

Youngstown Volunteer Fire Co., Inc.

FOUNDED 1911

RECEIVED
NOV 05 2014

September, 22, 2014

Judge James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-1550

Dear Judge McClymonds,

This letter is to clarify a letter sent from us on August 27, 2014 in regards to CWM Chemical Services, LLC in the Town of Porter.

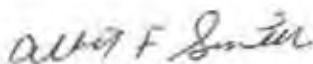
It has come to our attention that there may be a misunderstanding of the intent of that letter. The letter was to acknowledge that CWM Chemical Services has been supportive of our fire company with several donations over the past several years, including one for \$30,000 towards the purchase of our new ambulance.

Please be advised that the Youngstown Volunteer Fire Company Inc. takes no official stand on any issues in regards to the expansion of CWM Chemical Services in the Town of Porter. We have 65 members and they all have their own views about CWM Chemical Services and it has been Fire Company policy that we remain neutral in any discussions.

Our mission is to serve and protect our community and we remain committed to that goal and appreciate any assistance we receive from our corporate neighbors.

The letter in question has been enclosed for your review. If you require any addition information please contact President Albert Smith at [REDACTED]

Sincerely,



Albert Smith
President



Eric Wieland
Fire Chief

Youngstown Volunteer Fire Co., Inc.

NYSDEC OHMS Document No. 201469232-00089

FOUNDED 1911



Youngstown, N. Y. 14174

August 27, 2014

Youngstown Volunteer Fire Company
PO Box 387
Youngstown, NY 14174

James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-1550

Dear Judge McClymonds,

I would like to acknowledge that CWM Chemical Services, LLC in the Town of Porter has been supportive of the Youngstown Volunteer Fire Company.

Recognizing that the Siting Board, as part of its criteria, looks for impacts to the community, please note that the Youngstown Volunteer Fire Company has positively benefitted from contributions made by CWM Chemical Services, LLC.

Sincerely,

Chief Eric K. Wieland

2014-08-27

Youngstown Volunteer Fire Co., Inc.



BUFFALO NY 142
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Judge James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-1550



November 11, 2014

NOV 14 2014

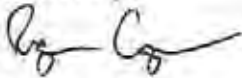
To Whom It May Concern,

I am opposed to the expansion of the CWM landfill in the Town of Porter. I am also opposed to the existence of this landfill and feel CWM should pay all expenses to clean the site up and remove the waste to another location.

This strikes me as a form of insanity to have this landfill in such close proximity to the water supply. It is an ecological disaster waiting to happen. This may not have immediate effects on me or my family during our lifetime, but what will happen to all those who will be effected over the next 100 or so years? By allowing this hazardous waste landfill to expand in this location the government would be in essence writing a death warrant for the area. Population will leave, the economy will fall apart and infrastructure will be left to decay in ruin. Within some number of years, I cannot accurately predict, the area of this proposed landfill expansion would be just as barren as the Sahara Desert.

In ending, I for one as a nature loving American, see this as a complete waste of time and taxpayer dollars. We should be working towards eliminating the production of these hazardous waste products and not just continuing the status quo and burying them in the ground. No one wins in the long run by the landfill practice, we the people all lose.

Sincerely,



Roger Cooper

Roger Cooper

BUFFALO NY 142

13 NOV 2014 PM 6 L



James T. McClymonds
Chief Administrative Law Judge
NYS Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway - First Floor
Albany, NY

122335500

12233-5500

November 11, 2014

Chief Administrative Law Judge

James T. McClymonds
NYS Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-5500

NOV 18 2014

Dear Mr. McClymonds,

I am writing to let you know that I am opposed to the expansion to construct and operate a new hazardous landfill by CWM at the Balmer Road facility.

There are new procedures for waste remediation that should be considered rather than just burying toxic chemicals to contaminate our land.

These toxic chemicals cause many health problems for residents living near the landfills that have been documented over the years since the site was created.

We have a duty to protect the environment for future generations to enjoy.

There is the ever present risk of spills and leaking in populated areas around the landfill.

I DO NOT think that there could be any economic benefit that would outweigh the enormous risks of the continued operation of the Balmer Road facility.

And last but not least, the DEC has already said this expansion was NOT needed.

Please I implore you to deny the application of CWM to expand now and in the future.

Sincerely,

Barbara L. Gaige

Barbara L. Gaige

[REDACTED]
[REDACTED]
[REDACTED]

Barbara Gaige

BUFFALO NY 142

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James T. McClymonds
Chief Administrative Law Judge
NYS Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway 1st Floor
Albany, NY
12233-5500

VICE PRESIDENT PRO TEMPORE
 CHAIRMAN
 SENIOR STAFF COMMUNITY AFFAIRS
 COMMITTEE MEMBER
 CONSUMER PROTECTION
 CRIME/VICTIMS, CRIMES, CORRECTION
 ENVIRONMENT
 LAW/ENFORCEMENT/CONSTITUTION
 HIGHER EDUCATION
 RULES
 TRANSPORTATION

THE SENATE
 STATE OF NEW YORK



GEORGE D. MAZIARZ
 Senator, 62nd District

ALBANY OFFICE:
 SENATE CHAMBER
 LEGISLATIVE OFFICE BUILDING
 ALBANY, NY 12224
 TEL: 518/462-2800
 FAX: 518/462-2801
 DISTRICT OFFICE:
 175 BAYLOR STREET
 SUITE 200
 PORTER, NY 14050
 TEL: 716/464-1250
 E-MAIL ADDRESS:
 maziarz@nyassembly.gov

November 17, 2014

Honorable James T. McClymonds
 Chief Administrative Law Judge
 NYSDEC Office of Hearings and Mediation Services
 625 Broadway, 1st Floor
 Albany, NY 12233-1550



Dear Judge McClymonds and Members of the State Siting Board:

On behalf of the 62nd New York State Senate District, I write to unequivocally oppose the proposed expansion of Chemical Waste Management's hazardous waste landfill in Porter. My position has never wavered and cannot be stated strongly enough.

