

Dear Honorable Judge 7/16/14  
Mr. M<sup>c</sup>Claymonds,

Please can you advise me  
as to why The DEC (who is  
supposed to be on our side) always  
"sides" with CWM?

I have resided in Lewiston, N.Y.  
17 yrs. at [REDACTED]

[REDACTED] and I can tell  
you how awful it is to have Tractor  
loads go past my house -  
beginning at 4:00 A.M. and never  
ending all day, night long. The loads  
were supposed to start at 7:00 AM but  
for years they have neglected this rule.



Please help us STOP This <sup>Female</sup> Madness. My Daughter's friend (who lived East of CWM) died of Brain Cancer at 37 y.o. and left 3 young children. Also - a male friend 34 y.o. died 2 months ago of Blood cancer - he played Ball in The fields growing up East of CWM. He had a 2 y.o. girl. We cannot handle any more Hazardous Chemicals. Please do not allow This.

Thank you for your time.  
Sincerely,

Ms. Patricia A. Mazur

Patricia A. Mazur



## CWM EXPANSION

Hello, I'm Dennis Brochey, Town of Lewiston Supervisor. I live at [REDACTED]  
[REDACTED] I've lived in Youngstown, Porter  
and now in Lewiston for the past 50 years.

As Supervisor I wish to express our stance and I feel the majority of the Townspeople who live in our beautiful town and village of Lewiston, of the opposition to the expansion of CWM.

When I have guests over my house, I show them around. I show them around but I don't show them what's in my garbage. When I take them out, I show them the Villages of Lewiston and Youngstown. I show them the Niagara Rapids and the Falls. I do not show them what embarrasses me such as the Love Canal, the Loow Site or CWM.

Thanks to Love Canal, the LOOW site and CWM, Niagara County has a staple of being a toxic wasteland and apparently an open door policy to anyone wishing to unload whatever toxic material that they don't want in their neighborhood. Some people have mentioned earlier today that it's a contaminated area anyways so why bother stopping it? Let it enlarge.

Gentlemen, if you have a cut on your finger, do you make it larger to fix it? No, you mend it, so let's work on mending what's there and not making it bigger.

Quasar is another issue that has many people concerned about their waste byproduct that they want to use as fertilizer on nearby farmland. This fertilizer that they wish to call equate is produced from human waste, chemical and industrial wastes.

I feel DEC has made a big mistake in giving them permits to do this.

Niagara County was their first choice to have their digester plant built in the Town of Wheatfield. Why? Is it because we're the toxic wasteland that so many have heard of.

If you allow CWM to enlarge, you will be making another mistake here in Niagara County.

*2 wrongs do not make a right*

It's funny that yesterday at an Anti-Quasar meeting that a representative from Quasar called this group against them as having Love Canal-idus. If that is a true sickness then you're right in assuming so. We're sick and tired of New York State, the DEC and CWM.

*We have this in Lewiston*

Please think of us, our health, and our safety. Give us back our Town and our County.

Thank you.

Dennis J. Brochey

Lewiston Town Supervisor

**Subject:** Mr. Denk's Statement

**From:** Lisa Peterson [REDACTED]

**To:** [REDACTED]

**Date:** Monday, July 28, 2014 3:14 PM

MR. DENK: Good afternoon, Judge O'Connell, ladies and gentlemen, Siting Board members, elected officials and representatives, my name is David Denk and I'm the Regional Permit Administrator for the New York State Department of Environmental Conservation Region 9. CWM has proposed to construct and operate a new landfill or Residual Management Unit, RMU-2, within its existing Model City facility for the continued disposal of hazardous and industrial nonhazardous waste.

The proposed landfill would occupy approximately forty-three acres, have a design capacity of approximately four million cubic yards and a design life of ten to twenty years. The proposed RMU-2 landfill would be designed with a double composite liner system with primary and secondary systems for leachate collection. Upon reaching capacity, RMU-2 would be closed, utilizing the composite final cover to be maintained by CWM during the landfill's post-closure period.

CWM is proposing to construct and operate a number of new and modified waste storage treatment units. The new units would replace existing units, which would close during the course of RMU-2 construction. Another existing unit would be modified to manage leachate from RMU-2.

The DEC has tentatively determined that the part 373 Hazardous Waste Management Facility Permit Modification Application is technically and administratively complete and has made a tentative determination to issue the Part 373 Permit Modification for the proposed RMU-2 landfill project.

A draft Part 373 Permit Modification has been prepared for public review. The DEC has also tentatively determined that the Part 663 Freshwater Wetlands Permit and Water <sup>Filing</sup> Certification Applications <sup>are</sup> technically and administratively complete and has made a tentative determination to issue that approval for CWM for land adjacent to freshwater wetlands of RMU-2. A draft of that approval has been prepared for public review.

RV-8

The State Environmental Quality Review Act requires the proposed project to undergo department review in conjunction with the permit applications. CWM has prepared a Draft Environmental Impact Statement or DEIS for this project. The proposed RMU-2 landfill project is required to undergo regulatory and public <sup>evaluation</sup> ~~dissemination~~ process to allow for the evaluation of the applications of DEIS and draft permits in relation to applicable New York State Laws and Regulations.

Hard copies of the permit applications, draft permits and DEIS are available for review at the following locations: The Youngstown Free Library, 240 Lockport Street in Youngstown; Porter Town Hall, 3265 Creek Road, Town of Porter; DEC Region 9 Office, 270 Michigan Avenue in Buffalo; DEC Central Office at 625 Broadway in Albany. In addition, two new document depositories <sup>repositories</sup> have been created to give the public greater access to these documents. The Ransomville Free Library at 3733 Ransomville Road in Ransomville and the Lewiston Free Library at 305 ^ eighth ^ 8th Street in Lewiston.

These documents will be placed at these two new locations tomorrow. Electronic copies of permit applications and DEIS are available through CWM's website. Electronic copies of the draft permits and CWM's compliance record is available through DEC's website.

The public comment period began May 7th, 2014. In response to request from the public, it's been extended to September 5th, 2014. All written comments must be submitted no later than September 5th, 2014. All written comments and those recorded at this hearing will be reviewed and considered prior to DEC's final decision on the matter.

There's copies of the fact sheet available here today. The fact sheet explains the project in greater detail; explains where you can find paper and electronic versions of documents and how to submit written

## NYSDEC OHMS Document No. 201469232-00079

comments. There's another handout available with the list of document <sup>5</sup>depositories and a list of the websites.

Thank you to the Lewiston-Porter school officials for the use of this facility and thank you for your attention.

My name is Tim Henderson and I have been active in the environmental movement for about 30 years. I have been to hundreds of public hearings over the years but tonight is probably the most important one of all, because if you do your job, it will be the *last* one. If you listen to the people of this community and not those with ties to CWM, you will hear in their voices a plea for you to finally do the right thing and close CWM down.

I have always been amazed at how hard we have to fight our own government for what should be our basic right to safety, health and peace of mind.. The right to live in a community free from the fear of what will happen to our water supply when the 8 million tons of poisons already buried at CWM begin to leak into our creeks and well water. The EPA has told us that all landfills will eventually leak.

The fear of what is happening to our air quality when there are fires like **last month** in a Lithium drum storage area because rain was allowed to leak onto water reactive metal drums. Where is the science and state of the art when 50 gallon drums of Lithium are exposed to rain?

As representatives of NY State government departments, each of you took an oath of office to serve the residents of this state. To the representative from the **Health Dept**... you must know that the cancer rates surrounding this facility are in many cases more than 100% above levels expected. Your reports all carry an additional note that states that the high rates "are not due to chance". You must know this because it was your department that issued the report.

The representative from the **Dept of Transportation** must have seen the accident reports from overturned hazardous waste trucks in our area. One, less than a mile from this very school. There was a fatality involving a CWM truck three years ago that had gone 15 miles out of its way to avoid the blackout during school bus arrival times. I remember that accident every day ..... because it took the life of my son Ryan.

2.

The representative from the DEC must know about the NYS HazWaste siting plan that states: 'no additional landfill space is needed' in NYS. If that is true and you helped write the final plan....why are we even having these hearings?

There are currently 8 million tons of HW and carcinogens buried beyond the gates of CWM in a landfill that will eventually leak. 400 Love Canals less than a mile from our school! **How is it even remotely possible that this can be deemed in our community's best interest?** And CWM is looking to double their size!. This is not a company looking to expand.....this is an undeclared environmental disaster waiting to happen!

This expansion shouldn't even be considered, let alone be permitted (permits, by the way, are nothing more than licenses to pollute) by a state agency whose mission it is to **protect our environment!** RMU #2 - Residual Management Unit #2 sounds so scientific and business like. It should be called by its proper name Toxic D-U-M-P #2. It will simply be another 40 acres of land destroyed forever.

You all have a very important job to do tonight. CWM's future is in your hands but more importantly, this community and the people who you work for and took an oath of office to protect...**their** future is in your hands. Our safety, health and peace of mind for the next 30 years will be determined by you. There will always be jobs at CWM, maintaining the site after closure. CWM will try to convince you tonight of how important they are and how much they give to the community. More importantly however, you all need to understand tonight how much they take away.

Timothy Henderson





According to the NYSDEC, CWM's expansion is not needed and we are here today to tell you that it is not wanted!

The business of hazardous waste is incompatible with Gov Cuomo's Regional Economic Development Plan which calls for 'sustainable economic growth and improvement to the region's image'. A region's image cannot be improved by importing hazardous waste from other regions nor can a hazardous waste landfill sustain itself.

The proposed expansion of this hazardous waste treatment facility is in direct conflict with Niagara County's two main industries...tourism and agriculture. What attraction to tourists is there in hazardous waste? CWM has already destroyed 40 acres of land. Their spokesperson has said that the area is already polluted and therefore ideal for another landfill. Really? That's the state of the art reasoning? Its more of an admission of failure on the part of CWM and DEC to clean up their facility. PCBs which are not found in nature have been found in creeks that flow into Lake Ontario. *science and* *They 60 million gallon lagoons will make Quasar look like a health resort.*

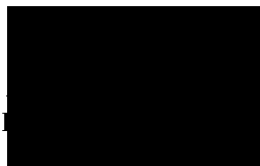
An expansion would act to stagnate economic growth and lower home values and perpetuate the rising cancer rates in surrounding communities. Doubling the size of this facility is **not** in any way in the best interest of this community. *Another 60 million tons of H.W. is simply an env. disaster waiting to happen*

The downfall of Niagara Falls can be traced to the advent of the Love Canal disaster. There is currently potentially 400 Love Canals buried in a landfill 1 mile from our school that will eventually leak. Doubling its size is unconscionable. . We, which also includes **you** , still have within our power the ability to protect our future from a similar disaster.

*Common sense compels you*  
The time has come to deny their application for expansion and close down CWM.

Timothy Henderson

Peter Diachun



7/16/14

### **Comment at the Public Comment Session of CWM's Application for a New Hazardous Waste Landfill**

For a long time I have been concerned about the long range and perpetual care of the CWM landfill. I am still concerned, especially, about the financial strength of CWM's parent, Waste Management. This company has an awful history of financial fraud.

Waste Management has no legal liability or responsibility for this landfill when it becomes unprofitable to them. Only our local company, CWM, is the signer of the agreements, licenses, applications, etc. If CWM should become bankrupt or dissolve, the parent company will escape completely.

This issue was brought up when CWM's application for its currently licensed landfill was being considered. At that time CWM's lawyer confirmed in writing that the parent company is not bound by any agreement or obligation of CWM. Again a few years ago the parent company was requested to voluntarily sign these documents. They declined, but again confirmed their lack of legal responsibility for the landfill.

This means that there is nothing to stop Waste Management from liquidating its local subsidiary, CWM, when all the revenue has been taken from the site or when some failure occurs. In short when this facility becomes a liability Waste Management will abandon it.

Waste Management should be required to sign and be a full participant in any application or license for this landfill, and especially its perpetual care. Without the legal responsibility of Waste Management, we have nothing to fall back on in the future when repair and care are required. The community has to live with it forever. Those who profit from building it should be required to stand behind it forever. The time to establish this responsibility is now, when a new landfill is being proposed. They should be required to fully and forever stand behind the application and resulting permits of their subsidiary, relinquishing all limited liability which comes from the corporate structures.

They claim to be confident of the safety and long term stability of the landfill, but their refusals to make such a guarantee indicates the opposite. If the landfill is as safe and stable as it has been presented to the community, this guarantee will cost Waste Management nothing. There is no reason they should resist being as financially responsible as CWM.

When this has been requested in the past, Waste Management has responded by detailing the perpetual care financial arrangements. They claim these are adequate. This is an irrelevant and inadequate response. No one can predict the future. No one can know what it will cost to maintain or

repair this landfill in the future. Look at the cost required to partially repair the landfill at Love Canal. That landfill was tiny compared to what is being done and proposed here in Niagara. It was also done under the best "state of the art" at the time it was constructed. It is certain that the construction of CWM's landfills will be considered as primitive sometime in the future. We just do not know when or how primitive. Waste Management should not be allowed to escape the future legacy of the landfills they build today.

Individual officers and members of the Board of Directors of Waste Management should also legally accept this same liability. They are the ones who profit from the operation with astronomically sized salaries, benefits, and bonuses, and they should be held responsible for its future liabilities.

I call on four groups to take action NOW: (Everyone here is a part of one of these groups.)

1. Waste Management should voluntarily do the right thing and abandon all limits on their liabilities for the landfills in Niagara. The officers and Board of Directors should personally accept these liabilities.
2. The DEC should not allow this application to proceed until Waste Management signs all applications and becomes as responsible as CWM for these landfills.
3. The employees of CWM should refuse to participate in this application procedure until Waste Management signs on as their responsible parent.
4. The community needs to support the courageous CWM employees who do this and the enlightened DEC demanding Waste Management assume its full responsibility for our landfills.

This is all it would take. It would not cost anybody a dollar. It might even be a step in the direction of getting all of us together positively rather than as adversaries. It could be a major benefit to the future generations of us all.



**NIAGARA COUNTY LEGISLATURE**  
**Lockport, New York**

**CLYDE L. BURMASTER**

*Vice Chairman*

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2512 Parker Road  
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LEGISLATIVE CHAMBERS  
Courthouse  
Lockport, New York 14094  
(716) 439-7000  
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To Chair of Siting  
Board.

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**CLYDE L. BURMASTER**  
Vice Chairman

**NIAGARA COUNTY LEGISLATURE**  
LOCKPORT, NEW YORK

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July 16, 2014

Meeting of the Siting Board for the consideration of Chemical Waste Management Corp. desire to establish Residual Management Unit #2 on Balmer Road, Town of Porter, N.Y.

