



NIAGARA COUNTY DEPARTMENT OF HEALTH  
[REDACTED]

Daniel J. Stapleton, MBA  
Public Health Director  
[REDACTED]

July 16, 2014

The Honorable James T. McClymonds  
Chief Administrative Law Judge  
New York State DEC  
Office of Hearings and Mediation Services  
625 Broadway, 1st floor  
Albany, NY 12233-2550

Re: CWM Proposed RMU-2

Dear Judge McClymonds:

Niagara County has a rich and vibrant industrial history that has shaped our communities through both economic prosperity and scarred chemical contamination. We have all learned hard lessons that industry needs to be held to the highest standards of environmental protection as well as protection of both occupational and public health. New York State has spent billions of dollars cleaning up the mistakes of our past and has made significant strides in regulating industry towards waste reduction and even elimination. As a county, a state, and a country, industry produces materials smarter, creating far less waste than ever before. This has been recognized in the NYS Hazardous Waste Facility Siting Plan of 2010. With this Plan, the New York State Department of Environmental Conservation (NYSDEC) has determined that our need for mega landfills for hazardous waste disposal is not the same as it was 30, 20, even 10 years ago. The Plan concludes that New York does not need to provide additional landfill capacity as current capacity is adequate. Niagara County does not **need** to provide additional landfill capacity on behalf of the North East United States at CWM.

But even if you dismiss the Siting Plan's conclusions and forge ahead with another unnecessary hazardous waste landfill in Niagara County, can it be done safely? Based on the submitted application, the answer seems to be no.

There are historic radiologic challenges at the CWM site that must be fully acknowledged, researched and documented. There is a need for a soil management plan that includes radiological screening before and during any significant movement of soil. Based on the submitted application, CWM would not screen or investigate subsurface soils before excavation.

Existing groundwater contamination compromises the applicant's ability to monitor a new landfill's leak detection system. The groundwater beneath the site is already contaminated by CWM and others' past operations. The application does not propose to fully identify the contamination plumes west of the landfill, nor fully identify the site hydrology affecting the migration of this contamination.

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Allow me to emphasize two significant concerns....

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We have supported NYSDOH's finding that without much more information, major excavations are too risky. The radiological scanning requirement that has been instituted to date for small excavations has provided the safety and assurance to both this Department and the citizens of Niagara County that no undocumented release of elevated radiological constituents would occur when small quantities of on-site soils are moved.

A large excavation has the potential of larger uncontrolled releases of contaminated material. Common sense would dictate a greater level of control with the need for more diligent monitoring, compared to what is needed for small excavations. But even prior to allowing a major excavation, a full radiological history of the site must be assembled, and characterization of known and suspected areas of elevated radioactive materials below ground must be completed. NYSDOH told CWM these things would be required when denying CWM's 2004 request to drop the ban on major excavations. CWM's application includes none of these basic safety strategies.

This Department demands an excavation plan which requires a detailed full site radiological history as well as a plan that requires acceptable levels of monitoring before, during, and after any major excavation.

2) Niagara County is an extremely fortunate County in that almost all residents have access to public drinking water derived from the fresh water of the Niagara River. But this good fortune should never be an excuse to disregard the protection of the ground water aquifer anywhere in the county. All groundwater should be treated as a potential drinking water source and as such, all due care is required to protect that resource.



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This is troubling news as CWM has installed monitoring wells into the aquifer on the north, east and south sides of the proposed hazardous waste landfill expansion, but none on the west side (which is down gradient and the direction a contaminant would go should the proposed landfill leak).

It is also very concerning that PCB contamination of groundwater to the west has reached 35,000 ppb (a significantly high level) but no remediation or characterization of this contamination has been required. It is noted that CWM operates a PCB landfill (under the Toxic Substance Control Act), and these concentrations seem far higher than could be accounted for by legacy waste. Not only should the regulatory agencies consider a possible source (such as an existing leaking landfill), we must consider how one could effectively monitor for a PCB leak from a new landfill when the baseline contamination is already extraordinarily high. Proper identification (area and depth as well as source determination) of the contamination plume is inherently a logical step prior to allowing any additional landfill construction.