As part of Department of Environmental Conservation's call for comments on CWM's proposal, I request that the Siting Board members review all comments submitted over the past 20 years in regards to all proposed CWM permitting actions and DEC's actions. This will demonstrate the relentless, overwhelming opposition to CWM's current and proposed operations from local, county, and state elected officials; business people; school administrators and teachers; students; medical doctors, health officials; citizens; scientists; interest groups; and many others. Their opposition is bipartisan and of one voice.

CWM Expansion is not Environmentally Sustainable. The Siting Board has received abundant, vetted scientific evidence against expansion that I will not duplicate here. If no hazardous waste landfill existed in Porter in 2014 and CWM was seeking a permit to build one, its application would absolutely be denied. The immediate and long term risks are just too great to communities, irreplaceable natural resources, and the fragile Great Lakes ecosystem that comprises 90% of the U.S fresh surface water. What a foolish idea to bury hazardous waste on that particularly troubled site, on the Niagara Escarpment, upgradient from the Great Lakes, in a county that could serve as the poster child for environmental justice, and so close to densely populated communities! Just as foolish is CWM's justification that its existing contaminated site is perfect for more contamination!

CWM Expansion is not Needed. As you know, the State of New York determined that no new hazardous waste disposal capacity is needed. However, its *State Hazardous Waste Siting Plan* states that although the State sees no need for the State to build more landfills, this does not prevent a private company from proposing to build more. This loophole is in direct defiance of the

legislative imperative of the 1987 State Hazardous Waste Management Act that mandated the State to produce a State Hazardous Waste Siting Plan that specifically phases out land disposal. I will address this later.

CWM Expansion is not Economically Sustainable. CWM argues that the contribution of its hazardous waste land disposal operation is too important to the economic life of the region to close it. This is not true. When CWM's current capacity is reached, CWM will not close and workers will not lose their jobs. CWM is responsible for its after-care for a longer period than the life of its proposed expansion. Much work will be required to decommission and maintain the current site. The elected officials of both parties who have consistently opposed expansion are the same people responsible for the economic vitality of the region. They seek long term, sustainable jobs for their constituents, not short term construction jobs.

CWM Expansion is Incompatible with Regional Planning Objectives. The region is revitalizing its economy based on tourism and cultural heritage. Comprehensive master plans and NY Department of State Local Waterfront Revitalization Plans emphasize orchards, wine trails, biking, agriculture, the Great Lakes, music, festivals, and performing arts, outdoor recreation, and rich cultural tourism. Hazardous waste does not fit in this vision.

This case is similar to the St. Lawrence Cement case of 2005. Long operating St. Lawrence Cement sought to expand its industrial operations in an area outside the City of Hudson in the Hudson River Valley.

From the time that the original plant was built, the region had evolved away from an industrial economic base to one built on cultural and recreational tourism. Because of this, then Secretary of State Randy Daniels of the New York State Department of State courageously denied his agency's portion of permit, ending the process. Today, the region is bursting with a new robust economic life that would not have existed had this industrial activity been allowed to expand.

The same is true for the Niagara Region. Expanding CWM's operations would be grossly incompatible with the quality of life and economic trajectories by which the region now identifies itself.

CWM Expansion Distorts Legislative Intent of the 1987 State Hazardous Waste Management Act. Understanding this legislative imperative is critical because over the past 27 years, CWM and the New York Department of Environmental Conservation have egregiously defied state laws, twisted and distorted the laws' explicit legislative intents, ignored legal mandates, promoted irrational justifications for expanding landfill capacity when none is needed or wanted, scoffed at many auditoriums filled with opposing citizens and elected officials, and dismissed thousands of written comments and robust evidence against expansion.

At the heart of CWM's application for expansion is the 1987 Hazardous Waste Management Act and DEC's rhetorical acrobatics over the past 27 years to make it perform to support that application.

As a legislator authoring bills that must endure over a long period of time, I know how challenging it is to carefully choose words and frame bill language in such a way that even after decades have passed, the intent of a bill will remain clear and accurate. Therefore, in cases such as the one the Siting Board must now decide, it is critical to understand the impetus for the 1987 Hazardous Waste Management Act, the legislature's intent for passing it, and former Governor Mario Cuomo's intent by signing it into law.

When you scrutinize the original documents, testimony, personal and public notes of the time, and the bill language of the 1987 Act, the legislature's intention will be clear and the Siting Board must deny CWM's application.

The early and accurate history of the hazardous waste management saga in New York State is meticulously reviewed in a March 1989 report called *Hazardous Waste Facility Siting in New York State: The Evolution of a Promising Public Policy* produced by the New York State Joint Legislative Commission on Toxic Substances and Hazardous Wastes. The Joint Commission was chaired in the Senate by my predecessor, the late Senator John Daly. According to that history, the 1987 Act was, in part, triggered by the Love Canal disaster just years before, just a few miles south of Porter.

In addition to leading to the creation of the federal Comprehensive Environmental Remediation and Compensation Liability Act (or CERCLA, better known as Superfund), the Love Canal tragedy prompted a recognition that Niagara County had borne and continued to bear a disproportionate burden of negative environmental impacts as a result of government policy and industrial activity. In addition to the numerous cases of industrial contamination, the region carried (and still carries) the burden of radioactive and chemical contamination from World War II federal research, testing, and disposal. In addition, as of a few years ago, the tally of actionable brownfields alone in Niagara County was still over 600.