Comments of Clyde L. Burmaster, Vice Chairman, Niagara County Legislature to the Siting Board at Lewiston Porter School.

My name is Clyde Burmaster and I am a resident of the Town of Porter where the proposed landfill would be located. I have lived here all my life and have been a Niagara County Legislator for the past 22 years representing the district of the proposed landfill. I am currently the Vice-Chairman and sponsor or co-sponsor of legislation , in the Legislature, which has always been unanimously opposed to this hazardous waste landfill. I also am a 5 time prostate and bladder cancer survivor. I come here tonite to join with leaders in the County opposition, County Attorney, Mr. Claude Joerg, County Public Health Director, Daniel Stapleton and Attorney representing the County, Mr. Gary Abraham . We are Niagara County unified and I know our Legislature Chairman Bill Ross spoke earlier today as well.

Ladies and gentlemen , members of the Siting Board. Today is without question perhaps one of the most important gatherings in the history



of Niagara County that will determine what kind of legacy this board will leave to protecting the health and safety of our citizens for decades to come!

Truly, this is not a question of whether a business should be allowed to expand, it is about the health of over 2 million people and whether or not they live or die due to a tragic event, not in their control!

No doubt nearly everything that will have been said here today has been said before over the course of many meetings. Many of our good and faithful citizens who have spoken before will speak again today and many who pleaded before are no longer with us.

Several years ago, the issue of landfilling hazardous waste came to the forefront in the form of a lawsuit challenging why the Town of Porter should be the dumping ground for all New York State as the **ONLY** government authorized hazardous waste landfill!

The case was heard by N.Y. State Supreme Court Judge Joseph Mintz who ruled for the people and ordered from that day forward, there is to be **NO NEW** dumping until such time as a Siting Plan was approved going forward that would provide **EQUITABLE DISTRIBUTION** of any hazardous waste dumping in N.Y.S.!

That order was never followed and in fact C.W.M and the Department of Environmental Conservation **themselves, have operated in Contempt of Court by ignoring the law!**

The ruling by Judge Mintz is clear! The Balmer Road site should not be able to take in one more shovel full until there is another site approved in N.Y.S. Not only that but in addition to that new site ( other than at Balmer Rd. ) , the new site should have to have taken in the same

amount of material on Balmer Rd. before Balmer Rd .can accept any more at all! That is the meaning of **EQUITABLE DISTRIBUTION!** Neither the D.E.C. or C.W.M. has obeyed the law to this

The question that has been asked a good deal of “ Why do we need another deadly hazardous waste landfill here” if the majority of material buried here doesn’t even come from NYS and comes from as far away as Puerto Rico and Canada?

The answer to that is a federal study on future needs of this type of landfill determined that there is **NO need** for any such landfills in the foreseeable future! There is **EXCESS CAPACITY now** with the 17 such in the United States! I repeat, There is no need for us to have a new dump here, or for that matter, anywhere in the U.S!

Why, you ask, all the fuss mover this facility?

Simply, because it makes absolutely no sense to bury extremely hazardous materials in a highly populated area and expose the people to sickness and even death causing materials such as cancer causing PCB’s and radioactive hazards.

State and Federal Health studies have proved there is a very high incidence of cancer around the area of CWM, even to describing an area 3 miles away as a cancer cluster area! Certain materials accepted here contain known carcinogens and radioactive materials with half lives of hundreds of years! As well as the Balmer Rd site being so dangerous, every bit of those dangerous materials was trucked in here through our cities, towns and villages around the County. This exposes everyone who travels the highways to an accidental exposure from



dangerous to relocate the material! There is no plan for final disposition!

Why is this so important? Because it is subject to the same threats to the health and safety of our citizens as does CWM in the event of an opening of it's cover!

NOW, perhaps I feel is the biggest, most immediate threat to us all, and certainly of major importance in your deliberations, is the ever present threat of terrorist attack! Terrorists want to kill as many Americans as they can and they have to do it with limited resources. As I said earlier, any opening of either of these landfills could cause a catastrophe never seen in the US before. Possibly 3 million people! I am told all it would take to open the 10' dirt cover at LOOW is a homemade bomb made in someone's garage! Cheap enough? Consider all the tragedy of the World Trade Center and the Pentagon from only 3 airplane tickets! How about a truckload of fertilizer? We have never experienced a catastrophe such as this magnitude would happen.

Again, is this the place to put a toxic hazardous waste landfill?

We are all aware of the concerns of our workers in the County and not allowing another landfill probably will have small effect on those currently employed as CWM must monitor and maintain the current site in truth, in perpetuity, which will require most of the Niagara workers jobs into retirement.

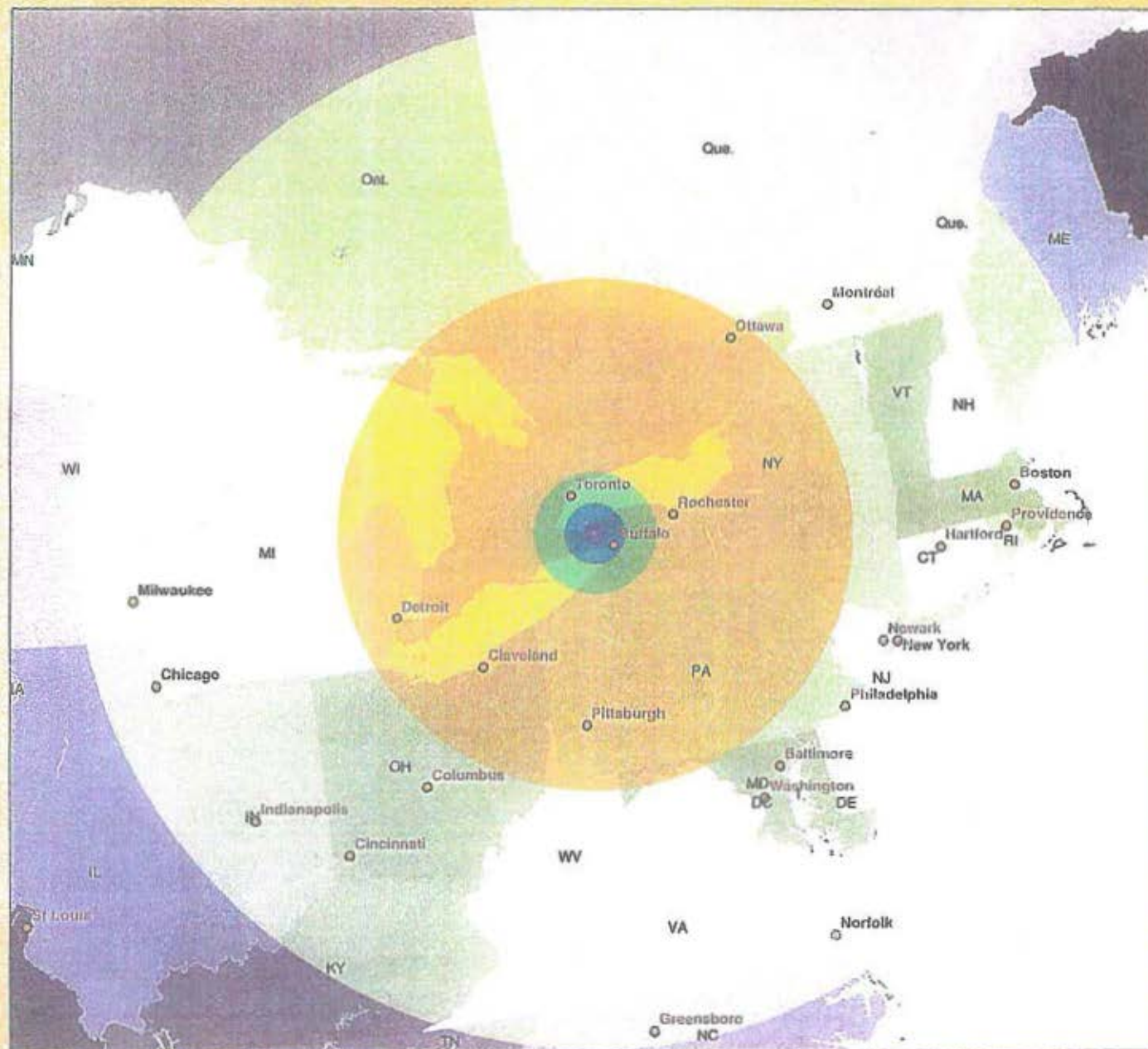
The Niagara County Legislature has been acting on behalf of it's 220 thousand citizens over many years in anticipation of the eminent decision of the D.E.C. and has passed many resolutions, unanimously, in opposition. Copies are in the materials I am leaving with you tonite.

The Niagara County Legislature stands proud alongside our state elected officials in restating our unified opposition to ANY request for a hazardous waste landfill, ANYWHERE in Niagara County, at ANY TIME !



**Enough is Enough ! We concur with Judge**  
**Mintz.....ENVIRONMENTAL JUSTICE** and obey the law!

Ladies and gentlemen of the Siting Board, you have an awesome responsibility in your deliberations of this issue which will determine the legacy passed on to generations to come. You have the power to insure a healthy, happy future to our children by voting **NO** to any more hazardous Waste Landfill in Niagara County! You have the ability by your actions to prevent a catastrophe as outlined earlier. As you deliberate, may GOD grant every one of you the strength of conviction without influence. On behalf of every citizen in Niagara County, thank you for your service.



345 Third St  
Niagara Falls, NY  
14303

Within 10 Miles  
Population: 270,857

Within 30 Miles  
Population: 1,501,130

Within 60 Miles  
Population: 7,286,324

Within 250 Miles  
Population: 34,832,497

Within 500 Miles  
Population: 130,767,574



Produced by WNY's Regional  
Economic Development Database,  
June 8, 2004 (pxb)

## Niagara Falls, NY: US-Canadian Population by Distance Band\*

Sourced from US 2000 Census of Population census tracts and 2004 Projections from the Canadian Census of Population







PRIOR RESOLUTIONS

NOT COPIED FOR  
ALL of SITING  
BOARD

PLEASE COPY FOR  
ALL.

NIAGARA COUNTY LEGISLATURE  
NYSDEC OHMS Document No. 201409232-00079FROM: Legislators Clyde L. Burmaster & William  
L. Ross

DATE: 06/17/2014

RESOLUTION # IL-030-14

APPROVED BY  
CO. ATTORNEYREVIEWED BY  
CO. MANAGER

COMMITTEE ACTION

LEGISLATIVE ACTION

Approved: Ayes \_\_\_\_\_ Abs. \_\_\_\_\_ Noes 0

Rejected: Ayes \_\_\_\_\_ Abs. \_\_\_\_\_ Noes \_\_\_\_\_

Referred: \_\_\_\_\_

**NIAGARA COUNTY OPPOSITION TO ANY FURTHER TOXIC WASTE LANDFILLS  
ANYWHERE IN THE COUNTY INCLUDING A PROPOSED EXPANSION  
IN THE TOWN OF PORTER DESCRIBED AS RMU-2**

WHEREAS, SINCE 1994 Chemical Waste Management Corporation, Model City, New York, Residuals Management Unit-1, has accepted PCB wastes known to be highly dangerous; extremely long-lived in the environment (ie. They resist biological degradation); bio accumulate in the fatty tissues of humans, fish and other animals; are classified as probable human carcinogens, particularly affecting the skin, eyes and nervous system and this is the only sited Toxic Hazardous Waste landfill in the entire Eastern United States, and

WHEREAS, PCB wastes as well as other hazardous wastes have been disposed of since at least 1985 in several closed landfills managed by C.W.M., under the oversight of the DEC by the collection, treating and discharging of the leachate into the Niagara River, together with the treated leachate from RMU-1 which included cancer causing carcinogens such as PCBs, and

WHEREAS, the Niagara County Legislature, cities, Towns and villages are on record through numerous resolutions over the years in unanimous opposition to the existence of these serious threats to the health and safety of our families, friends and economic prosperity, now and into the future, and

WHEREAS, it is proven fact that the elements now contained in RMU-1 such as PCBs cause certain cancers that can lead to serious health problems, even death, to our citizens and that populated areas in proximity to this location have a proven high incidence of cancer, some significantly above the norm, and

WHEREAS, the mere existence of this landfill has for many years caused great fear for the health and safety, not only for those who live nearby, but by the parents of children attending the Lewiston-Porter School system located a short distance away and is on property paralleling the run off of the effluent produced by RMU-1 as well as being on the very truck route carrying these very dangerous materials which have had dangerous chemical spills over the years, and

WHEREAS, C.W.M.'s landfill known as RMU-1 is close to capacity and now C.W.M. wishes to establish another Toxic Hazardous Waste Hazardous Landfill to be identified as RMU-2 right next door to RMU-1, and

WHEREAS, The New York State Department of Environmental Conservation as well as the federal Environmental Protection Agency recently conducted a study of the needs for any future Toxic Hazardous Waste landfills and after due deliberations concluded that there exists "Excess Capacity" for Toxic Hazardous Waste landfills and "There is NO NEED for further landfills" such as RMU-2 for the foreseeable future, and

WHEREAS, our senior state Representatives, Senator George Maziarz, 62<sup>nd</sup> District, Assemblywoman Jane Corwin 144<sup>th</sup> District, and Assemblyman John Ceretto 145<sup>th</sup> District, have all gone on record as being opposed to any further Hazardous Waste landfills in Niagara County sharing the grave concerns for our families, friends and neighbors health, now, therefore, be it

RESOLVED, we the people beseech the CWM Expansion Siting Board, the D.E.C. and the Governor of the State of New York, Andrew Cuomo to do everything in their power to prevent our beautiful state from becoming known as the toxic waste dumping ground of the Eastern United States; we have suffered enough having to carry the stigma of the infamous Love Canal and the L.O.O.W. (Lake Ontario Ordinance Works), the radioactive dump immediately next door to C.W.M. and containing extremely dangerous radioactive materials which could potentially cause severe health problems, even death, to hundreds of thousands should its clay cover be opened in any way such as by terrorists or earthquake, and be it further

RESOLVED, that a copy of this resolution be sent NYS Governor Andrew Cuomo, Senator George Maziarz, Assemblywoman Jane Corwin, Assemblyman John Ceretto, and members of the recently appointed Siting Board.

  
LEGISLATOR CLYDE L. BURMASTER

  
LEGISLATOR WILLIAM L. ROSS

Resolution appears as amended.