In closing, this Department trusts that the NYS Hazardous Waste Facility Siting Plan will be carefully reviewed, and you will determine, as we have, that continued operation of the CWM facility at this site is not necessary or in the public interest.

If it is determined more landfill capacity is necessary contrary to the conclusion of the NYS Hazardous Waste Facility Siting Plan, my department's expectation is that construction occurs in a manner that includes appropriate radiological screening that is at least as protective as what is required now under the small excavations protocol.

Prior to approving any construction, the monitoring strategy for the proposed landfill must be evaluated further to consider how effective it would be given the contamination in the ground right now. Evidence is being brought forward during this hearing process that contradicts groundwater flow directions predicted by CWM and as a result shows that the monitoring strategy proposed by CWM would be ineffective.

For these reasons, the Niagara County Department of Health opposes this application.

Sincerely,



Daniel J. Stapleton  
Public Health Director



NIAGARA COUNTY DEPARTMENT OF HEALTH

Public Health Administration

July 16, 2014

The Honorable James T. McClymonds  
Chief Administrative Law Judge  
New York State DEC  
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625 Broadway, 1st floor  
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Re: CWM Proposed RMU-2  
Niagara County Board of Health Comments

Dear Judge McClymonds:

The Niagara County Board of Health (NCBOH) would like to go on record as officially opposing the Residual Management Unit (RMU-2) hazardous waste landfill being proposed at Chemical Waste Management in the Towns of Lewiston and Porter. The Niagara County Board of Health (NCBOH) is the oversight governing body of the Niagara County Department of Health under the provisions of the New York State Public Health Law. As a body with duties and responsibilities concerning the health of the citizens of Niagara County, it is our professional opinion that the proposed expansion of hazardous waste landfill facilities at CWM or in Niagara County will have a negative impact on the health and welfare of our community. We have concerns based upon the unaddressed issues that exist, which will be detailed by our Public Health Director in future correspondence. As an example, there are radiological health concerns relating to large scale excavations when the property does not have a detailed, full scale, completed site radiological history characterization.

As the NCBOH, we point to the Hazardous Waste Facility Siting Plan which was adopted in October 2010. The Plan's intent was to assess the State's capacity for managing hazardous waste in accordance with State and Federal Law, and to secure adequate availability of industrial hazardous waste treatment, storage and disposal facilities into the future. The final adoption of the Siting Plan is a prerequisite for the siting or significant expansion of certain new hazardous waste facilities in New York State.



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Based upon the Siting Plan and supporting data, the Niagara County Board of Health would like to go on record as opposing the expansions of hazardous waste landfill capacity, specifically RMU-2, at Chemical Waste Management in Niagara County.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Bauer MD". The signature is fluid and cursive, with the first name "Robert" and last name "Bauer" clearly legible, followed by "MD".

Robert Bauer, MD  
President, Niagara County Board of Health

cc: Daniel J. Stapleton, Niagara County Public Health Director

CWM's state-of-the-art site has demonstrated not only a conscientious commitment to the safe disposal of hazardous and industrial non-hazardous waste but a willingness to work closely and collaboratively with the NYS DEC through a partnership that includes the hosting on-site agency monitors that track and confirm CWM's compliance with numerous of stringent regulations.



As the only hazardous waste facility in the state, CWM accepts waste from sites that are transitioning from blighted brownfields to remediated, tax generating properties, thereby offering operational, economical, and environmental efficiencies for the NYS BCP and other remediation initiatives in the State. Beyond this vital role, CWM is also a multi-million dollar contributor to the Niagara County tax base while providing stable, competitive employment for more than 60 local residents. The RMU-2 project will lead to over \$55 million in construction jobs, with a majority of that being spent on local contractors. Furthermore, while this application is for a new landfill, it truly is a continuation of CWM's existing operations. There would be no change to truck traffic, nor any change to the footprint of the facility or its visibility of the landfill from its perimeter.

