

**From:** Elizabeth Whitehouse [REDACTED]  
**Sent:** Thursday, November 06, 2014 9:26 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Comment on CWM Chemical Services Proposed Landfill Residual Management Unit 2 (RMU-2)

Dear Sir,

Discussing how this expansion is regulated is a bit like discussing how a cancer patient is transported from hospital to hospital - it does absolutely nothing to address the underlying problem. That problem is not how do we dispose of toxic waste, but rather, how do we avoid toxic waste in the first place.

A very good place to start would be to encourage the Governor to turn the moratorium on fracking into a permanent ban. He has said he will let science decide. So give him the science he needs.

And encourage him to also ban the importation of any fracking waste. New York should not become the dumping ground for the toxic waste of other states.

Your department's mandate is to conserve the environment, not to figure out how to accommodate polluters.

Elizabeth Whitehouse  
Saving the earth one heap at a time  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** Sunday, November 09, 2014 8:50 PM  
**Subject:** CWM proposed expansion permit  
**Attachments:** CWM expansion letter of opposition.docx

We have attached a letter expressing our opposition to the request for an expansion permit submitted by CWM in Niagara County.

If you have any questions, please feel free to respond to this e-mail.

Thank you

Richard and Nardene Bradt

November 8, 2014

NYS Department of Environmental Conservation

ATTN: James McClymonds, Chief Administrative Law Judge

625 Broadway

Albany, NY 12233-5500

Your Honor,

My wife and I are lifelong residents of Niagara County, having grown up in Niagara Falls and now residing in Lewiston. We have suffered through the Love Canal fiasco, the Manhattan Project and Chemical Waste Management's toxic dump.

We are now faced with the possibility of the expansion of the CWM toxic complex.

Judging from what we hear at meetings, read in the newspapers and from discussions with fellow county residents, it appears that almost no one (except perhaps the CWM employees) is in favor of this injustice to the residents of Niagara County.

Every town, city, and village, as well as our area legislators of Niagara County, has gone on record as being opposed to this proposed expansion.

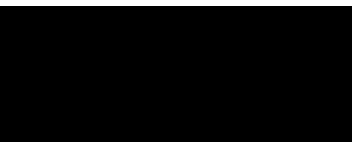
Niagara County has more than paid its dues in the chemical waste industry.

Please end this legacy of Niagara County being the toxic dumping ground of imported toxic waste from the northeastern United States and Canada and do not grant any permits for the expansion of CWM.

Thank you,

Richard A. Bradt

Nardene Bradt



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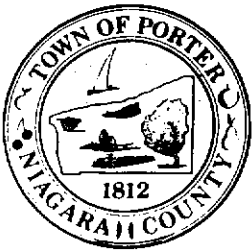
**From:** Norm Ault [REDACTED]  
**Sent:** Friday, November 14, 2014 10:06 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Emailing: KMBT36220141114100321.pdf  
**Attachments:** KMBT36220141114100321.pdf

Attached please find the Town of Porter comments on the draft environmental impact statement. The original will be mailed today, also.

Norm Ault  
Bookkeeper  
Town of Porter

Your message is ready to be sent with the following file or link attachments:  
KMBT36220141114100321.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



# TOWN OF PORTER

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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](mailto:CWMRMU2@gw.dec.state.ny.us)

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 setbacks 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.

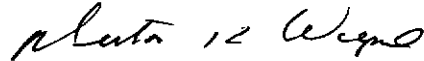
**COMPLIANCE WITH SITE PLAN AND SPECIAL USE PERMIT REQUIREMENTS**- CWM has applied to the Town of Porter for site plan approval and will be required to apply for a special use permit relate to the operation of its proposed project. A determination of may not be made by the Town of Porter regarding these 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", written in a cursive style.

Merton K. Wiepert, Town Supervisor

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 9:40 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

Ton after ton, trucks haul dangerous toxic waste to this community, including a substantial amount of Polychlorinated biphenyls (PCB's), probable carcinogens that persist in the environment. Trucks pass directly by Lewiston-Porter schools on their way to CWM. CWM is only a mile away from the schools, which consist of 2,500 students and 400 faculty members.

Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

There is no need for a new hazardous waste landfill! A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

Mary Brummer  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 7:57 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

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Thank you for your consideration of my comments.

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 4:39 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

This is ridiculously stupid to even consider.

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

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Thank you for your consideration of my comments.

Raabia Khan  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 4:40 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

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Thank you for your consideration of my comments.

Chris,  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 4:38 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

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Thank you for your consideration of my comments.

Denise Scardino

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 4:38 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.

Sincerely,  
Ben Silverman

[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 7:03 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.

Judy Smith  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 5:19 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.  
William D. Smith

[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 5:47 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.  
Brenda Young  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 8:36 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.

Daniel D. Decker,  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 3:16 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.

Peter M Etu  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 9:05 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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Thank you for your consideration of my comments.

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 12:50 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

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We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 11:34 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

Ton after ton, trucks haul dangerous toxic waste to this community, including a substantial amount of Polychlorinated biphenyls (PCB's), probable carcinogens that persist in the environment. Trucks pass directly by Lewiston-Porter schools on their way to CWM. CWM is only a mile away from the schools, which consist of 2,500 students and 400 faculty members.

Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

Logically this application is not in the public interest and the impacts of operation will have continuing significant environmental impact.

Thank you for your consideration of my comments.

David Stout  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, November 18, 2014 2:46 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

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Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

There is no need for a new hazardous waste landfill! A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

**From:** Amy Mazur [REDACTED]  
**Sent:** Wednesday, November 19, 2014 4:27 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** reject CWM expansion

Dear representative of the DEC and inhabitant of this planet,  
My intention is to strongly object the expansion of CWM. I am a former student k-12 and graduate of Lewiston Porter High School, a concerned citizen with family residing in the town of porter, and one who's grandfather, David Gleason (a resident of Lewiston) died from cancer.

I understand that as our current structure as a society many chemicals are being used as part of the process of supplying our large demand for growth. The reality of the current state of things, results in the need for disposal of hazardous waste.

I understand that there are causes and conditions to all things. There are reasons why there are hazardous waste facilities, reasons why there needs to be disposal, and consequences of that disposal.

Right now, my biggest concern is for the effects of the disposal on the surrounding area around the CWM site. The site is only miles from the niagara river and lake ontario. The great lakes contain 21% of the worlds surface fresh water by volume. Not just New York, not just the United States, but the World. That is a very important amount of water, especially now, as climate change and human consumption is creating deficits in water, quicker than it can be replaced. There are already thousands of water contamination reports throughout the United States alone. We need water to survive, and with hazardous waste such as uranium and PCBs with half life's beyond generations within our families, how could we possibly know the effects of attempting to such a large amount of hazardous material? We don't know. There have already been reports of leaks, which have been reported to be fixed, however we simply don't know the impact this may have on the surrounding environment, especially that substantial fresh water source near by. If a contamination occurred outside the area of the CWM site and let's say residents had to be evacuated, there is no way to be assured that it could be contained and not contaminate the water.

So as a concerned citizen of this planet and one who calls lewiston-porter my hometown, I ask you to think from a place of compassion, reality, trust, and not from a place strictly based in law, delusion, pressure from corporate and individual greed, and open your eyes to how wrong this could really be - how horribly and unimaginably irreversible the consequences could be. We are all (us and this planet) interconnected. It's surprising when we actually sit down and think about how important water is to sustain life for all. That almost everything requires water - the things we consume, own, use. Remember that. There are more reasons and unforeseen consequences that will result whatever the decision, however, I stand firm and think of this an important issue to strongly consider.

Thank you for your time and efforts to help keep this planet clean, safe, protected.  
With gratitude,  
Amy Mazur

**From:** [REDACTED]  
**Sent:** Wednesday, November 19, 2014 8:14 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

Ton after ton, trucks haul dangerous toxic waste to this community, including a substantial amount of Polychlorinated biphenyls (PCB's), probable carcinogens that persist in the environment. Trucks pass directly by Lewiston-Porter schools on their way to CWM. CWM is only a mile away from the schools, which consist of 2,500 students and 400 faculty members.

Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

There is no need for a new hazardous waste landfill! A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

**From:** [REDACTED]  
**Sent:** Wednesday, November 19, 2014 7:21 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

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Thank you for your consideration of my comments.

**From:** [REDACTED]  
**Sent:** Wednesday, November 19, 2014 7:51 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

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We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

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**From:** [REDACTED]  
**Sent:** Wednesday, November 19, 2014 4:56 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

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We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.  
Melanie Scherer

[REDACTED]

**From:** [REDACTED]  
**Sent:** Wednesday, November 19, 2014 8:01 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

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Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

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We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

Sincerely,  
Eric Walker  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, November 20, 2014 9:40 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

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We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.

Ken Maher  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, November 20, 2014 4:01 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment.

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

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There is no need for a new hazardous waste landfill! A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

Thank you for your consideration of my comments.

Sincerely,  
Jennifer Pope

[REDACTED]

**From:** [REDACTED]  
**Sent:** Friday, November 21, 2014 10:36 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** RE: Opposition to Expansion of CWM in Town of Porter

I am writing to express my opposition to any expansion of services or any new services by CWM in the towns of Porter and Lewiston NY.

Ken Greulich  
[REDACTED]

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**From:** Darren Suarez [REDACTED]  
**Sent:** Friday, November 21, 2014 9:58 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** TBC Comments on CWM  
**Attachments:** TBC Comments in Support of CWM.pdf

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

Judge McClymonds,

Please find attached are the comments of the Business Council of New York State related to CWM's proposed RMU-2 landfill project.

Darren Suarez



**Darren Suarez**  
Director of Government Affairs  
The Business Council of New York State, Inc.  
[REDACTED]

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**Your Voice, Our Voice, One Voice...** The Business Council - Working to create economic growth, good jobs, and strong communities across New York State.



**DARREN SUAREZ**  
Director of Government Affairs

November 11, 2014

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

[CWMRMU2@gw.dec.state.ny.us](mailto:CWMRMU2@gw.dec.state.ny.us)

I am Darren Suarez Director of Government Affairs for the Business Council of New York State. The Business Council is the leading business organization in New York, representing the interests of large and small firms throughout the state. The Business Council's membership is made up of over 2,500 companies, as well as local chambers of commerce and professional and trade associations.

As an organization dedicated to advancing an economic climate that encourages opportunity, entrepreneurship, and innovation, we are testifying in support of CWM Chemical Services LLC's permit to construct and operate a new landfill cell within the existing facility boundary. CWM has proposed the development of a 43.5-acre landfill, on its current 710-acre hazardous and industrial waste management facility located in the Towns of Porter and Lewiston in Niagara County. The newly developed landfill, Residuals Management Unit-2 (RMU-2) and will accept waste from brownfields and environmental cleanups as well as industrial and hazardous waste generators.

Many New York State companies have and will continue to make significant efforts to reduce to the maximum extent practicable the volume or quantity and toxicity of waste. The vast majority of New York companies where possible, have redesigned processes to eliminate or reduce chemical use and substitute more environmentally preferable chemicals. All maintain programs for proper management of the chemicals needed for research, development and manufacturing, from selection and purchase to storage, use and final disposal, in a manner to reduce the development of hazardous waste.

Provided however, hazardous waste is and will continue to be generated in New York. It can originate from industrial processes, but can also be generated from treating hazardous waste and from cleaning up improperly managed waste or spills. Advancement of the chemical and manufacturing industries in this country



(the major generators of large amounts of hazardous waste) has altered the creation and management of hazardous waste. Increased regulatory oversight, fees, and controls have resulted in higher costs that, coupled with a growing environmental awareness by industry and hazardous waste reduction opportunities and requirements, serve as an incentive for industry to modify its processes to generate less hazardous waste per unit of production, to reuse the hazardous waste within its own processes or sell it to another industry for use, and to recycle as much of the material as technically and economically feasible to recover resources. Primary hazardous waste shipped off-site continues to show a steady decline, consistent with other indicators.