**Resolution No. IL-046-13**

From: Legislators Clyde L. Burmaster & William L. Ross

Dated: October 15, 2013

**NIAGARA COUNTY RETAIN EXPERT LEGAL COUNCIL TO ANALYZE AND RECOMMEND  
COUNTY'S OPTIONS IN HAZARDOUS WASTE ISSUES FOR THE PURPOSES OF PROTECTING  
THE HEALTH, SAFETY AND WELL BEING OF THE COUNTY'S RESIDENTS AND TO  
PROMOTE ENVIRONMENTAL JUSTICE**

WHEREAS, by resolution IL-034-04 and IL-003-05, which outlined many health safety issues as a result of the only sited toxic hazardous waste facility in New York State, Chemical Waste Management (CWM), located on Balmer Road, Town of Porter, and

WHEREAS, these resolutions detailed plans for oversight and review of issues raised as the result of past present and future operations at CWM, and

WHEREAS, the County upon unanimous passage of these two resolutions entered into a legal engagement with attorney Gary Abraham of Allegany, New York, and

WHEREAS, this agreement developed a coalition between the County, the Town of Lewiston and others that may join in and it was agreed that Niagara County would expend the first \$50,000 for services by attorney Gary Abraham and when that \$50,000 was expended, the Town of Lewiston would contribute the next \$50,000 and this agreement would be in effect until or unless it was terminated earlier, and

WHEREAS, the issue concerning the expansion of the CWM facility through the siting of Residual Management Unit 2 (RMU2), a toxic hazardous waste landfill, is in its final stages and requires excellent legal representation in order to protect the health and safety of Niagara County residents, and

WHEREAS, it is felt a current and up to date agreement is in order with legal counsel after nine years and it is felt desirable to continue with attorney Gary Abraham to insure continuity at the next crucial time, and

WHEREAS, the Town of Lewiston has budgeted at least \$50,000 for the year 2014 to insure the quality of legal representation, and Lewiston is next in line to pay \$50,000, since the County has exhausted its obligated \$50,000, now, therefore, be it

RESOLVED, that the Niagara County Attorney draw up the needed engagement letter for legal services, with Lewiston paying its obligated \$50,000 followed by the County at expiration thereof, and be it further

RESOLVED, that the Niagara County Attorney prepare a formal agreement between the Town of Lewiston and Niagara County fully covering the obligation to each to engage legal services and seeking other towns and cities to join in, and be it further

RESOLVED, that copies of this resolution be forwarded to all towns and cities in Niagara County.  
Referred to Administration Committee.

From: Legislators Clyde L. Burmaster and John D. Ceretto

Dated: January 20, 2009

**AUTHORIZATION FOR NIAGARA COUNTY ATTORNEY TO COMMENCE  
LITIGATION CONCERNING HAZARDOUS WASTE SITE CAPACITY EXPANSION**

WHEREAS, for four decades Niagara County has been utilized by New York State and the North East United States as the only commercial hazardous waste dump, and

WHEREAS, in recent years, investigation of the site and its surroundings, used in the 1940s and 1950s as a dumping ground for chemical and radiological wastes generated by U.S. Department of Defense and Atomic Energy Commission projects, has revealed that potentially harmful levels of hazardous contaminants remain on the site, and

WHEREAS, substantially higher cancer rates than normal characterize the population living near the Chemical Waste Management (CWM) site, and

WHEREAS, in 1972 the New York State Department of Health prohibited disturbance of site soils without prior approval and such law remains in effect, and

WHEREAS, as mandated by the 1987 and 2005 amendments to the New York State Environmental Conservation Law ("ECL"), a state wide hazardous waste siting plan is required prior to the expansion of the landfilling of hazardous wastes at the CWM site, and

WHEREAS, in 2005, the New York State Legislature by overwhelming majorities of both houses amended ECL § 27-1109 by adding Subsection 6, which prohibits DEC from issuing a completeness determination for any "new or pending application for a disposal facility subject to § 27-1105...until the department [DEC] has determined such application is consistent with the [hazardous waste] facility siting plan adopted pursuant to section 27-1102," and

WHEREAS, the DEC has not adopted a hazardous waste facility siting plan pursuant to ECL § 27-1102, and

WHEREAS, CWM submitted a permit modification application to DEC on April 2008, seeking approval to increase the permitted waste disposal capacity of its Model City landfill by about 106,870 cubic yards, a 3% increase over and above its currently permitted capacity, and

WHEREAS, CWM's application for DEC approval of expanded disposal capacity at RMU-1, the subject of DEC's November 12, 2008 Completeness Determination, is subject to ECL § 27-1105, and

WHEREAS, the DEC has not adopted a state-wide hazardous waste facility siting plan which determines, among other things, whether New York State needs additional hazardous waste disposal capacity, prior to advancing any application to expand such capacity, and

WHEREAS, unlike municipal solid waste landfills, which generally operate within a regional market for waste management services, the market for hazardous waste disposal services is national, and

WHEREAS, on October 1, 2008, purportedly pursuant to the State Environmental Quality Review Act ("SEQRA"), DEC issued a Negative Declaration of Environmental Significance for CWM's proposal to expand disposal capacity at its Model City facility, and

WHEREAS, DEC's Negative Declaration fails to address the potential consequences of expanding disposal capacity and extending the permitted life of the Model City landfill, and



From: Legislator Clyde Burmaster

Dated: July 22, 2008

**NIAGARA COUNTY REQUESTS PREPARATION OF HOME RULE MESSAGE  
TO NEW YORK STATE FOR PCB IMPORT TAX**

WHEREAS, the government of Niagara County feels strongly that one of its primary duties is to protect the health and safety of its citizens, and

WHEREAS, the federal government has mandated that New York State's Hudson River be cleaned of PCB contamination from the former General Electric operations and whereby much of the PCB laden soil was removed to a landfill to be treated, and

WHEREAS, the State Department of Environmental Conservation (DEC) now says that some 74,600 tons of a total of 149,200 tons of hazardous waste located at an unnamed site in Queensbury, New York, "the dirtiest waste, or that which contains PCB's at a concentration greater than 50 parts per million, is what is coming to CWM, is to be trucked to the Town of Porter, and

WHEREAS, these PCB's are a known source of carcinogen which our own Congress banned in the late 70's, will be dangerously transported by trucks across the entire state exposing the population to accidental exposure and considerable health risk, and

WHEREAS, this issue has been at the forefront of severe controversy and concern to the citizens of Lewiston and Porter which are well documented through numerous public meetings clearly stating we do not want the PCB's here at any time, and

WHEREAS, on February 19, 2003 Resolution No. IL-011-03, sponsored by Legislators Clyde Burmaster and Lee Simonson, entitled "Niagara Niagara County requested preparation of Home Rule Message to New York State for PCB Import Tax", clearly stated we were asking for financial help to protect the citizens but by no means intending that we were otherwise in favor of allowing the material here, and

WHEREAS, this clean up will be the largest environmental cleanup project in United States history, and,

WHEREAS, Niagara County is host to the only licensed hazardous waste disposal facility in the state, and is threatened by the effects from the importation of thousands of tons of the Hudson River material, and

WHEREAS, federal laws prohibit taxation that impedes interstate commerce, however, this material will NOT be crossing any state borders and can be subjected to local taxation, and

WHEREAS, Niagara County has borne the brunt and expense of being the ultimate destination for hazardous waste for decades, and is in need of compensation to satisfy the public safety and infrastructure requirements that are necessary to protect the health and safety of the citizens of Niagara County, now, therefore, be it

RESOLVED, that the Niagara County Legislature directs the County Attorney to prepare whatever documents and procedures are necessary for a Home Rule Message asking the State of New York for permission to implement a Niagara County "PCB Importation Tax" of not less than \$200 per ton, to allow Niagara County to adequately address its public safety and infrastructure needs, and be it further

RESOLVED, that the County Attorney has a resolution prepared calling for a public hearing on such a Home Rule Message by or as soon as the required Senate and Assembly bills have been prepared and assigned numbers.

Signed: Burmaster

Moved by Burmaster, seconded by Ceretto, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

WHEREAS, DEC's Negative Declaration fails to address the need for expanding disposal capacity and extending the permitted life of the Model City landfill, and

WHEREAS, DEC's Negative Declaration fails to subject CWM's proposal to expand disposal capacity at its Model City facility to an equivalent review that would be performed by a siting board appointed by the Governor, now, therefore, be it

RESOLVED, that the Niagara County Attorney is authorized to commence all necessary legal proceedings to obtain a determination that the DEC has exceeded its authority by allowing CWM to expand its hazardous waste capacity at RMU-1.

Approved for submission.

Moved by Burmaster, seconded by Ceretto, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Burmaster; seconded by Ceretto.

Adopted. 19 Ayes, 0 Noes, 0 Absent.



**Resolution No. IL-003-05**

From: Legislators Lee Simonson and Clyde L. Burmaster and Administration Committee, et al

Dated: January 18, 2005

**NIAGARA COUNTY RETAINS EXPERT LEGAL COUNSEL TO OBTAIN PARTY STATUS IN THE SITING/PERMITTING PROCESS FOR ANY HAZARDOUS WASTE LANDFILLING IN NIAGARA COUNTY, FOR THE PURPOSES OF**

**PROTECTING THE HEALTH, SAFETY AND WELL-BEING OF THE COUNTY'S RESIDENTS AND TO PROMOTE ENVIRONMENTAL JUSTICE**

WHEREAS, the Niagara County Legislature, by Resolution IL-034-04, retained attorney Gary Abraham of Allegany, New York, to advise the County of its options and alternatives regarding further hazardous waste dumping in Niagara County in the interests of our residents' health and well-being, and

WHEREAS, Mr. Abraham's report has been received, and

WHEREAS, serious environmental issues exist relative to CWM's expansion proposal and their request to excavate potentially radioactive soils at the hazardous waste landfill site, and

WHEREAS, the report concludes that the present and potential future interactions between the Niagara Falls Storage Site (NFSS) and disposal sites adjacent to NFSS have not been addressed adequately, and

WHEREAS, the report concludes that the best opportunities for local stakeholders to affect the outcome of CWM's request for approvals exists in the combined permit/siting/SEQRA review of the CWM expansion and in the ongoing New York State Department of Health reconsideration of that agency's 1972 order banning further excavation at the Model City site, and

WHEREAS, in order to protect the health and safety of Niagara County residents, the County, as well as other municipalities, should participate cooperatively and effectively in the siting and permit review of CWM's expansion proposal, and

WHEREAS, the full development of technical issues to participate effectively in the siting and permit review process will require hiring experts specializing in the relevant areas of health, science, engineering and planning and economic development which issues will be coordinated by a special counsel, and

WHEREAS, if Niagara County wants any legal standing in future discussions involving the continuation of the expansion of CWM's hazardous waste facilities within the County, it must achieve (party status) by participating in the siting and permitting process phases, which negotiations will take place between DEC and commercial interests, and

WHEREAS, the County has received a proposed letter of engagement from attorney Gary Abraham, which proposal would also use the expert services of Richard Webster and Michael Gerrard, two of New York State's leading experts in the field of environmental law, now, therefore, be it

RESOLVED, that the Niagara County Legislature accepts the report of Gary Abraham prepared for the Niagara County Legislature and the Lewiston Town Board and adopts its recommendations and conclusions, and be it further

RESOLVED, that the Niagara County Legislature retains the legal services of Gary Abraham of Allegany, New York, with technical and legal environmental advice from Richard Webster and Michael Gerrard, per the attached letter of engagement from Mr. Abraham, and be it further

RESOLVED, that the engagement of counsel would be pursuant to the attached letter of engagement to include any and all matters that would have a bearing on CWM's RMU-II proposal to renew their permit and to obtain party status in the siting/permitting of the landfill expansion, and be it further

RESOLVED, that the County's engagement would be limited to the sum of \$50,000, which has already been budgeted in the County's 2005 budget, and be it further

RESOLVED, that the Niagara County Legislature encourages all Niagara County municipalities interested in environmental justice and in the health and safety of their residents, to become signatories of this legal effort, and more advisably, to share in the costs of this engagement of counsel, and future legal proceedings, for the betterment of all, and be it further

RESOLVED, that copies of this resolution be forwarded to all Niagara County municipalities.

Signed: Simonson, Burmaster

Administration Committee

Signed: Farnham

Signed: Updegrave, O'Connor, Davignon, Ross, Aronow, Smolinski, Needler, Cuddahee

Moved by Simonson, seconded by Burmaster.

Carried.