I have had the pleasure of touring CWM's facility at Model City and came away impressed with the professionalism demonstrated by all of the employees, the state-of-the-art, cutting edge technology used in the handling and storage of materials, and the overall process CWM emphasizes in its efforts to maintain its facility. CWM has demonstrated its belief in being a community partner, and its employees are proud of the work they do, especially on their facility's impact on turning around so many former industrial sites otherwise unusable for revitalizing our region.

In conclusion, the Partnership strongly supports CWM's proposal to build and operate a new 44-acre landfill and urges the NYS Department of Conservation to immediately finalize this site's Hazardous Waste Permit and Siting Certificate. We have had the opportunity to witness firsthand the positive economic impact that the Model City facility has not only here in Buffalo Niagara but across New York State and we encourage New York State to allow CWM to continue its track record of success and safety.

Thank you.



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Daniel J. Stapleton  
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Robert Bauer, MD  
President, Niagara County Board of Health

cc: Daniel J. Stapleton, Niagara County Public Health Director

James T McClymonds, Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1<sup>st</sup> floor  
Albany, NY 12233-1550

Re: Chemical Waste Management

Dear Judge McClymonds:

Today I will focus my comments on the issue of economic and fiscal impact of CWM Chemical Services Hazardous Waste Landfill prepared by Bonadio & Co, LLP, Certified Public Accountants. Certified Public Accountants, or CPAs, are used to verify the company's adherence to (GAAP) Generally Accepted Accounting Practices in their financial records by using audit procedures such as a sampling of data, with the understanding that the remaining numbers are also presumed correct. Let me preface my remarks by stating that I am a professor of Law in the Department of Accounting and Law at Niagara University where I have completed thirty one years of service. One topic I cover in my classes is liability of CPAs, so it is a topic with which I am current, and understand fully. In addition, I have served as chair for the Department of Accounting and Law for over ten years. I wanted to cover this issue today because while many people have heard of CPAs, they do not really understand what they do and what they are certifying. While this economic and fiscal impact report was not an audit, CWM has promoted this document as being prepared and verified by a large respected certified public accounting firm.

The most important part of the CPAs report is what they were engaged to complete and their opinion as to what they found and any limitations. This is important because it reveals to what extent the CPA firm is willing to be held legally liable to third parties. It is the CPAs opportunity to let the public know what they did, how they did it and whether they meet established auditing standards.

So let's look at what Bonadio & Co. is legally taking responsibility for in this report. They write: "The information and assumptions underlying this analysis and the related estimates are the representations of CWM. Therefore, Bonadio & Co., LLP does not express an opinion on them. Furthermore, there will usually be differences between the estimated and actual results, because events and circumstances frequently do not occur exactly as estimated; these differences may be material." Material means significant and the differences may cause a reasonable person to change their opinion or mind.

The report does not state anywhere that this report was done to any established government or economic analysis standard. Most importantly, **nowhere** in the document is Bonadio certifying any of their work and they stress that the numbers were given to them by CWM.

In summary, this report is worthless.

This report is also flawed, in that it does not discuss the negative financial and economic impacts of another 32 years of toxic landfilling in our community. Nor does it take into account that if CWM was denied the right to build a new toxic landfill they would still need to have some employees monitoring the site, perpetually, and the Town, County, and School real estate taxes will still need to be paid.

So what are some of the negatives NOT included in the report?



Each year CWM discharges between 20-30 million gallons of liquids into the Niagara River. The EPA mandates that firms report toxic chemicals that have been released into the environment each year. The numbers reported by CWM of what was dumped into the Niagara River are staggering. During a ten year period (1998-2008) CWM reported that they dumped 3,740 pounds of toxics into the river. These are all toxic to humans. Most, if not all, are cancer causing. 3,740 pounds of toxics dumped into the water that 43 million Americans and millions of Canadians rely on for safe drinking water; into the water that we and our children swim in each summer, and dumped into the water where people come to fish.