The Joint Commission's 1989 Report also chronicles how momentum increased for the 1987 Act when:

In the fall of 1986, while attending a ceremony on hydroelectric legislation in western New York, Governor [Mario] Cuomo was questioned by local residents about the unchecked expansion of one of the two secure hazardous waste landfills in the region. He responded by offering the services of his special counsel in aiding concerned citizens to fight the proposed expansion. With this development, the legislature began to see a renewed interest in the siting issue, and amendments to the [existing 1976] statute finally appeared within reach. (p. 21)

The Report makes clear that the main impetus for 1987 Hazardous Waste Management Act was the landfill in Porter and the necessity for geographic and equitable distribution of any future hazardous waste land disposal facilities, *whether built by the state or a private interest.*

The 1987 law also mandated a hierarchy of how the state must manage future hazardous waste. Land disposal was at the bottom of a ranked list, after reducing, reusing, and treating the waste. It mandated that DEC produce a *State Hazardous Waste Siting Plan* that would phase out the landfilling of untreated hazardous waste.

That is the key phrase: *phase out the landfilling of untreated hazardous waste.*

The Meaning of “landfilling.” The intention of the 1987 Act was to close CWM and relieve Porter and Niagara County of the continuing burden of hazardous waste and the threat it posed to public health and the environment. The documents from that era leave no doubt about this.

In 2014, however, CWM would have you believe, according to its Environmental Impact Statement, that what it proposes is not really a landfill at all. Why? Because they will have to comply with more sophisticated accounting for and mitigation of air, water, land, and other environmental impacts. CWM will build a “state of the art,” expensive facility.

At one time, farmers sprayed “state of the art” arsenic as a pesticide on orchards in Niagara County. Unlined landfills were once “state of the art.” State of the art is meaningless compared to increased cancer rates, canisters that eventually leak (according to the US EPA), and 90% of the U.S. fresh surface water. Hazardous waste has thousands of years to cause irreversible damage.

The 1987 Act was undoubtedly aimed at phasing out landfills all together as a way to manage hazardous waste, period. Reduce it. Reuse it. Treat it. Stop putting it in the ground.

The Meaning of “untreated hazardous waste.” The 1987 Act mandates that DEC phase out land disposal for all hazardous waste except for those that have been treated, so what does “treated” mean?

The 1987 Act defines “treatment” of hazardous waste as
“any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.”

The Joint Commission’s 1989 Report defines treatment as
“wastes that have been detoxified to the extent that they no longer pose a significant threat to public health or the environment” (p. 21).

CWM and DEC would have you believe that putting the waste into “state of the art” containers and then burying them in the ground is not landfilling the waste. It is a form of treatment. Therefore, CWM claims that it is honoring the 1987 Act. In fact, according to CWM’s and the DEC’s arbitrary interpretations, no hazardous waste landfills are left in the state at all! But this makes a mockery of the law and the clear legislative intent of the Act.

I have previously submitted to the NY DEC the 1987 policy analysis of former Senator John Daly, my predecessor and author of the 1987 Act. By “treatment,” Senator Daly, the co-sponsor Assemblyman Joseph Pillitere, the state legislature, and democratic Governor Mario Cuomo did not mean putting hazardous waste in canisters and then burying them in a landfill. They meant, stop putting it in the ground! They meant, find ways to reduce the production of hazardous waste; create

ways to reuse it; or develop ways to treat it to change it physically, chemically, or biologically to a benign state!

Legislators do not pass bills and governors do not sign them into law assuming that a state agency or corporation can and will twist the obvious meanings of the most salient words to suit their own desires. The 1987 Act was produced after an enormous amount of legislative deliberation. It was accompanied by multiple in-depth discussions and analyses. Language was carefully chosen so that the legislative intent would endure over time and not be vulnerable to, in this case, the greed of a corporation and the political constraints of a state agency and administration willing to distort the truth to appease a powerful interest that might take legal action if it does not get what it wants.

The Siting Board is charged with answering two questions to determine the fate of CWM's permit application to expand its current hazardous waste landfill in Porter.

Is an expansion of CWM needed? Absolutely not.

Is it in the public interest? You would be lying to yourselves to think so.

For over a generation, nearly all citizens and all elected officials have pleaded and fought to be heard on this issue. They have rightfully pressed for relief from the burden of additional hazardous waste in Niagara County. The 1987 Hazardous Waste Management Act mandates it. Yet the DEC, through both Republican and Democratic administrations, has steamrolled ahead to support CWM.

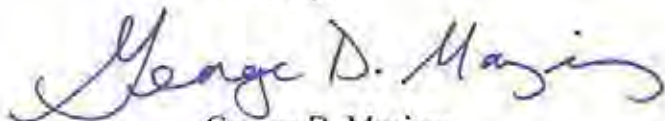
Siting Board Members, this is a defining moment in Niagara County history, in state history, and in each of your lives. Each of you on the Siting Board is in a rare and unique position that most of us never experience. Your decision will reverberate for thousands of years and have profound consequences for unborn generations, for this very special and beautiful land, these communities that we love, and for the fragile Great Lakes ecosystem.

So what will be your personal legacy? Given the overwhelming evidence to the contrary, will you support short term profit for one mega-corporation and the state's fear of legal retaliation? Or will you act to achieve long term sustainability and ecosystem health for the people, land, and water of Niagara County?

Have the courage to make the right decision for the greatest good for the greatest number for the longest time.

As always, I am available at your convenience to further discuss any of this.

Sincerely,

A handwritten signature in blue ink that reads "George D. Maziarz". The signature is fluid and cursive, with the first name "George" being particularly prominent.

George D. Maziarz
Senator, 62nd District

From the **Albany Business Review** (red emphasis added)

Apr 25, 2005, 12:00am EDT **Updated:** Apr 21, 2005, 10:51am EDT Retrieved: Oct 06, 2014, 1:59 pm EDT
www.bizjournals.com/albany/stories/2005/04/25/story5.html

Secretary of state rejects St. Lawrence Cement plant on Hudson

By Joel Stashenko

New York state's secretary of state has dealt a blow, perhaps a fatal one, to the St. Lawrence Cement Co.'s long-standing plan to build a new plant on the Hudson River in Greenport, Columbia County. Randy Daniels concluded this week that the ambitious project is not consistent with either the state's federally approved Coastal Management Program or with Local Waterfront Revitalization Programs along the Hudson River.