**Resolution No. IL-042-04**

From: Legislators Lee Simonson and Clyde L. Burmaster

Dated: September 7, 2004

**NIAGARA COUNTY FORMALLY REQUESTS THAT THE SEQRA REVIEW  
PROCESS BE INCLUDED IN THE NEW YORK STATE DEPARTMENT OF  
HEALTH'S EVALUATION OF CWM'S HAZARDOUS WASTE SITE**

WHEREAS, by orders of the New York State Department of Health (NYSDOH) in 1972 and 1974, disturbance of soils in the vicinity of the CWM hazardous waste landfill was banned due to the risk of radiological contamination, and

WHEREAS, CWM made a request on December 23, 2003, to NYSDOH to vacate its 1972 and 1974 orders, and

WHEREAS, the Niagara County Department of Health made a request that the above-referenced orders be upheld, and furthermore, the Niagara County Legislature, on February 17, 2004, unanimously implored NYSDOH to enforce its order, and

WHEREAS, CWM revised its request on May 14, 2004, to NYSDOH, requesting it vacate the 1972 and 1974 orders in two phases, while acknowledging that a phased approach to NYSDOH approval of soil excavation activities at the hazardous waste site was "necessary to accommodate the permitting of the proposed RMU-2 landfill," and

WHEREAS, NYSDOH on June 9, 2004, accepted CWM's proposal for a phased approach to its approval of soil excavation activities at the hazardous waste site, and

WHEREAS, the area in question has lacked sufficient monitoring, and more recent communications from NYSDOH request that CWM submit a plan for monitoring groundwater for radioactive contaminants for developed areas and a plan for air monitoring for currently active areas, and

WHEREAS, the State Environmental Quality Review Act (SEQRA), was enacted into law to provide for an environmental impact statement, along with public input, before approving any action that could have a significant impact on the environment, and

WHEREAS, SEQRA strongly discourages splitting activities that may have a significant effect on the environment into two or more smaller projects, such that the entire undertaking might evade environmental review, now, therefore, be it

RESOLVED, that the Niagara County Legislature strongly believes that the disturbance of the soil at CWM could potentially have a significant effect on the environment, similar to what has been seen at the LOOW site immediately adjacent to CWM, which has been restricted to public access or use for decades, and be it further

RESOLVED, that the Niagara County Legislature formally urges NYSDOH to include the SEQRA review process in its deliberations before approving any soil excavation activities, or

RESOLVED, that the Niagara County Legislature accepts the report of Gary Abraham prepared for the Niagara County Legislature and the Lewiston Town Board and adopts its recommendations and conclusions, and be it further

RESOLVED, that the Niagara County Legislature retains the legal services of Gary Abraham of Allegany, New York, with technical and legal environmental advice from Richard Webster and Michael Gerrard, per the attached letter of engagement from Mr. Abraham, and be it further

RESOLVED, that the engagement of counsel would be pursuant to the attached letter of engagement to include any and all matters that would have a bearing on CWM's RMU-II proposal to renew their permit and to obtain party status in the siting/permitting of the landfill expansion, and be it further

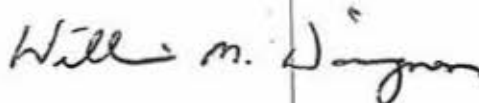
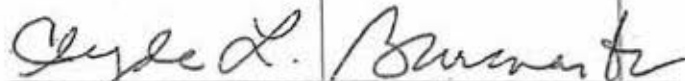
RESOLVED, that the County's engagement would be limited to the sum of \$50,000, which has already been budgeted in the County's 2005 budget, and be it further

RESOLVED, that the Niagara County Legislature encourages all Niagara County municipalities interested in environmental justice and in the health and safety of their residents, to become signatories of this legal effort, and more advisably, to share in the costs of this engagement of counsel, and future legal proceedings, for the betterment of all, and be it further

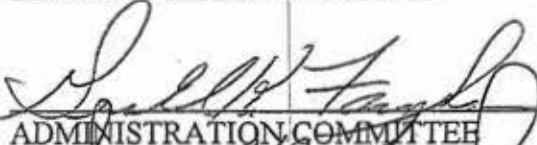
RESOLVED, that copies of this resolution be forwarded to all Niagara County municipalities.



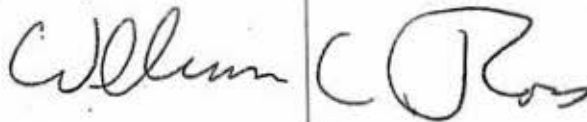
LEGISLATOR LEE SIMONSON

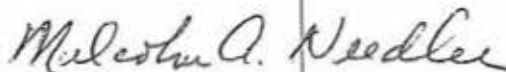



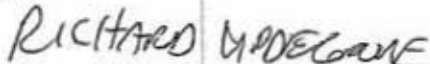
LEGISLATOR CLYDE L. BURMASTER



ADMINISTRATION COMMITTEE










**NIAGARA COUNTY RETAINS EXPERT LEGAL COUNSEL TO ANALYZE AND  
RECOMMEND COUNTY'S OPTIONS IN HAZARDOUS WASTE ISSUES FOR  
THE PURPOSES OF PROTECTING THE HEALTH, SAFETY AND WELL-BEING  
OF THE COUNTY'S RESIDENTS AND TO PROMOTE ENVIRONMENTAL JUSTICE**

WHEREAS, Niagara County is at a critical juncture in history that will determine if it will continue to be the only dumping ground in New York State for hazardous wastes, and

WHEREAS, it is apparent that New York State has a policy of promoting a hazardous waste trade deficit, whereby it enables the importation of more hazardous wastes into the state than the state exports, and

WHEREAS, these types of policies, and the lack of a state wide hazardous waste siting plan which would make each region of the state responsible for managing its own hazardous wastes, has put County residents at risk, and

WHEREAS, other issues involving the safety and health of Niagara County residents such as the New York State Department of Health order that forbids the excavation of lands at or near the commercial hazardous waste dump in the county, and the higher than normal rates of certain types of cancer near the dump, are cause for great concern, and

WHEREAS, the Niagara County Department of Health is very interested in the effect hazardous waste dumping has on the well-being of County residents, and

WHEREAS, if Niagara County wants any legal standing in future discussions involving the continuation and expansion of any hazardous waste facilities within the county's boundaries, it must achieve "party status" by participating in the New York State Department of Environmental Conservation's "pre-completeness" phase during which negotiations take place between DEC and commercial interests, and

WHEREAS, at this moment in time, it is clearly in Niagara County's best interest to survey and analyze the legal options it has in defining its future role in hazardous waste discussions and issues, and that it well advised to seek expert legal counsel to provide the County with the best advice possible in finding ways to protect the future health and safety of our local residents, and

WHEREAS, Attorney Gary Abraham of Allegany, New York, has the experience, credentials and environmental track record, to provide Niagara County with such needed advice, and has participated in DEC permit proceedings successfully for his clients, and is highly familiar with the legal intricacies of the state's siting process, and is available to provide Niagara County with a list of legal options it has available to mitigate the effects of being the only hazardous waste dumping ground in New York State, now, therefore, be it

RESOLVED, that the Niagara County Legislature retain the legal services of Gary Abraham of Allegany, New York, to advise the County of its best options and alternatives in thwarting the onslaught of future hazardous waste dumping in the County, in the interests of our residents health and well being, and in the name of environmental justice, and be it further

RESOLVED, that \$6,000, taken from the County's Contingency Budget, be allocated to retain Mr. Abraham's services, as soon as possible, at the rate of \$150 per hour, and that his recommendations be made available to the County no later than 90 days of this resolution, and be it further

RESOLVED, that the Niagara County Legislature encourages local municipalities which have an interest in future proceedings to share in the costs of this advice, and future legal proceedings, for the betterment of all, and be it further

RESOLVED, that copies of this resolution be forwarded to the Towns of Lewiston and Porter and the Villages of Lewiston and Youngstown.

considering the revocation or amending of its orders, which prohibit CWM from disturbing the soil at its hazardous waste site because of the potential of residual soil and groundwater contamination and the effect on the environment, and be it further

RESOLVED, that copies of this resolution be immediately sent to Dr. Antonia Novello, Commissioner of NYSDOH, with a request that copies of NYSDOH's reply be copied to the Niagara County Legislature, the Towns of Lewiston and Porter and the Villages of Lewiston and Youngstown.

Signed: Simonson, Burmaster

Moved by Simonson, seconded by Meal, to implement the portion of Rule 15 that pertains to voting on resolutions as opposed to referring it to committee.

Carried.

Moved by Simonson, seconded by Burmaster.

Carried.



**Resolution No. IL-005-04**

From: Legislators Lee Simonson and Clyde L. Burmaster

Dated: February 17, 2004

**NIAGARA COUNTY LEGISLATURE IMPORES THE NEW YORK STATE DEPARTMENT OF HEALTH TO ENFORCE ITS 1972 ORDER RESTRICTING DEVELOPMENT ON PROPERTY NOW OWNED BY CWM CHEMICAL SERVICES**

WHEREAS, a 1972 NYS Department of Health order imposed a restriction on 614 acres of property now owned by CWM Chemical Services, and

WHEREAS, this restriction says that the property "shall not be developed or used for industrial, commercial or residential purposes" and "that any deliberate or intentional movement displacement or excavation by whatever means of the soil is prohibited," and

WHEREAS, the Director of the Niagara County Health Department has asked the Commissioner of the NYS Department of Health to uphold this order, now, therefore, be it

RESOLVED, the Niagara County Legislature supports the Niagara County Health Department request to uphold the 1972 NYS Department of Health order on CWM Chemical Services property, and be it further

RESOLVED, that the Niagara County Legislature calls upon the NYS Department of Health to enforce its order, and be it further

RESOLVED, that the Niagara County Legislature respectfully requests that the New York State Department of Environmental Conservation (DEC) deny any permits to CWM while the order is in force, and be it further

RESOLVED, that the Niagara County Legislature implores the Commissioner of the NYS Health Department to conduct a thorough and public review of the situation, while accepting input from knowledgeable citizens and third party experts, before considering a future course of action, and be it further

RESOLVED, that copies of this resolution be sent to the Governor George Pataki, NYS Health Commissioner Antonia C. Novello, NYS DEC Commissioner Erin Crotty, NYS Attorney General Eliot Spitzer, and Niagara County's State Legislative delegation, requesting support for Niagara County's position in seeing the existing order enforced, and that a response be requested from each elected official.

Signed: Simonson, Burmaster

Moved by Simonson, seconded by Burmaster, to implement the portion of Rule 15 that pertains to voting on resolutions as opposed to referring it to committee.

Carried.

Moved by Simonson, seconded by Burmaster.

Carried.



From: Legislators Lee Simonson and Clyde L. Burmaster

Dated: December 16, 2003

**NIAGARA COUNTY DECLARES HAZARDOUS WASTE  
SITING PLAN INADEQUATE AND UNACCEPTABLE**

**Legislature strongly objects to DEC's statement  
that the location of expanded or new hazardous waste  
facilities is "not practical or relevant"**

WHEREAS, it has taken the New York State Department of Environmental Conservation (DEC) 16 years to comply with state law and produce a draft Hazardous Waste Siting Plan, and

WHEREAS, this draft plan has been released and clearly avoids addressing the issues which the original law mandated the DEC to discuss and resolve, and

WHEREAS, DEC has indicated in this proposed document that it has no intentions of developing a plan that will mitigate the importation of hazardous waste into our state and community that is being landfilled through its permitting process, and has no plan in managing the hazardous waste which originates within the boundaries of New York that must be landfilled, and

WHEREAS, while the document states, "Based on the historic rate of waste receipts and remaining capacity, it is estimated that the [CWM landfill in Niagara County] will reach capacity by 2005," it does not provide any alternatives, ideas or options of what the state should do when the capacity at this facility is reached, and

WHEREAS, while the document examines historic data and trends, it does not include any information or projections regarding the impact of the largest environmental cleanup in United States history which is planned for the Hudson River, or where the millions of pounds of contaminated PCB soil will be dumped, and

WHEREAS, the document contains contradictory statements, such as (page 5-3), "The closest facility may not be the most economical choice for a generator's waste management needs," while suggesting the opposite several pages later (page 6-2), "The nearest permitted hazardous waste disposal facility (to New York) is located in Michigan and may not represent an economically viable option for treated hazardous waste disposal for the northeast," and

WHEREAS, the document categorically states (page 6-3), "A determination of the number, size, type and location by area of new and expanded TSDF's (treatment, storage or disposal facilities) in the State is not practical or relevant," and yet, that determination was the exact reason the State Legislature and Governor required the DEC to present this plan in the first place, and

WHEREAS, despite the DEC's contention that the number, size, type and location of the new disposal facilities is "not relevant", it admits "the need for developing additional land disposal capacity in the northeast region by 2005," thus contradicting itself again, and

WHEREAS, the document does not explain how the new Commissioner Policy - 29 Environmental Justice and Permitting, relates to the future need for developing additional landfill capacity, thus setting the stage for the perpetual injustice that has disproportionately forced the residents of Niagara County to host the only licensed commercial hazardous waste dump site in New York State, and

WHEREAS, the people of Niagara County, and the state of New York, expect and deserve more than halfhearted attempted by DEC to comply with its mandate to produce a plan to satisfy the projected need for additional land disposal capacity, now, therefore, be it

RESOLVED, that it is the considered judgement of the Niagara County Legislature that the draft Hazardous Waste Siting Plan presented by DEC is both inadequate and unacceptable in satisfying the 1987 law which



RESOLVED, that it is the considered judgement of the Niagara County Legislature that the draft Hazardous Waste Siting Plan presented by DEC is both inadequate and unacceptable in satisfying the 1987 law which charged DEC with the creation of a plan, and is also woefully deficient in satisfying the mission of the DEC which is to "conserve, improve, and protect the state's natural resources and environment, and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state," and be it further

RESOLVED, that Niagara County takes strong exception to DEC's position that the number, size, type and location of new and expanded hazardous disposal facilities is not relevant, and that Niagara County believes those issues are extremely relevant to the safety of its citizens and the environment, and be it further

RESOLVED, that Niagara County, respectfully yet emphatically, requests DEC to rewrite the draft plan to resolve contradictory statements and to address major issues such as:

- 1) Where should millions of pounds of contaminated soil from the Hudson River be dumped?
- 2) Where should hazardous wastes generated in New York State be dumped after its existing capacity is reached in 2005?
- 3) Why should DEC permit any more landfill permits if adequate capacity exists out-of-state?

and be it further

RESOLVED, that the effort to revise this draft document include the input from citizens from Niagara County who are informed, sensitive and better suited to the problems brought about by the inequitable distribution of hazardous waste in the state, and be it further

RESOLVED, that Niagara County emphasizes that no hazardous waste landfill permits be granted in New York State until an acceptable plan is adopted, including the issues addressed above, and be it further

RESOLVED, that the Niagara County Legislature requests that the DEC reschedule its public hearing now slated for January 7, 2004 at 2:30-4:30pm and 6pm, at the Niagara Falls Library, to sometime in March or April 2004, due to the very quick notice and release of this draft plan and inconvenient holiday conflicts, and to locate a public hearing at the Lewiston-Porter School campus which provides easy access and convenience to impacted residents, and be it further

RESOLVED, that copies of this resolution be sent to Niagara County's state legislators, the Governor's office, and the Commissioner of the DEC, who is respectfully requested to acknowledge receipt of this resolution, along with a written response to the Niagara County Legislature, c/o Clerk of the Niagara County Legislature, Court House, Lockport, New York 14094.

**Amendment:**

"..County's state legislators, NYSAC.."

"Resolved, that by copy of this resolution to the Erie Co. Legislature we encourage them to join with Niagara Co. in support of this effort."

Signed: Simonson, Burmaster

Moved by Burmaster, seconded by Simonson, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Burmaster, seconded by Simonson, to amend the resolution to send it to NYSAC, and add:  
RESOLVED, that by copy of this resolution to the Erie Co. Legislature we encourage them to join with Niagara Co. in support of this effort.

Carried.

The resolution as amended was approved.