A few years ago I read an article in the Sunday Buffalo News that left me totally shocked. 9,500 people in Western New York are diagnosed with cancer each year. According to the New York State Department of Health, the Towns of Lewiston and Porter, and the Sanborn area surrounding CWM's toxic landfill bears the highest percentage of cancers in the area and the State. This area has an overabundance of other diseases, especially those affecting children, as well. This area has been identified as having high incidences of Lupus.

Why does the report not include this negative impact? Who would dare say what monetary value to put on a loved one and especially a child with cancer?

Our community was once a great fishing community. What is the negative economic impact on our community when fishing visitors are advised they should limit or not eat the fish? How many of them have decided not to return? A thriving fishing area has an abundance of motel rooms and camp sites. These are lacking in the Lewiston Porter area.

In April 1997, President Clinton issued an Executive Order requiring each federal agency to assess risks of toxics that disproportionately affect children, many of which was on the list I just read. On April 7, 1997, the United States and Canada signed the Bi-national Toxics Strategy, developed under the Great Lakes Water Quality Agreement. The Bi-national Toxics Strategy was designed to reduce toxics in the Great Lakes.

How does granting permission to build a new toxic landfill fit with this Bi-national Toxics Strategy, and with the Toxic Substances Act? Is this within the strategy and goals of the US EPA Persistent, Bioaccumulative, and Toxic Pollutants (PBT) action plan? What are the negative impacts that should have been included in the report?

What is the negative impact of all of the truck traffic on our roadways? The cost of rebuilding roads was not included. Nor was the negative impact on housing values for those residents living on the truck routes included in the report.

Developers who came to our community have fled once they discovered the environmental mess in our community.

In the New York State Hazardous Waste Facility Siting Plan the NYS DEC reported that there is no need for a new toxic waste landfill.

"In accordance with Statute, in making a decision on an application for a certificate of environmental safety and public necessity, a facility Siting Board may deny an application if:

- it is not consistent with the Hazardous Waste Facility Siting Plan, or
- the need for such facility is not identified in such Plan and the board finds that the facility is not otherwise necessary or in the public interest.

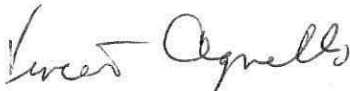
In determining if there is a need for a facility, **the Plan concludes that, based on the data and analysis, there is sufficient capacity within and beyond New York's borders for the management of the hazardous waste presently generated within New York State."** (emphasis added)

In chapter 9 the report states: "The Plan identifies hazardous waste generation in New York which requires management by all facility types: recycling, incineration, treatment, landfill, and storage. Based on the capacity data and analysis, the Plan finds sufficient capacity within and beyond New York's borders for the management of the hazardous waste presently generated within the state. The projection of the amount of hazardous waste that will be generated in the longer term is complicated by the variable nature of remedial waste generation. Based on the substantial number of past remedial cleanups and anticipated future projects within New York, however, it appears that national capacity exists for the management of this and other hazardous waste for at least 20 years (see Chapter 3).

It would be circular logic to think that we should build a toxic hazardous waste landfill just to create an impact. If the end goal is fiscal and economic impact, let's put **all** of the options on the table and select the best alternative. While I am not advocating this, building a new stadium for the Buffalo Bills in our community would have a greater positive impact than a toxic landfill.

It is time to stop the negatives in our community and start building a future for us, our children and grandchildren. Stop making money for CWM at the risk of our children and our community members. I am urging the NYS DEC, and the Siting Board not to be duped by a worthless report. Contrary to the propaganda by CWM we **will** be better off without them. Thank you.

Sincerely,



Vincent Agnello





DATE: July 16, 2014

TO: James T. MCCLymonds, Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1<sup>st</sup> floor  
Albany, NY 123-1550

My name is Audrey Agnello and I reside at [REDACTED] New York State.