Recent redevelopment strategies along the Hudson have centered on tourism and recreation, stressing the natural beauty and the rich history of the river, and moved away from heavy industrial activity, Daniels said.

The St. Lawrence project would run counter to the overall redevelopment of the Hudson River valley and of Greenport and the neighboring city of Hudson, according to Daniels.

"There would be significant noise, fumes and dust associated with these activities which would likely impair recreational use on the adjoining waterfront park, neighboring areas and on the Hudson River," Daniels' decision said.

Big plans

Plans called for a plant that would produce 2 million metric tons of cement a year. A series of silos and towers, one as high as 363 feet, were envisioned along with a 2.5-mile long tube conveyor that would be 45 feet high in some places.

To accommodate deep-draft ships serving the new plant, with some vessels as long as 754 feet, plans called for dredging 5.7 acres of the Hudson around a new docking area.

St. Lawrence had modified some of its plans to meet residents' concerns, reducing by a total of 115 feet the height of its smokestacks and towers in a design change last summer.

Along with the industrial activity at the site, environmentalists also complained that the coal-fired power plant at the complex would increase emissions in the region.

David Loomes, general manager of the Greenport project, said the company was disappointed with the decision because a new plant would create 1,500 construction jobs and generate at least \$800,000 in local taxes once it is operational.

"We will study the decision in detail and decide on our next course of action," Loomes said. St. Lawrence can appeal Daniels' decision to the state Department of State. Opponents celebrate

Richard Katzman, CEO of Kaz Inc., said he was "delighted" with Daniels' decision. Katzman, who has a Kaz facility in Greenport and a home in Columbia County, was one of the leaders of the opposition in Columbia and Greene counties to the plant.

"My feeling and the feeling of other business people in the community is that this project was so out of scale with the existing mix of businesses and industries in the area that it would seriously hurt the quality of life and therefore hurt all our businesses," Katzman said.

Katzman, who formed the Committee for Responsible Economic Development in 2002 to fight the proposal, said St. Lawrence could still significantly scale down its proposal.

But he said it might be too late for the communities along the Hudson in Columbia and Greene counties to accept any St. Lawrence project.

Another group opposed to the plant, Friends of Hudson, planned a "bring-your-own-champagne celebration" of Daniels' decision Saturday night.

NEW YORK
STATE
SENATE

ALBANY, NEW YORK 12247

Senator George D. Maziarz
175 Walnut Street
Ulrich City Centre
Suite #6
Lockport, NY 14094

NYSDEC OHMS Document No. 201469232-00114

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Hon. James T. McChymonds
Chief Administrative Law Judge
NYS DEC Office of Hearings
and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233 - 1550



TOWN OF PORTER

Hon. 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

NOV 24 2014

Re: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT
STATEMENT
CWM CHEMICAL SERVICES, LLC RMU-2 APPLICATION
TOWN OF PORTER, NIAGARA COUNTY, NEW YORK

Dear Judge McClymonds,

This responds to your Notice of Completion of Draft Environmental Impact Statement (DEIS) for the above project, requesting comments by November 20, 2014. The Town of Porter is an Involved Agency having discretionary authority to approve the site plan of the proposed project, to issue a Special Use Permit for the operation of a hazardous waste landfill and to issue necessary building permits for improvements identified in the DEIS. Town of Porter Zoning Law (Zoning Law) §§ 16, 101, 106 & 107. The New York State Department of Environmental Conservation (NYSDEC) solicited lead agency related to this project and the Town of Porter concurred with that solicitation. The requirement that local permits and approvals are required is also acknowledged in §1.5.2.3 of the DEIS.

The Town of Porter cannot make any decisions or commitments related to those aspects of the project subject to the Town's discretionary authority until the NYSDEC has issued its SEQR determination. 11 NYCRR 617.3(a). In September, 2014 CWM Chemical Services, LLC (CWM) filed an application with the Town of Porter Planning Board seeking site plan approval. The filed application relies on the data, drawings and maps included in the DEIS in response to the site plan requirements set forth in the Zoning Law. The Town has engaged the services of a qualified environmental engineer, BE3, Inc., to review the materials supplied in the DEIS for comparison with the Zoning Law to determine where any deficiencies appear between the DEIS and the Zoning Law.

Hon. James T. McClymonds,
November, 2014,
Page 2.

Having only recently received the application for site plan approval and due to the scale of the project the Town is prepared to address only in general terms those aspects of the proposed project that are subject to the Zoning Law requirements. The Town's environmental engineer, BE3, and building inspector will complete an assessment of CWM's application to insure completeness in the coming months so that the Town may take appropriate action in the event the NYSDEC grants approval of the project and issues CWM a permit for RMU-2. Additionally, CWM has not yet made application to the Town of Porter Zoning Board of Appeals for a special use permit nor have any requests been made for building permits for improvements identified in the DEIS. With these caveats, the following are the Town of Porter's comments relative to this project and the DEIS.

TRAFFIC & LIGHTING - The applicant must insure that required and properly illuminated access to and from the premises is available for emergency vehicle access, employee parking, visitor parking and truck traffic related to activities occurring at the site. Appropriate parking lot and road design must be incorporated to insure stability of the parking areas and collection of water runoff which may be contaminated.

BUILDING IMPROVEMENTS- All new and renovated building improvements may only be undertaken after the issuance of building permits by the Town of Porter. Any changes to the site plan as presented in the DEIS and to the Town of Porter may require CWM to apply for any change to the site plan. Furthermore, building permits must be issued for improvements located identified in a site plan within three years. In the event building permits for such improvements are not timely undertaken the site plan approval will be deemed null and void.

YARD REQUIREMENTS- The activities proposed by CWM must occur within the set-backs required by the Zoning Law. An initial review of the DEIS indicates that all new proposed activities will take place within these set backs.

STORM WATER- Storm water systems must be designed to insure that storm water is collected and treated to insure that no contaminated storm water is permitted to leave the site. The applicant must comply with all storm water regulations of the Town of Porter and permit inspections by the Town's Storm Water Management Officer.