## NIAGARA COUNTY LEGISLATURE

FROM: Legislators Clyde L. Burmaster DATE: 12/4/2001 RESOLUTION # IL-076-01  
and Lee Simonson

APPROVED  
 NIAGARA CO. ATTORNEY

COMMITTEE ACTION

LEGISLATIVE ACTION

Approved: Ayes \_\_\_\_\_ Abs. \_\_\_\_\_ Noes 0

Rejected: Ayes \_\_\_\_\_ Abs. \_\_\_\_\_ Noes \_\_\_\_\_

Referred: \_\_\_\_\_

By 

**NIAGARA COUNTY OPPOSITION TO IMPORTATION  
 OF ANTHRAX EXPOSED MATERIAL**

WHEREAS, it has been reported that material that had been contaminated with anthrax in New York City has been sent to Niagara County to be disposed of at the CWM facility, and

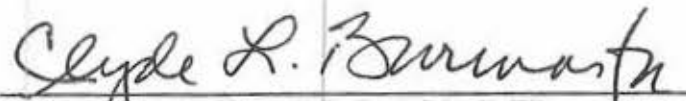
WHEREAS, it has been reported that the material had already been decontaminated, and

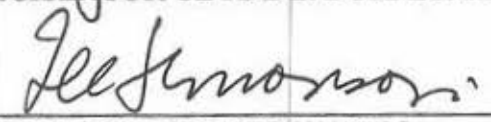
WHEREAS, the Niagara County Legislature does not believe it is necessary or appropriate to transport and dispose of decontaminated material at a hazardous waste landfill, now, therefore, be it

RESOLVED, that the Niagara County Legislature request the New York State Department of Environmental Conservation to explain, in writing, why CWM should and does accept decontaminated material, and why such material shouldn't be more properly disposed of in a location nearer its source, and be it further

RESOLVED, that the County Legislature go on record as opposing the importation of any material that has been exposed to a bioterrorist attack, and that it asks New York State to immediately restrict these exposed materials to areas that are in the proximity of the source of the exposed contamination, and be it further

RESOLVED, that the County Legislature send copies of this resolution to Governor Pataki, our state legislative delegation, US Congressman John LaFalce and US Senators Charles Schumer and Hillary Clinton.

  
 LEGISLATOR CLYDE L. BURMASTER

  
 LEGISLATOR LEE SIMONSON



## NIAGARA COUNTY LEGISLATURE

FROM: Legs. Simonson and Burmaster, et al. DATE: 3/20/2001 RESOLUTION # IL-019-01

and Commerce, Tourism &amp; Agriculture Committee

APPROVED

NIAGARA CO. ATTORNEY

By 

COMMITTEE ACTION

CT - 3/14/01

LEGISLATIVE ACTION

Approved: Ayes        Abs.        Noes       Rejected: Ayes        Abs.        Noes       Referred:       **OPPOSITION TO CONTAMINATED PCB WASTE BEING  
IMPORTED TO NIAGARA COUNTY FROM HUDSON VALLEY****Niagara County believes Hudson Valley  
Region should store its own waste****One of the biggest clean-ups in U.S. history --  
2.6 million cubic yards of contaminated sediment**

WHEREAS, in early December 2000, the United States Environmental Protection Agency (EPA) announced that it would order the General Electric Company (GE) to spend \$500 million to dredge massive amounts of toxic polychlorinated biphenyls (PCB's) that are embedded in the mud and silt beneath the Hudson River, and

WHEREAS, the plan calls for the removal of 2.6 million cubic yards of PCB contaminated sediment from a forty mile section of the Hudson River, and

WHEREAS, the EPA says "the dredged material will be shipped to existing licensed landfills outside of the Hudson River Valley for disposal" over a five year period, though has not specified exactly where the contamination will be shipped, and

WHEREAS, the only licensed facility in New York State that can accept this waste is based in Niagara County, and

WHEREAS, reports indicate that this project is so huge that it could require 176,500 truck trips from the Hudson Valley to Niagara County, and

WHEREAS, the prospect of this invasion of Niagara County is unwarranted and unnecessary, considering that the most appropriate way to dispose of the waste would be to construct a contained facility near the site of the contamination, to prevent the transportation of this waste across the state, or not dredge the material at all, and

WHEREAS, the volume of such a clean up would make it more financially feasible to take care of the waste on site, and

WHEREAS, New York State should be encouraging each region of the state to be responsible for its own hazardous waste, and New York State should not want to see one region's "solution" turn into another region's "problem", now, therefore, be it

RESOLVED, that the Niagara County Legislature goes on record as opposing this possible massive shipment of waste from the Hudson Valley into Niagara County's borders, and calls for the creation of a storage facility in the Hudson Valley to enable that area to handle its own waste, and be it further

RESOLVED, that Niagara County calls upon the EPA, the Congress of the United States, the President of the United States, and Governor of New York, the New York State Legislature, the New York Department of Environmental Conservation, to begin work immediately to devise a new plan that would construct a new landfill adjacent to the contaminated site on the Hudson River to accommodate this waste, and be it further

RESOLVED, that copies of this resolution be sent to the appropriate parties as stated above.

LEGISLATOR LEE SIMONSON

LEGISLATOR CLYDE L. BURMASTER

LEGISLATOR DANIEL MOCNIAK

LEGISLATOR RENAE KIMBLE

LEGISLATOR SAMUEL P. GRANIERI

LEGISLATOR DENNIS VIRTUOSO

LEGISLATOR SEAN J. O'CONNOR

LEGISLATOR ROBERT R. VILLANI

LEGISLATOR GERALD K. FARNHAM

LEGISLATOR WILLIAM L. ROSS

LEGISLATOR JOHN TYLEC

LEGISLATOR ROBERT L. SEGER

LEGISLATOR MALCOLM A. NEEDLER

LEGISLATOR SHIRLEY GREGORY URTEL

LEGISLATOR GERALD R. DeFLIPPO

LEGISLATOR JOHN W. COLE

LEGISLATOR BRADLEY E. ERCK

LEGISLATOR JAMES W. WARD

LEGISLATOR GERALD E. MEAL

COMMERCE, TOURISM & AGRICULTURE  
COMMITTEE



From: Environmental Management Committee

Dated: December 17, 1991

## NIAGARA COUNTY OPPOSITION TO CWM EXPANSION

WHEREAS, the New York State Department of Environmental Conservation (D.E.C.) has entered into an agreement with Chemical Waste Management (C.W.M.) to double the hazardous waste that C.W.M. can receive, on an annual basis from 160,000 tons to 325,000 tons, and

WHEREAS, the students of Lewiston Porter Central School District (Lew-Port) are already at risk because of the heavy truck traffic passing their school, and

WHEREAS, the residents of Creek Road are already burdened by the truck traffic on their road, and

WHEREAS, the students of Lew-Port and the residents of Creek Road will be further threatened and endangered by the large increase in truck traffic caused by doubling the amount of hazardous waste being received by C.W.M., and

WHEREAS, the doubling of the annual disposal capacity will hasten the potential for a shortfall in disposal capacity, and

WHEREAS, this agreement indicates D.E.C. is prone to caving into the demands of large companies like C.W.M., now, therefore, be it

RESOLVED, that Niagara County ask the Commissioner of the D.E.C. to reconsider the proposed agreement with C.W.M., and to eliminate terms of the agreement relating to increasing the amount of hazardous waste to be received by C.W.M., and be it further

RESOLVED, that Niagara County joins the Town of Lewiston and Porter in taking legal steps to stop the proposed increase in hazardous waste received by C.W.M., and be it further

RESOLVED, that the Niagara County Attorneys office be directed to write a suitable transmittal letter to the Commissioner of D.E.C., attaching this resolution.

Environmental Management Committee

Signed: Ross

Moved by Ross.

Carried.



CLYDE L. BURMASTER  
Vice Chairman

NIAGARA COUNTY LEGISLATURE  
LOCKPORT, NEW YORK

DISTRICT OFFICE  
2512 Parker Road  
Ransomville, New York 14131  
(716) 791-3111

LEGISLATIVE CHAMBERS  
Court House  
Lockport, New York 14094  
(716) 439-7000  
(716) 439-7124 (Fax)

July 16, 2014

Meeting of the Siting Board for the consideration of Chemical Waste Management Corp. desire to establish Residual Management Unit #2 on Balmer Road, Town of Porter, N.Y.

Comments of Clyde L. Burmaster, Vice Chairman, Niagara County Legislature to the Siting Board at Lewiston Porter School.

My name is Clyde Burmaster and I am a resident of the Town of Porter where the proposed landfill would be located. I have lived here all my life and have been a Niagara County Legislator for the past 22 years representing the district of the proposed landfill. I am currently the Vice-Chairman and sponsor or co-sponsor of legislation , in the Legislature, which has always been unanimously opposed to this hazardous waste landfill. I also am a 5 time prostate and bladder cancer survivor. I come here tonite to join with leaders in the County opposition, County Attorney, Mr. Claude Joerg, County Public Health Director, Daniel Stapleton and Attorney representing the County, Mr. Gary Abraham . We are Niagara County unified and I know our Legislature Chairman Bill Ross spoke earlier today as well.

Ladies and gentlemen , members of the Siting Board. Today is without question perhaps one of the most important gatherings in the history

of Niagara County that will determine what kind of legacy this board will leave to protecting the health and safety of our citizens for decades to come!

Truly, this is not a question of whether a business should be allowed to expand, it is about the health of over 2 million people and whether or not they live or die due to a tragic event, not in their control!

No doubt nearly everything that will have been said here today has been said before over the course of many meetings. Many of our good and faithful citizens who have spoken before will speak again today and many who pleaded before are no longer with us.

Several years ago, the issue of landfilling hazardous waste came to the forefront in the form of a lawsuit challenging why the Town of Porter should be the dumping ground for all New York State as the **ONLY** government authorized hazardous waste landfill!

The case was heard by N.Y. State Supreme Court Judge Joseph Mintz who ruled for the people and ordered from that day forward, there is to be **NO NEW** dumping until such time as a Siting Plan was approved going forward that would provide **EQUITABLE DISTRIBUTION** of any hazardous waste dumping in N.Y.S.!

That order was never followed and in fact C.W.M and the Department of Environmental Conservation **themselves, have operated in Contempt of Court by ignoring the law!**

The ruling by Judge Mintz is clear! The Balmer Road site should not be able to take in one more shovel full until there is another site approved in N.Y.S. Not only that but in addition to that new site ( other than at Balmer Rd. ) , the new site should have to have taken in the same



amount of material on Balmer Rd. before Balmer Rd .can accept any more at all! That is the meaning of **EQUITABLE DISTRIBUTION!** Neither the D.E.C. or C.W.M. has obeyed the law to this

The question that has been asked a good deal of “ Why do we need another deadly hazardous waste landfill here” if the majority of material buried here doesn’t even come from NYS and comes from as far away as Puerto Rico and Canada?

The answer to that is a federal study on future needs of this type of landfill determined that there is **NO need** for any such landfills in the foreseeable future! There is **EXCESS CAPACITY now** with the 17 such in the United States! I repeat, There is no need for us to have a new dump here, or for that matter, anywhere in the U.S!

Why, you ask, all the fuss mover this facility?

Simply, because it makes absolutely no sense to bury extremely hazardous materials in a highly populated area and expose the people to sickness and even death causing materials such as cancer causing PCB’s and radioactive hazards.

State and Federal Health studies have proved there is a very high incidence of cancer around the area of CWM, even to describing an area 3 miles away as a cancer cluster area! Certain materials accepted here contain known carcinogens and radioactive materials with half lives of hundreds of years! As well as the Balmer Rd site being so dangerous, every bit of those dangerous materials was trucked in here through our cities, towns and villages around the County. This exposes everyone who travels the highways to an accidental exposure from

We frequently have 60 mph winds here, particularly in the winter. Should the deadly particles be released into the air, within 60 minutes, 1 hour, those deadly particles will infect a 60 mile radius and expose all as far away as  $\frac{3}{4}$  of the way to Rochester,  $\frac{3}{4}$  of the way to Pennsylvania and  $\frac{1}{2}$  the population of metropolitan Toronto, Ontario Canada! Take a look at the maps I gave you for a good picture. Roughly **7,300,000 people**, subjected to serious illness, even death! **But it doesn't stop there....that is only the first hour! In 3 hours all of NYS will be exposed!**

THAT, LADIES AND GENTLEMEN, is precisely the magnitude of the mission you have elected or been appointed to! Your action could prevent such a catastrophe from ever happening!

Compounding this, is that those particles will fall into Lake Ontario and flow out to the Atlantic Ocean!

We know the fallout from Dioxin, now would you ever be able to eat **any fish** from Lake Ontario or its tributaries? It would be a deadly blow to all commercial and sport fishing on the Lake!

Is it worth the risk to locate this facility in a highly tourism centered area and heavily populated community? Isn't there a better way? Is it really necessary to build it here?

What a terrible legacy we already have fighting the stigma of the infamous Love Cana which destroyed an entire neighborhood and put us on the map as one of the worst environmental disasters in the United States. As if that isn't enough, we are also home to the Lake Ontario Ordnance Works ( L.O.O.W.) which left us with seriously dangerous and deadly , buried radioactive materials, covered by only 10' of dirt, located right next door to CWM and so dangerous, our government can't decide what to do with it! It is leaking! It is too



dangerous to relocate the material! There is no plan for final disposition!

Why is this so important? Because it is subject to the same threats to the health and safety of our citizens as does CWM in the event of an opening of it's cover!

NOW, perhaps I feel is the biggest, most immediate threat to us all, and certainly of major importance in your deliberations, is the ever present threat of terrorist attack! Terrorists want to kill as many Americans as they can and they have to do it with limited resources. As I said earlier, any opening of either of these landfills could cause a catastrophe never seen in the US before. Possibly 3 million people! I am told all it would take to open the 10' dirt cover at LOOW is a homemade bomb made in someone's garage! Cheap enough? Consider all the tragedy of the World Trade Center and the Pentagon from only 3 airplane tickets! How about a truckload of fertilizer? We have never experienced a catastrophe such as this magnitude would happen.

Again, is this the place to put a toxic hazardous waste landfill?

We are all aware of the concerns of our workers in the County and not allowing another landfill probably will have small effect on those currently employed as CWM must monitor and maintain the current site in truth, in perpetuity, which will require most of the Niagara workers jobs into retirement.

The Niagara County Legislature has been acting on behalf of it's 220 thousand citizens over many years in anticipation of the eminent decision of the D.E.C. and has passed many resolutions, unanimously, in opposition. Copies are in the materials I am leaving with you tonite.