I am speaking to follow up on what my husband, Vincent Agnello addressed, which is the report on the economic and fiscal impact of CWM Hazardous Waste Landfill, issued by Bonadio & Company LLP (CPA's). It is important that you fully understand the implications of the **cover letter** in their report. I am speaking as an accountant and I have high regard for the Bonadio & Company LLP. But unless one is well versed in the various services that CPA's provide and how they state their findings, one could misunderstand what they are saying. Here are the facts as I see them:

- CWM needs to demonstrate that a toxic waste landfill is needed, since the October 2010 NYS Hazardous Waste Facility Siting Plan stated that there is no need for a toxic waste landfill.
- CWM contracted with Bonadio & Company LLP for services, but since we do not have a copy of the engagement letter or specifics on what they were supposed to do, we really cannot be sure.
- What we can be sure of (because it is stated in their letter) is that Bonadio & Company LLP prepared estimates of the current and potential economic and fiscal impact of CWM **based on the information and assumptions that CWM gave them**. Bonadio & Company specified very clearly in the letter that **they do "not express an opinion" on the underlying assumptions and information**. They weren't negligent...based on their arrangement with CWM, it was not their job to check on CWM's assumptions and data. That information, unless CWM can prove otherwise, has not been audited or checked.
- How much trust can we place in their estimates when they have not been verified and when they were provided by the company that paid for the report and needs a positive fiscal impact in order that the expansion be approved.
- What about other data that were NOT given to Bonadio & Company....were ALL the possible fiscal and economic factors considered? We know they were not....but again, the fault does not lie with Bonadio...they were just using data from CWM.
- Back to the trust issue, before you are tempted to trust CWM's assertions, let me remind you that Waste Management, CWM's parent company, between 1992 and 1997, perpetrated one of the largest accounting frauds, until Enron in 2001. They falsely reported \$1.7 billion in fake earnings.

You now know the scope of the report that has been presented to you. Dear members of the Committee please do NOT be misled by this report *and do not approve CWM's application.*

Sincerely,

Audrey J. Agnello



Statement for Hearings on CWM's RMU-2 Permit to Expand  
July 16, 2014  
Dennis Duling

My name is Dennis Duling. I live at [REDACTED] NY, on the Niagara River Gorge, where the Niagara River empties into Lake Ontario, two miles west of the LOOW property and the CWM facility, and downriver from CWM's discharge outfall.

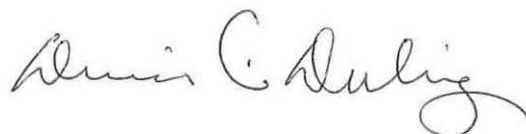
The mandate of the DEC is to protect the public health and safety of the people of New York State. We—the citizens of the villages, towns, and cities of Niagara County are some of those people. The DEC clearly understands that the CWM facility on the LOOW property has become the chemical waste deposit center of the eastern United States and Canada. In its own documents it clearly states that landfill is the least desirable option for managing chemical waste and that, based on nationwide Treatment, Storage, and Disposal Facilities, no additional hazardous waste facilities are needed in New York State for the foreseeable future.

Studies of residents in the communities around Model City by putative cancer experts concluded that, despite higher rates of some cancers, it is impossible to show that there is a cause-and-effect relationship with the hazardous waste landfill in its midst. However, studies elsewhere have made such connections, the experience of families here suggests otherwise, and not a single expert on the study panel was from the well recognized field of environmental medicine, which specializes in such matters and attempts to educate physicians on such cause-and-effect relationships.

CWM produces glossy, mostly green fliers publicizing that its presence in Niagara County improves the economy, but there are cogent arguments for precisely the opposite.

CWM, part of a giant multinational corporate empire and a company whose track record includes many self-admitted infractions in the United States, is a business with a vested interest in self preservation. Given the DEC's mandate, its statements, and health and economic factors, the DEC and the Siting Board should recall the DEC's historically informed, moral obligation to be the people's trusted gatekeeper for health and safety. Neither the DEC nor the Siting Board should allow CWM to guide its decisions. Both must carefully consider DEC statements and environmental justice principles.

So to the DEC and to the Siting Board: Please listen to the majority of the people. Please listen to their representatives. Please recall the historical mandate of DEC. Please remember its statements about need. Please consider environmental medicine and environmental justice. And please reject CWM's proposed permit to expand.