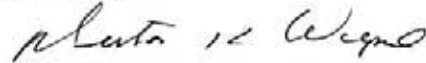
COMPLIANCE WITH SITE PLAN AND SPECIAL USE PERMIT REQUIREMENTS- CWM has applied to the Town of Porter for site plan approval and will be required to apply for a special use permit relate to the operation of its proposed project. A determination of may not be made by the Town of Porter regarding these approvals until the NYSDEC has completed its SEQR review.

Hon. James T. McClymonds,
November, 2014,
Page 3.

In reaching any determination the NYSDEC should impose as a condition to any determination that CWM comply with the Town of Porter local land use laws before the requested RMU-2 permit is issued.

Thank you for the opportunity to comment on the proposed expansion of the CWM hazardous waste disposal facility. While the ultimate authority to grant the applicants request may lie with the State of New York, it is the citizens of the Town of Porter who are most impacted by the State's decision. Accordingly, it is expected that any determination in this regard only be made on the condition that the Town of Porter's local land use laws be respected and complied with. If you have any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Merton K. Wiepert".

Merton K. Wiepert, Town Supervisor



TOWN OF PORTER

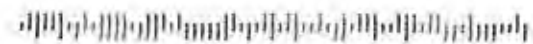
BUFFALO NY 142

14 NOV 2014 PM 5 L



Hon. James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation
Services
625 Broadway, 1st Floor
Albany, NY 12233-1550

122331550



From: jmturrell [REDACTED]
Subject: comment against Extending CWM
Date: November 18, 2014 at 10:16 AM
To: cwm.lwmund@nysdec.ny.gov

Judge James McClymonds, Please do not approve CWM's application to construct and operate a new hazardous landfill at the company's Balmer Road Facility. I live in Lewiston NY. Our community is already suffering from our home being the dumping ground from waste being brought in from all over. The residents of our area are suffering from high rates of cancer. If you would come to Ramsonville, which is down wind from CWM you would be shocked of the number of people who are victims of this disease. I am a friend of a man who just lost his wife from cancer and he has had bladder cancer. As I have made other friends in the Ramsonville area I don't think there are many families that have not been touched.

Our traffic from these huge trucks is horrible. They already go by homes and schools endangering residents and school children. Not to mention the damage they do to our roads.

We have the beautiful Niagara River and Lake Ontario very close to CWM. No matter what they say about all this poison being contained, they are in business to make a profit and will do what ever they can to do this. We already have a Mountain of toxic waste in our community. Please protect our health and safety by not approving this application!

Yours Truly,
Joan Turrell

[REDACTED]

Joan Turrell

NOV 24 2014

John Tomell

BUFFALO NY 142
19 NOV 2014 PM 2 L



Blue-Chinned Gnatcatcher

Chief Administrative Law Judge James McClements
NYS Dept. of Environmental Conservation
Office of Hearing & Mediation Services
685 Broadway 1st Floor, Albany, NY 12233-5500

122335500



The Western New York Environmental Alliance



Chair
Ryan A. McPherson
University at Buffalo

Vice Chair
Loren Smith
Buffalo Audubon Society

Secretary
Lindsay Amico
Clean Air

Treasurer
Arthur Wheaton
Cornell University Worker
Institute & WNY Apollo Alliance

Board Members:
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Learning Sustainability Campaign
& The Friends of Times Beach
Nature Preserve

Brian Dold
Buffalo Olmsted Parks
Conservancy

Andrew Goldstein
Keep Western New York Beautiful

Erin Heaney
Clean Air

Robert E. Knoer
Erie County Environmental
Education Institute

Alexandra McPherson
Buffalo Niagara Riverkeeper

Lynda Schneekloth
Sierra Club Niagara Group

Karen Wallace
Buffalo Museum of Science & Tift
Nature Preserve

Rebekah Williams
Massachusetts Avenue Project

Terry Yonker
Buffalo Ornithological Society &
Wind Action Group

James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation
625 Broadway, 1st floor
Albany, NY 12233 – 1550

November 10, 2014

RE: Supplement Letter regarding CWM Proposed RMU-2 Expansion

Dear Judge McClymonds:

On January 31, 2014, the Western New York Environmental Alliance submitted comments opposing the proposed expansion of Chemical Waste Management's (CWM) proposed RMU-2. We also spoke at the public hearing held in Lewiston, NY on July 16, 2014 and resubmitted our comments at that time. We are submitting supplemental comments to those initial comments and have attached the original letter for your information.

The Western New York Environmental Alliance is a coalition of independent organizations that collectively represent the environmental voice of our region. The mission of the member-run alliance is to *mobilize change through collective action and collaboration in order to ensure thriving ecosystems and sustainable communities in Western New York*. With more than 100 member organizations, affiliates and supporters, the WNYEA ensures that the environment is the key factor in local and regional planning.

In our first letter, we emphasized four key points related to (1) equitable distribution; (2) the determination that there is no need for hazardous waste disposal; (3) human health and environmental hazards; and (4) the inappropriateness of this facility in light of the collaborative agenda of the region.

We are sending this supplemental letter to reinforce our position that there is no need for the expansion of CWM according to the 2010 *State Hazardous Waste Facility Siting Plan*. All the other arguments -- the unequal distribution of waste storage in NYS, the health hazards associated with this type of facility, the environmental damage and risk, opposition by the community, and the new economic base rooted in tourism -- are critical. But the fact that this facility is not needed locally, regionally, in NYS or in the U.S. should be enough to deny any application for expansion. The State of New York should not be supporting individual businesses such as CWM at the expense of the citizens of the state, its waters and children.

We repeat: there is no need for additional capacity for the landfilling of hazardous waste at CWM and there would be no impact on the ability of NYS to manage its remediation wastes. The Siting Plan found that there are sufficient hazardous waste landfills nationally to accommodate the portion of the market created by NY generators.

