hire local construction workers to build the new plant, when SLC had already signed a Project Labor Agreement that would have hired all local builders. A second example he gave was the response to a question one student asked about what type of industry, if any, Scenic Hudson supports. Scenic Hudson cited, as an example, Athens Generating, a new power plant in the town of Athens, just across the river from Hudson and Greenport, while failing to mention that they were opposed to Athens Generating until they were given \$2.2 million in a settlement with the company.

Several supporters of the plant also cited the high salaries of the employees in the organizations opposing the plant as a reason to question the ethics of their positions. One person claimed that Scenic Hudson employees made "well into six-digit salaries" and several others emphasized that Scenic Hudson was essentially a *company*, in that its fundraising was merely to support its employees' salaries. The implication was that many of the organization's employees were involved in this issue as a way to make money, not because they genuinely believed in the cause. However, despite any conclusions they may have wished to draw about the motives of the organizations' paid employees, it must be recognized that many of the people working against the plant were volunteers and Sam Pratt himself worked full-

time as a volunteer, putting in by his own estimate over 15,000 pro bono hours. In addition, there is no way to deny that SLC itself was involved purely out of economic self-interest.

These hostilities both fostered and were exacerbated by stereotypes about the opposing sides, which increased polarization of the issue and decreased the two sides' ability to communicate openly. Plant supporters were portrayed as being less intelligent, less educated, or having a "bizarre nostalgia" for the days of industry. Plant opponents were often stereotyped as all being rich, gay antiques dealers from New York City. These stereotypes distracted from the real issue: How can a harmonious community be built in which everyone's interests are satisfied and visions fulfilled to the greatest extent possible?

Now that the Department of State has rejected SLC's permit application, this question remains. But during the years of the controversy itself, the discourse focused much more on the specific issues arising from the proposal—its aesthetic, economic, and environmental impacts and who was entitled to weigh in on those issues. It is only through an examination of the opinions of the various constituencies on these questions—an exploration of the discourse surrounding the plant itself—that an understanding can be reached about the conflicting worldviews that allowed for polarized interpretations of the facts. By focusing specifically on the facts asserted by each side, we can piece together the puzzle that will answer the bigger question: How do such dramatic polarizations occur, and what does this say about the place and the people involved?