Statement by Charles Lamb, [REDACTED]  
[REDACTED]

Thank you for this opportunity to speak out in opposition to granting a permit for a new hazardous land fill.

Many of us have been to many hearings over the years and have said, over and over again, why CWM is a dangerous and unwelcome presence in our community. You have heard these many times; it should not be necessary to continue to say them. There are concerns of traffic, of leaking trucks in front of our schools, of potential disastrous pollution of the Lake, of economic depression, of lowered property values, of destruction of the environment, of elevated levels of cancer, etc. You have heard them all.

Now we come to a time when a decision will be made either that CWM must be closed and carefully guarded and maintained, or expanded so as to continue to receive toxic materials from many states for years to come.

The Department of Environmental Conservation has already said, publicly, that another hazardous waste landfill is not needed.

We are here to tell you it is against the public interest to allow another one to be built.

The Niagara County Legislature has said so.

The Lewiston Porter School board has said so.

The Town of Lewiston has said so.

The Village of Lewiston has said so.

The Village of Youngstown has said so.

The Network of Religious Communities (formerly known as the Buffalo Area Council of Churches) has said so.

The Presbytery of Western New York has said so.

The New York Conference of the United Church of Christ has said so.

The Episcopal Diocese of Western New York has said so.

A caucus of local Lewiston and Youngstown clergy have said so.

The Environmental Task Force of the United Church of Christ and Disciples of Christ has said so.

The Sierra Club has said so.

Residents for Responsible Government has said so.

The list goes on and on.

We are here tonight to tell you so. It is not in the public interest to allow another hazardous waste land fill here in this beautiful place near our children's schools and the great fresh water of the Great Lakes.

Hear us! We shouldn't have to say it anymore!

Is it in the public interest to grant this permit? Is it good for the environment? Is it good for our children?

You know the answer. Please hear it.

No!

No!

No!

*Six doctors from Niagara Family Medicine...*

*Comments  
DEC hearing, July 16, 2014  
Lewiston-Porter High School  
R. Nils Olsen, Jr.*

Good evening. My name is Nils Olsen. I reside at [REDACTED]  
[REDACTED]. I am a member of the faculty of the University at  
Buffalo Law School, where I teach the Environmental Justice Litigation Clinic. I  
appear this afternoon on behalf of our client, Residents for Responsible  
Government, and my comments are offered on their behalf.

Today's hearing focuses upon the proposed modification of the Site-  
wide permit and pending Facility Siting Board to consider CWM's application  
for a new landfill, designated RMU-2. RRG will be seeking party status in the  
upcoming Facility Siting Board to oppose approval of the proposed permit  
modification, the issuance of a Certificate of Environmental Safety and Public  
Necessity, and the construction of a new hazardous waste landfill. Tonight, I  
will very briefly address several salient issues that RRG intends to raise in the  
up-coming proceedings.

I begin by formally requesting an extension of time for comments from  
the public. The DEC has been meeting with CWM representatives for years  
developing the proposed permits and draft environmental impact statement  
at issue in these proceedings. The relevant documents are quite literally  
thousands of pages long. In order to provide the public effected by these  
proceedings any realistic opportunity for meaningful comment, an additional  
ninety-day extension in the time provided to December 4, 2014. Anything less



inevitably communicates the impression that public comments will not address the technical issues in any detail and that, necessarily, they will be worthy of considerably less consideration than the input provided by the applicant.

In the Hazardous Waste Facility Siting Plan, the DEC quite properly concluded that no new hazardous waste landfills are necessary to accommodate New York generated waste for the foreseeable future. This conclusion went unchallenged by CWM. Under these circumstances, the question of whether the proposed landfill expansion is in the public interest becomes controlling.

It is clear that it is not. First, the amount of waste permanently stored and being treated in commercial hazardous waste landfills in Niagara County is considered relevant to a Facility Siting Board consideration of a request for a new landfill. See Chapter 9, p. 9-5, Hazardous Waste Facility Siting Plan.