The Western New York Environmental Alliance



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Buffalo Niagara Riverkeeper

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Sierra Club Niagara Group

Karen Wallace
*Buffalo Museum of Science & Tift
Nature Preserve*

Rebekah Williams
Massachusetts Avenue Project

Terry Yonker
*Buffalo Ornithological Society &
Wind Action Group*

Citing the 2010 Hazardous Waste Facility Siting Plan: "... USEPA's national analysis in 2009, subsequent to the 1995 National Capacity Assessment Report (CAP), determined that national capacity remains available to handle the waste generation in New York State and across the nation at least through 2034 (appendix E). Based on this decision by USEPA, federal Superfund monies continue to come into New York and other states for remedial clean-up activities" (page 6-3). This EPA statement is supplemented by DEC's own report which states that "a conservative estimate of capacity in the northeast quarter of the county [exists] through at least 2028" (page 6-8).

It could be well argued that by 2028 or 2034, there would still be no need for hazardous land disposal if the State works to achieve its own goal of "phasing out land disposal of hazardous wastes, other than treated residuals posing no significant threat to public health or to the environment." Landfill is the lowest and least desirable alternative in hazardous waste management and should be the first to disappear as elimination of use of hazardous material and the practice of treatment rather than disposal, move forward. Now is the time to take the first step in eliminating this poor practice that will set the conditions for more costly and extreme remediation in the future.

Putting CWM into the national context, consider that most states do not have hazardous landfills and are doing fine. "Commercial RCRA-C Hazardous waste land disposal facilities are scattered around the country. Of the 48 contiguous states, 32 have no RCRA-C hazardous waste land disposal facilities" (6-4) and they are not having problems taking care of the waste generated in their states. Further, for landfills that are permitted to accept non-RCRA-C PCB wastes, "there are 10 permitted landfills in the country ..." (page 6-6). In the Northeast, Heritage Environmental Svcs. in Indiana is available, a facility that has the capacity to the year 2100 (page 6-8). With this much national capacity and the goal to stop using and/or landfilling hazardous waste, why would New York consider generating more capacity rather than beginning the process of remediation? To summarize the Siting Plan: "... there is no current or near term need for increased capacity for hazardous waste management in New York State" (page 6-9).

New York does not need additional hazardous waste landfill disposal sites, and WNY in particular does not need to continue to be unduly burdened with waste as reported in the WNYEA report, *Mapping Waste: Setting the State to Clean Up WNY* (This report can be downloaded here: <http://bit.ly/1xpuvAO>). As reported in *Mapping Waste*, Western New York has a substantial burden of both legacy and ongoing contamination in comparison to the rest of NYS. In general, the data show that of the 62 counties in New York State, these three counties have more than their share of toxic sites. At least one of the three study counties was near the top of the list in total number of sites with each contamination issue studied. "Erie and Niagara counties alone have 12.7% of NYS DEC Superfund sites and 7.3% of the Class 2 sites." If equally distributed across the 62 counties in NYS, a share would be 3.2%. The *Mapping Waste* study clearly shows that there is NOT an equitable distribution of hazardous waste landfill sites across New York State, and the further expansion of CWM would

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exacerbate this situation. The current conditions are not equitable and approval of this expansion permit would not be 'equitable.'

Further, as the *Mapping Waste* report states, the aspiration is to continue the work of 'cleaning up Western New York.' Substantial work has been done in this region to remediate and contain the hazardous waste generated in the past, thanks to state and federal programs. The entire LOOW site continues to be the black hole in those clean-up efforts although it seems as if progress is being made at the NFSS. However, the expansion of CWM could put off any consideration of the clean up of one of the largest toxic areas for at least 30 years, and in the meantime, the potential for the spread of contamination through spills, air contamination, and water contamination increases. It is already determined that the open pit waste lagoons release volatile PCBs in the surrounding community, CWM has received over a dozen permit violation on its discharges into the Niagara River and the pipeline itself is old and potentially unstable.

And it is not only the *Mapping Waste* report that argues for cleaning up Western New York. A continuation of an economy based on waste conflicts with WNY Regional Economic Development Council (REDC) Strategic Objectives. The WNY REDC *Strategy for Prosperity in WNY* calls for "sustainable economic growth" and "improvement upon region's image." The plan puts forth strategies for capitalizing on key industries and sectors such as advanced manufacturing, agriculture, bi-national logistics, energy, health and life sciences, higher education, professional services, and tourism. <http://uploads.oneregionforward.org/content/uploads/2012/12/WNY-Regional-Economic-Development-Strategic-Plan.pdf>. A hazardous waste landfill can never be sustainable. It will have to be managed and contained for hundreds of years, and its existence in the middle of an agriculture and tourism based economy has a negative image that has been publicized by media across Upstate and also the *New York Times*. CWM expansion is incompatible with REDC objectives.

In summary, the expansion is not needed, it is not wanted by the community, and it would be a distinct liability to Western New York just as we are poised to move into the new era of prosperity.

Sincerely,

Lynda Schneekloth, Advocacy Chair
Western New York Environmental Alliance



November 21, 2014

Hon. James T. McClymonds
Chief Administrative Law Judge
NYS DEC
Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-1550

NOV 21 2014

RE: Applications by CWM Chemical Services, LLC to the NYS DEC

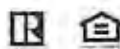
Dear Judge McClymonds,

We are pleased to offer comments to the DEC and the State Siting Board regarding applications by CWM Chemical Services for a new Hazardous Waste Treatment, Storage and Disposal Landfill Facility in Niagara County.

The Buffalo Niagara Association of Realtors on are on record as opposing the addition of any hazardous waste land disposal capacity in New York.