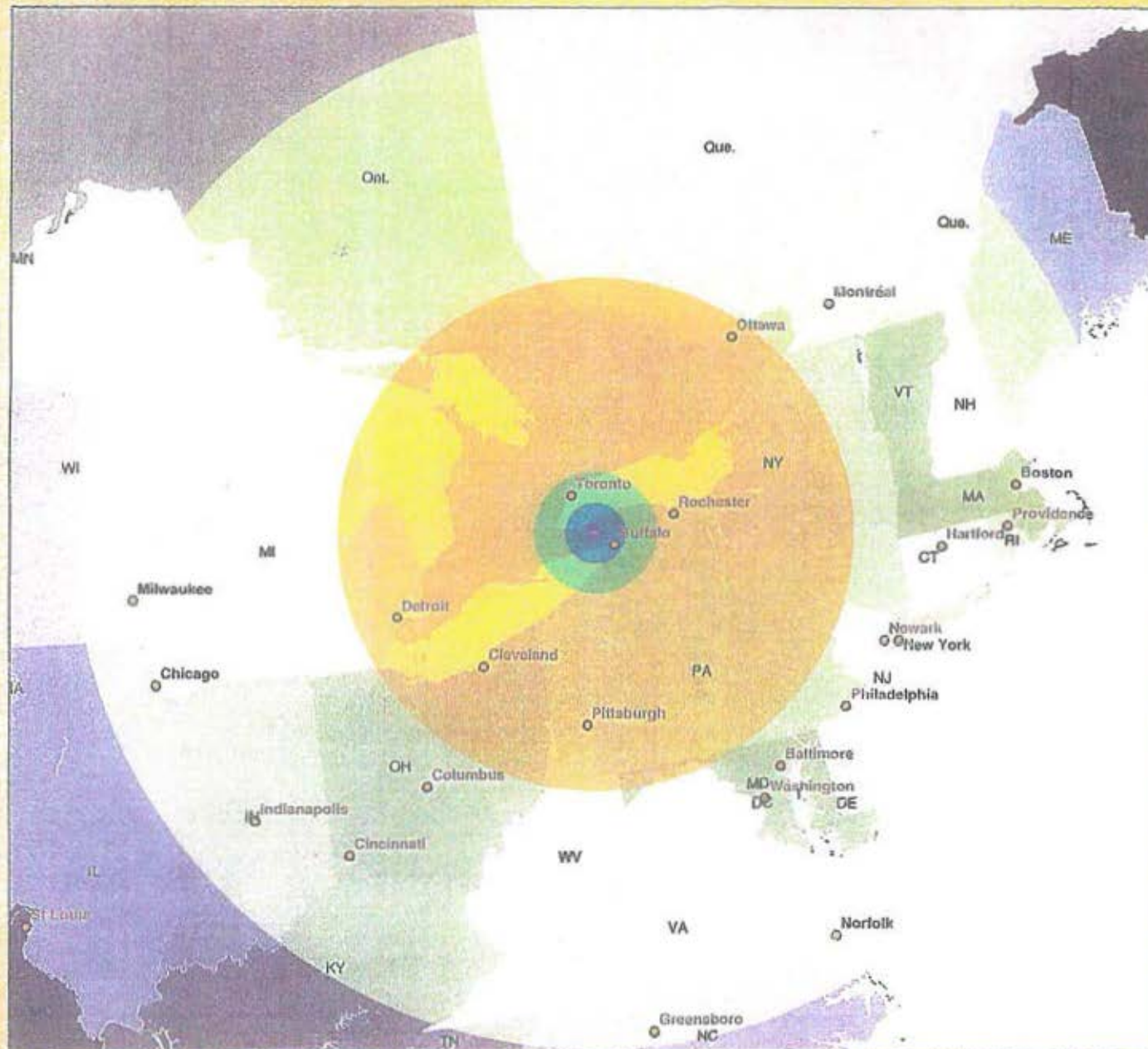
The Niagara County Legislature stands proud alongside our state elected officials in restating our unified opposition to ANY request for a hazardous waste landfill, ANYWHERE in Niagara County, at ANY TIME !



**Enough is Enough ! We concur with Judge**

**Mintz.....ENVIRONMENTAL JUSTICE** and obey the law!

Ladies and gentlemen of the Siting Board, you have an awesome responsibility in your deliberations of this issue which will determine the legacy passed on to generations to come. You have the power to insure a healthy, happy future to our children by voting **NO** to any more hazardous Waste Landfill in Niagara County! You have the ability by your actions to prevent a catastrophe as outlined earlier. As you deliberate, may GOD grant every one of you the strength of conviction without influence. On behalf of every citizen in Niagara County, thank you for your service.



345 Third St  
Niagara Falls, NY  
14303

Within 10 Miles  
Population: 270,857

Within 30 Miles  
Population: 1,501,130

Within 60 Miles  
Population: 7,286,324

Within 250 Miles  
Population: 34,832,497

Within 500 Miles  
Population: 130,767,574



Produced by WNY's Regional  
Economic Development Database,  
June 8, 2004 (pxb)

## Niagara Falls, NY: US-Canadian Population by Distance Band\*

Sourced from US 2000 Census of Population census tracts and 2004 Projections from the Canadian Census of Population





Scenic byways designated with black dots on this map have been selected by AAA Road Reporters for their unusual interest.

SO NEARLY WILDERNESS that a few vestiges of the primeval forest remain, the Adirondack Mountains occupy the northern lobe of the Empire State. Adirondack Park encompasses more than 6 million acres of this rough, wooded region. Many lakes—particularly Lake Placid, Saranac Lake and Tupper Lake—are the scene of year-round resort activities, but many others are accessible only by foot. This is but one of the contrasts found in the state so often associated only with New York City.

Bordering the Adirondacks are two equally popular vacation areas that New York shares with its neighbors. More than half of Lake Champlain lies in Vermont, and the charm of the Thousand Islands belongs partly to Ontario, as does Niagara Falls. In the west, the industrious city of Buffalo is complemented by the serene wine-producing country in the Finger Lakes region.

History is recalled at nearly every turn. Among the state's many historic sites are Fort Ticonderoga and Saratoga National Historical Park, marking key places and events in the Revolution.

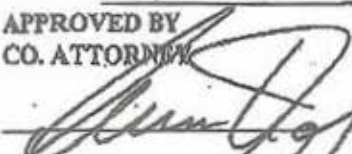
Southern New York and New York City, Long Island. In places the borders are The "urb," of course, is the capital of the United States, and the political capital of the world.

Long Island encompasses teeming New York City; the eastern towns, is a gentle mix of villages. The beach resort of the island have been p

Besides being known as the Catskills boast many sorts with excellent golf rooms where many can. Nevertheless, nature still here campsites can be pri



FROM: Legislators Clyde L. Burmaster & William L. Ross DATE: 06/17/2014 RESOLUTION # IL-030-14

APPROVED BY CO. ATTORNEY	REVIEWED BY CO. MANAGER	COMMITTEE ACTION	LEGISLATIVE ACTION
			Approved: Ayes _____ Abs. _____ Noes 0
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**NIAGARA COUNTY OPPOSITION TO ANY FURTHER TOXIC WASTE LANDFILLS  
ANYWHERE IN THE COUNTY INCLUDING A PROPOSED EXPANSION  
IN THE TOWN OF PORTER DESCRIBED AS RMU-2**

WHEREAS, SINCE 1994 Chemical Waste Management Corporation, Model City, New York, Residuals Management Unit-1, has accepted PCB wastes known to be highly dangerous; extremely long-lived in the environment (ie. They resist biological degradation); bio-accumulate in the fatty tissues of humans, fish and other animals; are classified as probable human carcinogens, particularly affecting the skin, eyes and nervous system and this is the only sited Toxic Hazardous Waste landfill in the entire Eastern United States, and

WHEREAS, PCB wastes as well as other hazardous wastes have been disposed of since at least 1985 in several closed landfills managed by C.W.M., under the oversight of the DEC by the collection, treating and discharging of the leachate into the Niagara River, together with the treated leachate from RMU-1 which included cancer causing carcinogens such as PCBs, and

WHEREAS, the Niagara County Legislature, cities, Towns and villages are on record through numerous resolutions over the years in unanimous opposition to the existence of these serious threats to the health and safety of our families, friends and economic prosperity, now and into the future, and

WHEREAS, it is proven fact that the elements now contained in RMU-1 such as PCBs cause certain cancers that can lead to serious health problems, even death, to our citizens and that populated areas in proximity to this location have a proven high incidence of cancer, some significantly above the norm, and

WHEREAS, the mere existence of this landfill has for many years caused great fear for the health and safety, not only for those who live nearby, but by the parents of children attending the Lewiston-Porter School system located a short distance away and is on property paralleling the run off of the effluent produced by RMU-1 as well as being on the very truck route carrying these very dangerous materials which have had dangerous chemical spills over the years, and

WHEREAS, C.W.M.'s landfill known as RMU-1 is close to capacity and now C.W.M. wishes to establish another Toxic Hazardous Waste Hazardous Landfill to be identified as RMU-2 right next door to RMU-1, and

WHEREAS, The New York State Department of Environmental Conservation as well as the federal Environmental Protection Agency recently conducted a study of the needs for any future Toxic Hazardous Waste landfills and after due deliberations concluded that there exists "Excess Capacity" for Toxic Hazardous Waste landfills and "There is NO NEED for further landfills" such as RMU-2 for the foreseeable future, and

Eva Nicklas



July 16, 2014

My name is Eva Nicklas and I am a resident of Lewiston. We are all here today because we are fighting for our future. There is no hidden agenda. We are just ordinary people willing to confront the odds in order to to restore environmental justice for our community, a locality so rich in the Arts, Music, History & Culture.

The earth is poisoned at CWM and we are already afraid of the air we breathe, the water we drink and the cancers and immune diseases that too many of us will experience. We dread the huge trucks that thunder by on our roads...

We realize that toxic waste has to go somewhere, but these poisons should be kept away from humans, animals and all living things, as far away as possible. The damage has already been done.... But please stop degrading our environment by adding MORE!

Look at all the people who are here. Listen to what they are saying! Is one company so powerful that thousands of voices cannot be heard? Please do the right thing and say NO to this proposed expansion.

Thank you



WHEREAS, our senior state Representatives, Senator George Maziarz, 62<sup>nd</sup> District, Assemblywoman Jane Corwin 144<sup>th</sup> District, and Assemblyman John Ceretto 145<sup>th</sup> District, have all gone on record as being opposed to any further Hazardous Waste landfills in Niagara County sharing the grave concerns for our families, friends and neighbors health, now, therefore, be it

RESOLVED, we the people beseech the CWM Expansion Siting Board, the D.E.C. and the Governor of the State of New York, Andrew Cuomo to do everything in their power to prevent our beautiful state from becoming known as the toxic waste dumping ground of the Eastern United States; we have suffered enough having to carry the stigma of the infamous Love Canal and the L.O.O.W. (Lake Ontario Ordinance Works), the radioactive dump immediately next door to C.W.M. and containing extremely dangerous radioactive materials which could potentially cause severe health problems, even death, to hundreds of thousands should its clay cover be opened in any way such as by terrorists or earthquake, and be it further

RESOLVED, that a copy of this resolution be sent NYS Governor Andrew Cuomo, Senator George Maziarz, Assemblywoman Jane Corwin, Assemblyman John Ceretto, and members of the recently appointed Siting Board.

  
LEGISLATOR CLYDE L. BURMASTER

  
LEGISLATOR WILLIAM L. ROSS

Resolution appears as amended.



***LAW OFFICE OF GARY A. ABRAHAM***

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July 16, 2014

MUNICIPAL STAKEHOLDERS' STATEMENT FOR THE  
JOINT PUBLIC STATEMENT HEARING FOR THE NEW YORK STATE  
HAZARDOUS WASTE FACILITY SITING BOARD AND THE  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
IN THE MATTER OF CWM CHEMICAL SERVICES, LLC, APPLICATIONS TO  
CONSTRUCT AND OPERATE A NEW LANDFILL AND OTHER UNITS TO  
STORE, TREAT AND DISPOSE HAZARDOUS AND NON-HAZARDOUS  
INDUSTRIAL WASTE IN THE TOWNS OF LEWISTON AND PORTER, NEW YORK

Good afternoon Honorable Judge O'Connell and distinguished members of the State Siting Board. I represent Niagara County, the Town of Lewiston and the villages of Lewiston and Youngstown, each hosting or adjacent to host communities for CWM's proposal to construct and operate a new hazardous chemical waste landfill and ancillary facilities at its Model City site.

Model City, it will be recalled, was originally planned by William T. Love as part of a man-made canal to link the Niagara River to Lake Ontario, providing water and hydroelectric power for a model park-like industrial city of more than 1 million people. The project failed after excavating only a few thousand feet. The subsequent use of the canal to dispose of tens of thousands of tons of toxic waste and the environmental disaster that followed made the name of Love Canal notorious. However, Model City, at the other end of the canal, has an equally troubled history. The severe and varied contamination found at the site—explosive, chemical and radiological—makes it one of the worst candidates for the further disposal and management of chemical and other industrial wastes.

Because the DEC has issued a State Hazardous Waste Facility Siting Plan that concludes New York has no need for additional commercial disposal facilities like CWM's, the company has an added burden to demonstrate why the facility should not be allowed to close. CWM's effort to meet that burden has put a tremendous burden on this community to review and understand the issues presented by further development of the site. As DEC's 12-page Fact Sheet for CWM's proposal notes, eight new or modified waste storage or treatment units in addition to RMU-2, the new landfill, will be required; another seven units must closed clean; and no less than seven different state environmental permits will need to be obtained. Not noted in the Fact Sheet is that at least two federal permits must be obtained. CWM has requested one permit from the U.S. Army Corps of Engineers (USACE). The permit, if granted, would allow CWM to flood an area of the CWM site that is known to be still contaminated with radium and plutonium. This contaminated wetland is to compensate for wetland that will be destroyed by the RMU-2

development.<sup>1</sup> The U.S. Environmental Protection Agency (EPA) must also issue a chemical waste landfill permit to authorize disposal of PCB wastes under the federal Toxic Substances Control Act (TSCA).<sup>2</sup>

The issues presented by the site and by the assertions made in CWM's applications for all these permits is, to say the least, a challenge for which we have been provided limited time. While we have watched the development of CWM's applications since 2003, major changes to the proposal were being made right up to the time the public received notice that its state applications are ready for public review. As a result, we will be able to offer to you our perspective on only a handful of significant issues. We anticipate filing a petition for full party status by the September 30 deadline, including reports on technical issues by experts in radioactive waste, hydrogeology, air emissions, and landfill engineering. However, today, as time is limited, we offer our perspective on two key issues.<sup>3</sup>

First, the CWM site is contaminated with residual radioactivity. The site has never been cleaned up to the standard necessary to avoid exposure to the public.