Closed landfills at CWM are permanent storage facilities, subject to perpetual care, monitoring and treatment under the supervision and oversight of DEC. When these closed landfills are considered along with the permitted capacity of RMU-1, CWM's currently permitted landfill, the amount of waste subject to long-term management in our community is a nearly unimaginable 5,970,500 cubic yards or approximately 9,000,000 tons. No other community in New York State bears an even minimally comparable burden.

Approving CWM's request for a new landfill for disposal of an additional 4,000,000 cubic yards, or nearly 6,000,000 tons, is not in any manner in this community's interest and only further completes a picture of the Towns of Lewiston and Porter as a sacrifice zone for New York State's warped vision of environmental justice and equitable distribution of hazardous waste disposal – all for us, none for the rest of the State.

Second, the economic effects of the proposed RMU-2, with tens of thousands of large trailer tractors carrying their loads of hazardous waste for the next 25 to 30 years through well established residential neighborhoods, in front of our Lewiston-Porter Central School District, and ultimately permanently burying nearly 6,000,000 more tons directly behind the School District's property, is unquestionably negative and destructive. Bob Dylan, many years ago, penned the memorable line "you don't need a weather man to know which way the wind blows." This aphorism applies directly to the question of the economic effects of the proposed RMU-2.

You don't need to be an economist or sociologist to understand the negative impacts of the proposal on the economy and quality of life of our community, comprised of historic homes, extensive fruit orchards and other agricultural activities, and river and lakefront proximity to Lake Ontario and the Niagara River. Property values within the Towns of Lewiston and Porter, and associated property tax receipts, will stagnate and drop. The migration of new, young families from outside the area to the Towns will decrease, as parents of children are notoriously risk averse when considering possible



homes. Comparable residential and educational opportunities exist elsewhere without hazardous waste traffic and disposal.

RRG is prepared to prove the obvious. Many beautiful, historic homes in the area languish on the market, literally for years, and sales prices are lower than comparable homes in other areas, despite the proximity to the Niagara River, Lake Ontario, Fort Niagara State Park and an excellent public school system. Clean, sustainable industries do not develop in an area noted for its hazardous waste disposal. Efforts to promote the region's assets and capitalize on our waterfront and agricultural location are few and far between. These costs are devastating and certainly not in any manner offset by the gross receipt payments from CWM mandated by law or its diminishing on-site employment opportunities.

No community wants to support its development with direct and indirect payments from the hazardous waste industry. If the applicant's extravagant claims of a positive and productive influence on our economy and way of life were even half-true, other communities would be lining up to lure CWM away, as so-often occurs with more acceptable industrial enterprises through the efforts of local Economic Development Corporations. It is not an accident that this industry has been continuously licensed and promoted by the DEC since 1971 in only one location in New York State. Enough is enough, particularly when further expansion and associated damage to our quality of life is not even necessary.

Further harm to the well-being and reputation of our community from the expansion and continuous operation of CWM is apparent. Thus, serious questions persist as to the effects of this massive accumulation of hazardous waste on our community's public health. Studies undertaken by the New York State Department of Health, the Center for Community Health, the New York Cancer Registry, and the Center for Environmental Health report statistically significant instances of cancer beyond that reasonably expected that are consistent with exposure to environmental contaminants in our community. Efforts of the DEC and CWM to discount these conclusions, pointing to a failure to demonstrate direct causation are futile. Any community with such reports should not be subject to additional massive loading of hazardous waste. Moreover, a community whose location requires multiple public health surveys is not desirable for new families from outside the area since, again, there are many reasonably comparable places that do not suggest, let alone require, such studies.

Additionally, the Hazardous Waste Facility Siting Plan requires consideration of "whether the [proposed] facility will promote moving up the [hazardous waste treatment] hierarchy for management of hazardous waste and employ sustainable options for the management of hazardous waste." Id. P. 9-6. Under controlling law, land disposal is considered the least desirable management option. The DEC has been ignoring this requirement since its inception.