As the State Siting Plan adopted in 2010 concluded, there is no need for additional hazardous waste capacity to meet New York State's needs. A new hazardous waste landfill is not required for the development of new businesses, residences, or to promote brownfield cleanups. By contrast, hazardous waste landfill operations are an unsustainable use of real estate. Relocating contamination from one area to another for storage is not a permanent solution. We see no reason to create unnecessary risk to communities by adding another landfill for toxic waste and PCBs. In addition to the environmental risk, the notoriety of these operations are an obvious obstacle to the image of a community, and therefore, adverse to property values and to economic development.

The Voice For Real Estate



November 21, 2014
DEC Judge James McClymonds

Niagara County is a beautiful area with great potential for economic development, especially as it relates to tourism. Real estate is a key economic component in the development of tourism assets. Tourism spending also includes the purchase of second homes. Niagara County and Western New York should be a world class tourist destination, not the world's disposal site.

Niagara County and Western New York have done more than their share. We urge DEC and the Siting Board to deny the applications.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Christie Rothschild".

Christie Rothschild
2014 President



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Hon. James T. McClymonds
NYS DEC Office of Hearings and Mediation
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625 Broadway, 1st Floor
Albany, NY 12233-1550

122331550



Minister of the Environment



Ministre de l'Environnement

Ottawa, Canada K1A 0H3

NOV 21 2014

Mr. James T. McClymonds
Chief Administrative Law Judge
Office of Hearings and Mediation Services
New York State Department of Environmental Conservation
625 Broadway, 1st Floor
Albany NY 12233-1550
U.S.A.

Dear Mr. McClymonds:

I am writing in regard to the proposal by CWM Chemical Services to expand its existing hazardous waste facility operations in Niagara County, New York.

Hazardous waste sites along the Niagara River have historically been a significant source of contaminants to the Niagara River, Lake Ontario and the St. Lawrence River, which are important sources of drinking water, recreation and livelihood for millions of Canadians and Americans. Much has been accomplished to rectify this situation. Through the Great Lakes Water Quality Agreement and the Niagara River Toxics Management Plan, the governments of Canada and the United States, together with the governments of Ontario and New York State, have worked collaboratively to minimize releases of harmful pollutants to the Niagara River.

Continued vigilance and collaboration is required to address the potential for harmful releases to shared binational waters from the large volumes of hazardous materials in storage in waste sites along the Niagara River, in New York State. We therefore wish to stress the importance of applying a precautionary approach in the sound design and management of any proposed modifications to the CWM Chemical Services site. All steps should be taken to prevent harmful releases to the Niagara River in the first place. Further, effective environmental monitoring programs and notification procedures to detect and alert governments and the public, in both Canada and the United States, of harmful releases from this site are needed.

.../2



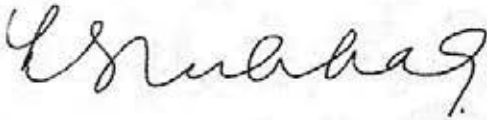
Canada

- 2 -

Environment Canada will continue to work with the United States Environmental Protection Agency, the Ontario Ministry of Environment and Climate Change, and the New York State Department of Environmental Conservation to monitor and assess water quality in the Niagara River, as well as to ensure that any releases from hazardous waste sites and other sources are identified and addressed.

Please accept my best wishes.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Leona Aglukkaq', written in a cursive style.

The Honourable Leona Aglukkaq, P.C., M.P.
Minister of the Environment

c.c.: Ms. Gina McCarthy, Administrator, United States Environmental
Protection Agency
Mr. Joseph Martens, Commissioner, New York State Department of
Environmental Conservation
Mr. Rick Dykstra, M.P.

Joseph L. Levesque

November 24, 2014

James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, N. Y. 12233-1550

NOV 24 2014

Dear Judge McClymonds:

I am pleased to submit comments on the above-referenced Applications. I respectfully recommend that they be denied based on impacts expected to be adverse to public health and welfare, particularly in light of state and federal agency conclusions that there is not a need for more hazardous waste disposal capacity in the foreseeable future. (Impacts described in comments from excerpts for Niagara County and its Board of Health. Capacity as evaluated by U.S. EPA "Capacity Assurance" and the adopted "New York State Facility Hazardous Waste Siting Plan.")

DEC has received many comments over the years expressing the view that the existing burden on Niagara County, some 11 million tons of hazardous waste in commercial landfills, does not meet the requirement for "an equitable geographic distribution of facilities" in the state. The Applications would serve to increase further the already disproportionate burden placed on Niagara County as the only area of the state to host commercial hazardous waste Treatment Storage and Disposal Facilities. I am in agreement with this view.

I have lived, taught, learned, served and worshiped in the Town of Lewiston for approximately 45 years, and I now hope to enjoy an active retirement here. My professional role in the community has included participation on the boards of religious, cultural and economic development organizations in Western New York for many years. As a professional educator, I have worked to encourage and instill knowledge, spirituality and service to those most in need in this community, and I have done so through civic engagement, particularly in the City of Niagara Falls.

Niagara County is rich in history, recreation, tourism and agriculture. However, there are significant challenges to overcome in many areas of the County. In my judgment, a new hazardous waste landfill is not compatible with the goals and plans of local municipalities and institutions that are here to improve the social and economic well-being of the broader community.

The technology has evolved in recent decades to allow us to reduce society's reliance on hazardous disposal facilities in favor of minimization, recycling or reuse to avoid landfills expected to leak in the future. This concern is heightened by our close proximity to the Niagara River and one of the world's largest fresh surface water supply, the Great Lakes.

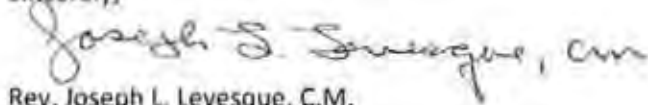
We should remove the risk of further adverse environmental impacts from an active hazardous waste landfill. Instead, we should focus on sustainable practices to revitalize contaminated properties and prevent more contamination; this would be a positive outcome to finally end hazardous waste land disposal in Niagara County.