Second, the groundwater beneath the CWM site moves much faster than currently predicted by CWM. The groundwater is also severely contaminated in numerous areas of the CWM site. At present, there is a risk that contaminated groundwater will move off site undetected, along a preferential pathway. CWM intends to site RMU-2 over the preferential pathway which will act as a highway for contamination migration. This is likely to make it impossible to monitor groundwater contamination from RMU-2.

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<sup>1</sup> Ample documentation exists showing CWM's proposed mitigation wetland would flood an area of Vicinity Property G. VPG contains the Castle Garden radioactive dump site, presently located under CWM's waste water storage ponds. The University of Rochester Burial Area containing animal carcasses, contaminated with plutonium, is also located in VPG. The Corps of Engineers has confirmed VPG remains contaminated with plutonium and radium, after three clean-up attempts and has recommended a remedial investigation of the area as soon as the ponds are closed.

<sup>2</sup> On May 15, 2003, CWM submitted a TSCA approval request to EPA at the same time as its Part 373 permit modification application for RMU-2 was submitted. In November 2009, CWM submitted a revised TSCA approval request to EPA reflecting design changes to RMU-2, principally a changed landfill footprint. On July 8, 2013, CWM submitted another revised TSCA approval request to EPA. *See* Jill A. Banaszak, CWM, Letter to John Gorman, EPA, July 8, 2013 (attaching July 2013 revision of TSCA approval application).

<sup>3</sup> Although as noted expert reports detailing the basis for these issues will be submitted later, please consider factual statements made in the remainder of this statement an offer to appropriately prove these facts in an adjudicatory hearing.



### **The Model City site is radioactively contaminated**

As is well known, CWM's Model City facility was part of a much larger site called the Lake Ontario Ordnance Works (LOOW), which was a military TNT production plant. The TNT plant only operated for a few months before the plant was shut down and the site divided up. The part of the LOOW site now occupied by CWM was turned into a radioactive waste depot and disposal area by the Atomic Energy Commission. A variety of radioactive wastes, including Manhattan Project wastes from development of the first atom bomb, nuclear fuel reprocessing wastes and animal carcasses containing plutonium from experiments at the University of Rochester were all dumped on CWM property. Radioactive wastes were seriously mismanaged with wastes left on the surface or carelessly buried. Open burning of some wastes led to fallout of radioactive particles on some areas of the CWM site. The Atomic Energy Commission attempted to clean up radioactive contamination on the CWM site in the 1950s, followed by a second attempt on the 1970s. Radioactive contamination remained, however, and a third attempt at clean up was carried out by the Department of Energy (DOE) in the 1980s. Since then, the Army Corps of Engineers has taken jurisdiction of those areas of CWM which DOE was unable to completely clean up. Subsequent investigation of one of these areas has shown it remains contaminated, even after DOE reported it was cleaned up. Continued development of the CWM Model City facility interferes with the Army Corps' ability to investigate and remediate areas of radioactive contamination, putting off the day that the community can feel some assurance that their air, surface water and ground water will not expose them to radiation.

The federal Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM),<sup>4</sup> provides detailed guidance for planning, implementing, and evaluating environmental and facility radiological surveys conducted to demonstrate compliance with dose-based soil action levels. Under the guidance, planning a cleanup of radiological contamination requires an investigation of the history of the contaminated area. MARSSIM focuses on demonstrating compliance based on the results of a final status survey. MARSSIM is the most comprehensive guidance document currently available for developing radiological surveys.

CWM has never complied with MARSSIM, despite conditions in its current operating permit requiring it to do so,<sup>5</sup> and despite a directive from NYSDOH requiring that it comply with MARSSIM to demonstrate clean closure of radiologically contaminated areas, prior to major

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<sup>4</sup> NUREG-1 1575, Rev. 1, August 2000 (U.S. Environmental Protection Agency, U.S. Nuclear Regulatory Commission, and U.S. Department of Defense). This protocol has been followed by USACE at the NFSS. USACE, *Remedial Investigation Report for the Niagara Falls Storage Site*, Contract No. W912P4-04-D-0001 (December 2007), Appendix B, Gamma Walkover Survey (Continued Remedial Investigation Characterization Report ) (May 30, 2003), p. 5-1. USACE also measured background gamma radiation at the Lew-Port schools at ~10 cm. from the ground surface. *Final Gamma Walkover Survey Report, Lewiston-Porter School Property Youngstown, New York*, Contract No. DACW49-00-R-0027 (February 6, 2002), p. 2.

<sup>5</sup> CWM Part 373 Permit (2010), Module II, Condition J.3.



excavation.<sup>6</sup> The NYSDOH directive is relevant to RMU-2 specifically because Fac Pond 8, which has been found to contain substantial amounts of radiologically contaminated soil, must be closed clean under MARSSIM before it can be excavated, and it must be excavated because the RMU-2 footprint includes the pond. However, CWM has never accomplished a clean closure of any area on site under MARSSIM. Nor has it ever reported any investigation of the history of how the site was used for radiological waste storage and disposal. As a result, the company has never properly characterized or mapped radiologically contaminated areas on the site.

CWM has performed no more than a partial radiological investigation of the Model City site. A gamma scan of the surface will not detect buried contamination. We have ample evidence that ongoing earth movement by CWM and its predecessors has redistributed and covered over radioactive contamination. For example, radioactive scrap was inadvertently incorporated into the floor and walls of one of the CWM wastewater storage ponds. CWM has conducted a scan of the surface, avoiding areas of brush overgrowth, wastewater and stormwater storage ponds, but subsurface contamination of areas it scanned cannot be detected by the method CWM employed. MARSSIM specifies that for radiological scan surveys the detector must be held about 10 cm from the soil surface.<sup>7</sup> CWM held its radiation scanner three times higher above the soil surface.<sup>8</sup> Moreover, some radionuclides known to have been dumped on the site such as Plutonium do not emit significant amounts of gamma radiation, and CWM employed only a gamma detector and has conducted only minimal subsurface investigation for radioactive materials.

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<sup>6</sup> In 1972 and 1974 NYSDOH issued Orders prohibiting major excavation at specific areas of the former LOOW, including CWM and Modern Landfill, based on residual radioactive contamination posing a risk of unsafe exposure. In 2003, at the time it submitted the present application for approval of RMU-2, CWM asked NYSDOH to lift the Orders, because the Orders had been previously lifted in the case of the neighboring Modern Landfill. One year later, after review of the Department of Energy (DOE) reports for the CWM site, NYSDOH rejected CWM's request on the basis that the potential still existed for radioactive contamination to be present on CWM property. NYSDOH concluded that landfilling activities before and during the DOE surveying and remediation had likely redistributed and concealed radioactive contamination on the CWM site. *See also* Letter from S. Gavitt, NYSDOH to James Devald, Niagara County Health Department, July 16, 2001, p. 3 ("Before the DOH Orders [prohibiting excavation on site], remediation and final status survey consistent with MARSSIM will need to be performed.").

<sup>7</sup> MARSSIM, p. 6-44.

<sup>8</sup> CWM's gamma walkover scan survey was performed with the gamma detector 30.8 cm (one foot) from the ground surface. CWM, *Results of Gamma Walkover Survey, Soil Sampling, and Legacy Building Surveys* (December 2008), p. 1-3. The Municipal Stakeholders will offer to prove that, "for small particles, with radius 1 cm, the measured radioactivity declines by a factor of 9 when the height of the detector changes from 10 cm to 30 cm." Radioactive Waste Management Associates, *Critique of CWM Walkover Survey & Radiological Investigation* (March 2009), 12.



New excavation of soils in the areas scanned by CWM could therefore release radioactive material into the environment and expose the public. The health threat of exposure to radioactive materials is assessed over a lifetime because any exposure additional to background radiation, which is elevated as a result of nuclear bomb tests, nuclear bomb warfare, and releases from nuclear power plants, and additional to nuclear medical procedures, elevates the risk of cancer.

Effective subsurface soil tests and other measures to prevent radioactive particles from being transported off-site by air dispersal as a result of major excavation would not be employed for the RMU-2 project. Up to now, and since 2005, NYSDOH and DEC have approved small excavations, necessary to clean up spills and the repair or replacement of ancillary facilities at Model City. The protocol imposed on CWM for these small excavations has been deemed safe: CWM must scan for radiation at each six-inch level of the excavation. In effect all of the excavated soil is being scanned as it is excavated, so that the radioactive material is immediately detected before it becomes a problem. However, for RMU-2 CWM proposes to dispense with this protocol. Instead, if approved as proposed, CWM would haul excavated soils by the truckload to a stockpile. The trucks would pass through a radiation detector, but there are questions about whether radioactive materials buried in the truckload could be detected in this manner, or whether primarily alpha emissions from some radionuclides like Plutonium, which do not penetrate a piece of paper, could be detected through the steel walls of a dump truck. Once stockpiled, CWM would use a surface scanner to detect any radioactive materials. Only if the scan of the stockpile, or the radiation detector for dump trucks exceeds screening level would any scans be taken. In that event, CWM would spread out the stockpiled soil and scan it every six inches.

This proposal is on its face far less protective of the environment and public health than the current protocol CWM follows for small excavations. Illogically, CWM proposes that large excavations required for a new landfill should require far less stringent measures for protecting the community.

Finally, the RMU-2 footprint and the accessory facilities that must be modified or constructed require excavation of areas known to have been previously used for the disposal radioactive waste. However, because CWM has resisted compiling a comprehensive history of uses of the site, as would be required under MARSSIM, and has not conducted sufficient subsurface investigations of these areas, excavation in these areas could also release radioactive material into the environment.

We are therefore at a loss, to put it mildly, to see how any agency could approve major excavation at this site prior to fully characterizing all areas of potential soil disturbance. This is the position of my client the Niagara County Health Department, as well as the other Municipal Stakeholders.

#### **The poor hydrogeology of the portion of the Model City site proposed for RMU-2**

The CWM site is not hydrogeologically secure. Groundwater moves much faster than CWM has predicted, west toward the Niagara River and the LewPort schools. In addition, given

the severe groundwater contamination in the vicinity of the RMU-2 footprint, it is unlikely RMU-2 could be effectively monitored for leaks and spills. This has raised highly technical issues for which we will provide appropriate offers to proof in our request for party status in the permit and siting reviews. However, I can summarize here what we will offer to prove at that time.

Hydrogeology involves the investigation of what is occurring below the surface of the site, including below the depth of excavation where no one can see. Accordingly, monitoring wells and soil borings are used to develop a model of what is occurring at depth.

The hydrogeology of the CWM site has been studied at length. In 1977 numerous soil borings were taken for a comprehensive evaluation of how groundwater moves on the CWM site. This study correctly identified that the CWM site is vulnerable. A deep channel of sand and gravel runs from east to west across the southern-central part of the site and provides an escape route for contamination to leave CWM property.

From 1978 to 1984, landfills were sited in the northern section of the CWM site to avoid this potential highway for contaminant migration. In 1984 Waste Management purchased Model City for further landfill expansion. A new hydrogeological study was ordered and the earlier data was reinterpreted. Instead of highlighting the sand and gravel channel, where groundwater moves most rapidly, the new study disguised the vulnerability of the southern and central area of the CWM site by relying on the median rate of groundwater flow for the entire site. As time passed, further reevaluations produced even lower rates of median groundwater flow. Compare how the published rates of groundwater flow in the sand and gravel aquifer have changed since CWM acquired the Model City facility:

1977-1984	Groundwater flows at a rate of between 88 and 324 ft/yr
1985	Groundwater flows at a rate of 14.5 ft/yr
1988	Groundwater flows at a rate of 4.00 ft /yr
1993	Groundwater flows at a rate of 5.38 ft/yr
2013	Groundwater flows at a rate of 3.21 ft/yr

By combining groundwater flow rates for the sand and gravel channel with flow rates for groundwater in more dense silt, CWM has disguised the vulnerable area of the Model City facility, which is unsuitable for landfill development. In short, not only is the proposed site for RMU-2 unsuitable, RMU-1 should never have been built.

To this day, CWM has no wells monitoring the deep aquifer downgradient, to the west of the area proposed for RMU-2.<sup>9</sup>

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<sup>9</sup> In addition to hydraulic conductivity data, we will provide hydraulic gradient data showing that the alluvial channel in the deep aquifer beneath the southern-central area of the site in the vicinity of RMU-2 drops about five feet from east to west; and that less permeable



In 2007, the U.S. Army Corps of Engineers confirmed the existence of a localized variation in groundwater flow direction at the CWM site below the RMU-2 footprint, and has concluded this is caused by a thick alluvial sand and gravel deposit aligned in an east-west pattern, left after one of the many glacial oscillations, where glaciers progressively covered the area then receded, gouging out valleys in the bedrock some fifty feet below. These valleys were filled in by sand and gravel scoured from the bedrock by the glaciers. Relatively impermeable east-west ridges form the sides of these valleys.<sup>10</sup> One such valley underlies the RMU-2 footprint, and the valley wall blocks the regional groundwater flow to the north.

This conclusion is important because groundwater in that area has become severely contaminated by CWM's operations over the years, and contaminated groundwater will discharge to the Niagara River. For example, PCBs are among the most toxic synthetic compounds known, and one of the contaminants most commonly found in soil and groundwater on the Model City site.<sup>11</sup> CWM has a history of violating the limits in its permit for the surface release of PCBs, which is 0.001 parts per billion in water.<sup>12</sup> Groundwater beneath the site has

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overburden within the RMU-2 footprint is less than five feet thick and altogether missing in some areas, creating identifiable permeability windows to the alluvial channel. Relying on median hydraulic data showing a regional north-northwest groundwater flow, and asserting that site overburden acts as an effective aquitard, CWM as installed no groundwater monitoring wells in the deep aquifer to the west of RMU-2.

<sup>10</sup> These east-west ridges were clearly visible as surface features in the early 1900s but have since been flattened by surface grading and excavation. *Cf.* 6 NYCRR § 360-2.4(d) (requiring an application to include detailed engineering drawings "that clearly show in plan and cross-sectional views, the original, undeveloped site topography before excavation or placement of solid waste"); 6 NYCRR § 373-1.1(b)(2) (incorporating Part 360 by reference into Part 373).

<sup>11</sup> DEC, *Statement of Basis, Selection of Final Corrective Measures, CWM Chemical Services, L.L.C.*, January 31, 2001, at 3 ("Volatile organic compounds (VOCs) and polychlorinated biphenyls (PCBs) are the hazardous constituents which are most commonly observed in the soil and groundwater at the facility.").