Thus, in 1971, SLF-1, the facility's first landfill, was approved for a capacity of 7,407 cubic yards. In 1990, SLF 12 was approved with a capacity of 940,000 cubic yards, and the current proposal for RMU-2 seeks approval of an estimated 4,000,000 cubic yards of waste. Landfilling is the only management practice that keeps all of the waste that is received buried on-site in a facility forever, resulting in a permanent repository that will leak at some time in the future and requires perpetual care and remediation. The extensive property utilized for a hazardous waste landfill is an eternal environmental sacrifice zone that will never be available for any future productive use. In light of the DEC's unchallenged finding of no need for additional facilities, the hierarchy must be respected and the application for this massive expansion denied.

Finally, the on-going landfilling operations at Model City have resulted in numerous and serious violations of permit requirements that are intended to promote health and safety. Thus, the DEC has executed orders of permit violation eleven times since 1990. For example, on October 17, 2008, an administrative order of consent between DEC and CWM was entered. This Order imposed civil fines of \$175,000 as a result of at least 76 separate violations for the seven-year period from 2001 to 2007. These violations included: multiple instances of landfilling hazardous substances such as mercury in violation of State and Federal land disposal bans; multiple unauthorized releases of untreated and partially treated hazardous waste into the environment; multiple failures to properly identify and treat volatile waste that resulted in uncontrolled reactions, explosions, and fires; and

receiving tanker truck loads of flammable waste during Lewiston-Porter hours of instruction. Indeed, a fire occurred on the CWM site as recently as June 3, 2014, as a flatbed containing lithium, a water reactive metal, caught fire. The Lewiston-Porter community should not be required to live with 30 more years of such accidents and negligence on the part of CWM.

Expansion of the CWM facility offends any notion of environmental justice or fundamental fairness. Demonstrably, the requested expansion is not in any fashion in the best interests of this community and is in direct violation of the New York State hierarchy for hazardous waste treatment. The expansion is not necessary and the request for an amended permit and Certificate of Environmental Safety and Public Necessity must accordingly be denied.



To: The DEC

16 July 2014  
Lew-Port School

Subject: CWM Landfill 2

It is remarkable that the DEC would even consider granting CWM a permit for another landfill, given that they themselves have gone on record as stating that there is no need for it. Since they have established that there is no need, and, in light of the mountains of testimony and other evidence to the hardships, illnesses, spills, accidents, traumas, financial burdens and even deaths that have occurred to the people of this community for the past 40 plus years, why would the DEC even consider subjecting us to another 10, 15, or 20 years of such hardships? Whatever have the Towns of Lewiston and Porter done to warrant such cruel and unusual punishment? We implore the DEC, we beseech you to put an end to our agony and disallow any further landfilling in this area.

If you feel compelled to grant CWM another permit, despite your own assessment that it is not needed, therefor not warranted, let it be located somewhere other than Western New York.

Thank you for your consideration in our behalf,

*Jane Richardson*

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Jane Richardson

A large black rectangular redaction box covering the signature and any accompanying text or contact information.



To: The DEC

16 July 2014  
Lew-Port School

Subject: CWM request, RMU-2

Unfortunately for the people of Lewiston and Porter, the majority of persons on the Facility Siting Board who are going to have the final say on the granting or denial of a permit for RMU-2 are not from this area and have no idea what we who live and work here have had to put up with these past 40 years.

Stephen Rosario wrote a letter to the editor of the Lewiston-Porter Sentinel promoting CWM as an asset to the community. He is a lobbyist for the American Chemistry Council and he lives in Albany, and he also has no concept of what we have to endure. We would like to point out to the DEC and Mr. Rosario that neighboring states and Canada have been trucking hazardous waste into Western New York for 40 years, and New York State could just as easily be trucking its waste into a neighboring state.

You people on the siting board will be looking forward to a well deserved retirement after 30 years of service. We here in Lew-Port have already served 40 years and we too are entitled to a much deserved "retirement" from future landfills and all the grief that attends them. Please, show some mercy.

Thank you, *Brown suit prior Johnny Destina 55 million*

Jane Richardson



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Thank you,



Jane Richardson