Education, history, tourism, recreation and agriculture are key and valuable assets in Niagara County, and they represent some of our greatest opportunities for economic growth and for improving the lives of residents most in need. We should know by now that putting hazardous waste land disposal in the past...would have only a positive effect in this great Niagara County.

I speak here for myself, and although I have been and still am a member of many great institutions and organizations in Niagara County and beyond, I do not represent them or speak in their name.

Thank you most sincerely for your time and consideration of my letter.

Sincerely,



Rev. Joseph L. Levesque, C.M.
President Emeritus
Niagara University



to Douglas D. Senaqua, cm



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James T. McClymer
Chief Administrative Law Judge
NYSDEC Office of Hearings and
Mediation Services

625 Broadway, 1st Floor

Albany, N.Y. 12233-1550
12233-1550

James T. McClymonds
Chief Administrative Law Judge
DEC, Office of Hearings and Mediation Services
625 Broadway, 1st Floor, Albany, NY 12233-5500

Attention James T. McClymonds:

Residents of The Town of Porter and Lewiston plus many others have spoken on safety, history, Environmental protection, hazardous wastes, water pollution and government regulations. Residents have attended the LOOW (Lake Ontario Ordinance Works) meetings, DEC and EPA meetings. They were also fortunate to have people well versed in all pertinent areas to give advice.

One of the many problems the average resident (myself included) was the difficulty with the terminology and acronyms. I also have a glossary nearby! I WUZ UNBL 2GO 2 THE LBRE 2 R=Ed the DRFT PRMT DKUM, so I went 2 the WBST LSTD on NOTS. I OPND the 1on the GROUNDWATER TEST SITE and had to use a MAGNIFYING glass 2 R=ED it. ZEROING in on 1 of the DKUM and then AUTH with a TITLE were BLANK. Makes 1 IDER DUSNT it! (Copies of DEC Fact Sheet on website?) WWW.dec.ny.gov/chemical/9075.html The internet was able to find 473 acronyms dealing with CWM's request for new/or attached landfill. I was already on overload and did not continue my research.

CWM (Chemical Waste Management) has been referred to as a subsidiary or division of Waste Management. That means, I believe, under the power or authority of another but separate. Waste Management has now replaced the CWM sign at the entrance. Coincidentally, in 1999 when CWM submitted a new zoning request, Waste Management was highlighted on the

zoning request, waste management was highlighted on the
information packet. KVSDEC OHMS Document No. 201469232-00114

I read by chance an article in a 2003 Fortune magazine titled Scandal hits - now what? The gist of the article was that before Enron there was Waste Management. Waste Management was involved in one of the biggest scandals ever. Top officers engaging in massive fraud and they ugggwent through five CEO's in 3 years, and it's stocks lost more than \$25 billion in value. In 1999, Maurice Myers became the new CEO of WM. Besides the financial problems, Myers discovered that WM had another problem! Management did not know how many landfills it owned and did not keep safety records. Mr. Myers devoted time to address these problems and then retired in 2003. If CWM goes under will WM reimburse the town of Porter by taking over the cleanup and maintenance?

With my new iPad, I have already struggled with this letter. I haven't learned to email yet.

Sincerely, Joan Broderick,
for Responsible Government)

Member of RRG (Residents

[REDACTED]
[REDACTED]

Evidently, I don't know how to print!
I could have written a book for the
time I spent on this.
Thanks for the extension or I would not
have made the revised dead line.

Joan Broderick

James T. Mc Clymonds
Chief Administrative Law Judge
DEC, Office of Hearings and Mediation Services
625 Broadway, 1st Floor, Albany, NY 12233-5500

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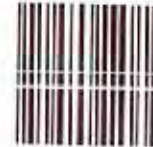
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Chief Administrative Law Judge James T. McClymonds
at the DEC.

RECEIVED

DEC 11 2014

Dear Mr. McClymonds

DECISIONS AND MEDIATION SERVICES

I am a 52 year old resident of Youngstown and Lewiston. Balmer Road has been my playground since the age of 10 years old. This means that I have been walking every inch of the properties surrounding the CWM Property. I have hunted, trapped, hiked camped and explored all sides of these fence facilities. Over the last 15 years I have hunted from elevated stands on the perimeter of these properties most time allowing me to view miles into the property. To talk about all I have seen in 15 years of hunting both night and day would be completely mind blowing from pictures that have been taken by remote cameras, both still and video. My night hunting was for Coyotes and fox, I usually start at 11pm and hunt to sun-up. There is a lot of Truck traffic after midnight. I have watch trucks unload 55 gal drums on property then that afternoon a Bobcat came and buried them in the ground in multiple locations. I am not sure with property owner the Town of Lewiston, Somerset Group ect.

I would consider myself a local environment

person that cares about the wellbeing of both animals and people in this area. I have been licensed with the DEC for newsprint trapping, and help with local sportsmens clubs. As a teen I explored all of the area on Balmer Road and what I see now from the outside scares me to wonder what happens in the middle of the night.

But this is present and I am against any additional chemicals, but I do know this is about money. This facility has spent a lot of money acquiring more land around the facility and it is scary to think how big they will get.

We have the technology to monitor this facility in a correct manner, but it cannot be done locally. There is too much money to spread around. This facility needs to be monitored by Out of State National Watch dog. There is far too much corruption in Niagara County and New York State Government.

Monitor it from satellites with video and have out of state company compare video to paper work for confirmation. CWM can afford to pay for monitoring.

Respectfully,
Leonard A Zienko

Leonard A Zientars



Chief Administrative Law
Judge James T McElmonds
at the Dec.
Office of Hearings and
Mediations Services
625 Broadway 1st Floor
Albany, NY, 12233

12233



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ALBANY, NY 12233

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From: A Supporter of CWM



To: James T. McClymonds
Chief Administrative Law Judge
NYSDEC Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, NY 12233-1550

122331550



**I support the expansion of
CWM CHEMICAL SERVICES, LLC**

This is an important project for our state
and specifically western New York.

**Please move the process along
quickly!**

NOV 9 2014