<sup>12</sup> Chronic contamination of site stormwater with PCBs resulted in a condition added to CWM's 2005 permit renewal, and included in the current operating permit, requiring the company to locate and remediate the sources of PCBs, but to date CWM has not done so. PCBs are a group of seven "Arochlors," the trade name under which the chemical was sold. As recently as December 2013, effluent from a tank holding treated wastewater (mostly on site landfill leachate) showed one Arochlor at a concentration of 0.054 µg/L. *See CWM, December Monthly AWT Effluent Analyses*, p. 11 of 16 (January 6, 2014). CWM's discharge permit includes an effective zero discharge limit for PCBs (a water quality based effluent limitation of 0.0000001 µg/L).

reached 35,000 ppb.<sup>13</sup> This is three orders of magnitude higher than the solubility of PCBs in water, indicating that the PCBs are part of a release of additional non-aqueous chemicals that will be slowly released over time.<sup>14</sup>

The current permit provides this additional background:

In some locations (Landfills 2, 3, 4/East West Salts), it is not possible to conclusively attribute the presence of groundwater contamination to waste management activities at the regulated units, nor is it possible to rule out those units as potential sources of the contamination. In other locations (Landfill 7, 10, 11, RMU-1), the observed groundwater contamination has resulted from waste management activities that occurred before the units were constructed and, hence, is not attributable to releases from them.<sup>15</sup>

This factual background should result in considerable skepticism about whether the facility can achieve the goal of groundwater detection monitoring programs required under the current permit. “The programs are designed to provide unit-specific detection capabilities at those active or inactive Landfills and Surface impoundments which have not released hazardous waste constituents to the groundwater.”<sup>16</sup> Clearly, if it is not possible to determine whether regulated units have contaminated groundwater, groundwater detection monitoring programs will not be capable of detecting whether specific units have released hazardous waste constituents detected in site groundwater.

The ability to operate effective detection monitoring programs is a basic precondition to qualify for a permit under Part 373.<sup>17</sup> Because groundwater beneath the Model City site is already seriously contaminated with hazardous waste constituents released from CWM landfills and legacy waste on site, and these constituents include those that could be released from RMU-2,

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<sup>13</sup> Golder Associates, RCRA Facility Investigation Summary Report, Model City TSDR Facility, Model City, NY, January 14, 1993, Table 5.24-5, Sheet 2 of 4 (results for boring PRO-9).

<sup>14</sup> Cf. 6 NYCRR § 373-1.5(a)(3)(iv) (requiring CWM’s application to include “[a] description of any plume of contamination that has entered the groundwater from a regulated unit, at the time that the application was submitted,” in compliance with several listed specifications). The DNAPL plume identified in CWM’s 1993 RCRA Facility Investigation Summary Report has not been described in its Part 373 application.

<sup>15</sup> CWM Sitewide Permit, Mod. VIII, 1.

<sup>16</sup> *Id.*

<sup>17</sup> See 6 NYCRR § 373-2.6(h), especially subpara. (h)(1)(iii) (requiring monitoring capable of detecting contamination that has “migrated from the waste management area to the uppermost aquifer”).



additional groundwater monitoring will be unable to detect contamination that has migrated from the waste management area to the uppermost aquifer, and cannot be expected for this reason to be effective. RMU-2 cannot, in short, meet the general groundwater monitoring requirements under Part 373.

### **Scoring the Site Under Part 361**

I want to conclude by briefly discussing the scoring system the Siting Board is required to use to determine whether to approve a certificate of environmental safety and public necessity.<sup>18</sup> I will not get into the minutiae of how each factor is scored and weighted.

The public should understand that in addition to a hazardous waste facility permit from DEC, RMU-2 requires a score of under 200 from the Siting Board, based on various risk factors. Not all factors are necessarily relevant, and there is a certain amount of subjectivity in determining whether some factors, such as impacts to social character and planning opportunities of neighboring municipalities, are to be weighted as importantly as the risk of further releases to groundwater, surface water and local air. However, the passing scores this site obtained in two previous reviews, for the RMU-1 landfill and the SLF-12 landfill, were not based on complete and accurate information. As I indicated earlier, if what we know now about the site was known then, it is very likely the site would never have been approved. If the RMU-2 proposal advances to a Siting Board review, past scores should therefore not be considered the baseline for scoring the present proposal.

Respectfully submitted,

  
Gary A. Abraham  
*Attorney to the Municipal Stakeholders*

gaa

cc: Claude George, Niagara County Attorney  
Daniel Stapleton, Director, Niagara County Department of Health  
Hon. Dennis Brochey, Town of Lewiston Supervisor  
Hon. Terry Collesano, Village of Lewiston Mayor  
Hon. Raleigh Reynolds, Village of Youngstown Mayor

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<sup>18</sup> See ECL § 27-1105.

Eva Nicklas



July 16, 2014

My name is Eva Nicklas and I am a resident of Lewiston. We are all here today because we are fighting for our future. There is no hidden agenda. We are just ordinary people willing to confront the odds in order to to restore environmental justice for our community, a locality so rich in the Arts, Music, History & Culture.

The earth is poisoned at CWM and we are already afraid of the air we breathe, the water we drink and the cancers and immune diseases that too many of us will experience. We dread the huge trucks that thunder by on our roads...

We realize that toxic waste has to go somewhere, but these poisons should be kept away from humans, animals and all living things, as far away as possible. The damage has already been done.... But please stop degrading our environment by adding MORE!

Look at all the people who are here. Listen to what they are saying! Is one company so powerful that thousands of voices cannot be heard? Please do the right thing and say NO to this proposed expansion.

Thank you



CWM Public Hearing July 16, 2014

Does anyone know what used to be where CWM is presently? Peach Orchard.

What is going on tonight will be Niagara County's legacy for the decades to come. *HISTORY THAT PROVES THAT TECHNOLOGY FAILS*  
 And no matter what anyone says there will be failure in this containment system *MANAGEMENT OF FOR OVER 25 YRS*  
 somewhere, whether it's in the next 10, 20, 50 or 100 years, it's going to happen. Chemical Waste Management is not an exact science. I've worked in the construction industry and things sometimes happen, unforeseen things. Not intentionally overlooked or deviously planned, but accidental.

For generations industry provided a livelihood for many of our friends and family. I know many of my fathers friends are no longer with us. He suffers from asbestosis, another hazard of industry that was thought to be safe. I've seen how it's slowed him down over the years and destroyed the lives of his co-workers. We have all suffered from the carelessness of industry in WNY, the Manhattan Project, the Lake Ontario Ordinance Works, Bloody Run, and Love Canal (article). We have a long and sad history of chemical and hazardous waste being dumped all around us, here where we live and are raising our families. We've had enough. Let us start to try and heal our wounds, without CWM throwing salt, or Chlorine, or Acid, or Bio-Waste, or (Gasoline, or Laundry Detergent), or Anthrax in them. Oklahoma City Bombing & Tom Brokaw's Desk *SHUT UP*

I often wonder why some businesses use their initials instead of their full name. CWM sounds pretty harmless, like it could stand for "Cookies with Milk." Well, when you actually say Chemical Waste Management, it sounds like what it is. It's hazardous waste, which can't be managed. There's no way of telling what's brewing in the middle of that pile of hazardous waste, or what chemical reactions may be taking place, ready to pop the cap off of your dump. And CWM can't account for the massive fault line we live on, or erosion, or fires, or any other major incident. What happens to us when something does go wrong like a small earthquake? Does CWM have a plan for that? Of course not.

When I was a kid I remember seeing cracks in the ground (clay) and wondering how deep it was. Well I dropped a marble down in that dry cracked clay and it went so far down I couldn't see it and never got it back. Now from what I know about your clay lining, it's supposed to be watertight right? Well water is what makes clay a water tight substance. But when you don't allow that clay to stay wet, it dries out and becomes brittle and cracks. And anything nearby can slip down into that crack, just like my marble. And once it's out, it can go anywhere, a farmer's well, your backyard or our school playground. Let's not risk our future on the unknown, like I risked my favorite marble.

Now I don't what the decision making criteria are for the siting committee. If it's just to find the easiest and cheapest way to move forward...then don't bother, I've already

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Years earlier, in 1893, an entrepreneur, William T. Love, planned an ideal community powered by water brought by canal from Niagara Falls. Before his plan collapsed, Mr. Love built a section of his canal in the city of Niagara Falls, which later become surrounded by the chemical plants that created the poisonous cesspool known as Love Canal.

or  
ity  
mixture

On the other end of the uncompleted canal, Mr. Love built a score of houses and stores at a crossroads he called Model City.



done your work for you. It's obviously the easiest and cheapest way to go. What I am asking is that this State and the DEC stop shoving this <sup>facility</sup> ~~crap~~ down our throats, listen to us for once, and for the siting committee to not just go through the motions, to do the right thing morally and ethically and to NOT allow CWM to expand. We've done our part, and carried the torch long enough. We're done!

I've got a better plan for those 40 acres. Let's plant some Peaches..... Bring Back The Peaches!!

*NOT just  
THE  
BUSINESS  
MODEL*

*Just to start here*

*But*

*Ma C O M*

WILLIAM CONRAD  
LEWISTON TOWN COUNCIL



# Truck Drivers Local Union No. 449

AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

GEORGE E. HARRIGAN  
*Principal Officer, Secretary-Treasurer  
Business Agent*

JEFFREY S. BRYLSKI  
*President  
Business Agent*

KEVIN C. DRYSDALE  
*Vice-President  
Business Agent*

DANIEL E. AYLER  
*Business Agent*

JAMES C. SCHIFFHAUER  
*Business Agent*

JENNIFER BAGLIO  
*Recording Secretary*

JOHN D. WOODRICH  
*Trustee*

GAYLE R. DEAK  
*Trustee*

KEVIN J. TRINKLE  
*Trustee*

My name is Jeff Brylski I am the President of teamsters Local 449 and I'm here today representing those members of our local who work for CWM Chemical Services.

We've heard some allegations made from those opposing this landfill expansion. I'd like to set the record straight.

To qualify this site as anything less than safe to the environment and to the area is disingenuous.

Our members working here have knowledge of handling and disposing of hazardous wastes that most people can't even comprehend.

Properly disposing of hazardous waste is nothing that residents of the State of New York should take lightly. The monitoring and safety precautions taken at this facility are completely in compliance with NYS strict environmental standards.

- There is specialized training for these men who work directly with hazardous materials. Haz-mat training including HAZWOPPER and OSHA safety training. Confined space training. Emergency response training. First Aid and CPR Training. There are also weekly and monthly refreshment trainings.
- Waste Management picks one Operator of the Year annually and a lot of the criteria is based on safety. This year's winner was Tim Morgan, a 36 year employee of CWM. To understand the magnitude of this, you have to recognize that Waste Management employs approximately 21,000 drivers and landfill operators. To be selected for this award, you have to be top notch.



- Expertise comes with experience. So let's talk experience:
  - Chuck Aube 38 years with the site.
  - Rick Harden 38 years
  - Geoff Naughton 37 years
  - Tim Morgan 36 years
  - Ed Cassick 36 years
  - Dan Brimmer 36 years
  - Doug Hiddie 36 years
  - Dave Mariani 35 years
  - Chris Jordan 34 years
  - Dave Ruble 34 years
  - Jim Cassick 33 years
  - Tim Neadow 33 years
  - Mark Mariani 31 years
  - Dennis Hoover 31 years
  - Randy Printup 30 years

There are 15 teamster members with over 30 years and 6 teamster members with over 20 years experience in this business at this site most of whom, also live in this community.

These workers are held to a very high standards and they live up to those standards every day.

We need more career jobs... More opportunities... We don't need to stop operations at a safe, established business like CWM Chemical Services to serve the agenda of a few individuals.

There is a need for this facility. If there wasn't a need, a company like Waste Management wouldn't be spending \$55 million on a project without any tax breaks or subsidies. Do the math, employees with over 600 years of experience plus a \$55 million commitment equals a win for this community. Thank you.

**Matthew S. Feldman**

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**From:** Matthew S. Feldman  
**Sent:** Tuesday, May 13, 2014 2:46 PM  
**To:** 'CWMRMU2@gw.dec.state.ny.us'  
**Cc:** Matthew S. Feldman  
**Subject:** Public Comment, CWM

James T. McClymonds  
Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1st Floor  
Albany, NY 12233-1550  
Email: [CWMRMU2@gw.dec.state.ny.us](mailto:CWMRMU2@gw.dec.state.ny.us)

Hon. James T. McClymonds:

On behalf of my family, please accept this correspondence as informed and resolute opposition of any expansion of CWM's facility in Niagara County.

The basis for our opposition is manifold. Our community is over-burdened by waste disposal and its attendant activities which negatively impact economic growth, quality of life, safety, health and welfare. A disproportionate number of heavy trucks, hauling waste, enter and exit our community throughout the year. I have replaced two car windshields in the past year as a result of projectiles launched from trucks coming to or departing Lewiston's waste management facilities. Others have been less fortunate, losing irreplaceable life. I am aware of at least one truck that tipped over and spilled its waste in our community, not far from the school that my children attend. If you come to visit, you will notice that our community is small, and none of us is ever far from CWM's growing facilities, or the trucks that serve it. If you spend a night in Lewiston or arrive early in the morning, you will observe the noise pollution caused by the vehicular "engine breaking" of the waste haulers descending our picturesque hill. Many of us awake to this sound each day.

The benefits to our community are minimal, particularly in light of the known harms, which stifle growth, prosperity and development of tourism and agribusinesses like the wineries that flank us to the east, and to the west on the Canadian side of the Niagara River. The unknown and predictable harms are what keep us up at night, and prevent us from returning to sleep after being awakened by the trucks. When will the next accident be? When will toxins leak into groundwater and infiltrate the Great Lakes water system? When will some criminal realize that these trucks, and their toxic cargo, are vulnerable to attack – and that their passage over our local international border crossings, including bridges, expose us to disproportionate and unacceptable danger (countless cars pass beneath the Lewiston-Queenstown bridge and international border crossing while commercial vehicles and trucks en route to CWM idle defenselessly overhead).

Our community does not need an expansion of CWM or any other waste facility – we need cleanup, remediation, better oversight of persisting facilities, and increased scrutiny in how their operators have sought to influence local politics to secure their operations well into the future. The only people in our community that support CWM's expansion do so as interested parties, and this represents a minority opinion that is to the detriment of the whole.

Thank you for your consideration of the foregoing and for your thorough analysis of this matter.

Sincerely,

Matthew S. Feldman