Although advancements have been made to reduce and reuse waste before it becomes a primary hazardous waste. Some primary waste will continue to be generated that requires proper handling, treatment, and disposal. Many members of the Business Council who generate primary hazardous are directly or indirectly assisted by the CWM facility. The facility is the only commercial hazardous and industrial treatment, storage and disposal facility in the region. The in-state facility provides access to handling and disposal by proven experts. The facility leads the industry in safety, reliability and technical sophistication while maintaining full compliance with all local, state and federal environmental regulations. The in-state location can assist in reducing expensive transportation and shipping costs.

For some New York businesses the CWM facility is a vital partner in the New York operations, without the facility costs and uncertainty would increase which could result in reduced competitiveness for those manufactures or chemical producers. In addition to primary wastes the facility can treat, store and dispose of remedial wastes. This waste may be generated from cleanup under state and federal environmental programs as well as outside those programs. While there is a goal to decrease the amount of hazardous waste generated from industrial processes, remedial waste increases can be viewed as a positive trend since it reflects increased environmental clean-up actions.

Additionally, New York State has since 2003 seen a growing amount of remedial waste generated as result of cleanups that have occurred under the Brownfield Cleanup Program (BCP). The BCP was established by New York State Chapter 1 of the Laws of 2003, to facilitate the voluntary redevelopment or reuse of real property which may be complicated by the presence or potential presence of a contaminant. The presence of contamination results in a barrier to redevelopment because lenders are reluctant to place mortgages on contaminated properties, and developers are hesitant to purchase such properties and pay for the remediation, because of potential liability. It very common for the remedial waste generated at one of New York's brownfields to

be processed at the CWM facility as such the facility has demonstrated an important role in the redevelopment of former industrial location, underutilized properties, blighted communities, and our upstate urban core.

In addition to the aforementioned benefits the Model City Facility represents a significant component of the overall Niagara County and regional economy and generates significant direct and indirect benefits in areas that include the following Construction costs for RMU-2 are anticipated to be over \$55 million, with a majority of that spent on local contractors. Nearly all of CWM's 66 employees reside in Niagara County with a payroll of \$5 million in wages, salaries & benefits. In addition, \$5 million annually is spent with local trucking companies, engineering firms and other suppliers. Currently, CWM's annual impact to Niagara County is \$12 million.

With this proposed landfill extension, the Town of Porter will realize \$500,000 in additional revenue. Total revenues to Porter and Lewiston in school and property taxes, over the anticipated life of the landfill, is \$45 million. An economic impact total of \$1.2 billion is expected over the life of the facility.

In conclusion the Business Council supports the issuance of the necessary permits to authorize the development of RMU-2 on the current CWM Chemical Services, L.L.C facility in Model City, NY. These permits will allow CWM to continue the management of hazardous and industrial non-hazardous wastes and will insure the continued operation of a facility that is important to the economic vitality of many other business and operations.



Darren Suarez  
Director of Government Affairs  
The Business Council of New York State, Inc.

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**From:** Pamela Hughes [REDACTED]  
**Sent:** Sunday, November 23, 2014 7:47 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Public Commentary: CWM's application for expansion  
**Attachments:** CWM Public Comment Letter.doc

To Whom It May Concern,

Attached is the followup letter on behalf of the Sierra Club Niagara Group to be submitted for public commentary. Thank you for your consideration.

Pamela Hughes  
Vice Chair of the Sierra Club Niagara Group

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

November 20, 2014

RE: CWM Proposed RMU-2 Expansion

Dear Judge McClymonds,

Thank you for the opportunity to submit comments regarding the Chemical Waste Management's (CWM) proposed RMU-2 expansion to its existing landfill in Niagara County. Representing over 2600 members, I spoke on behalf of the Sierra Club Niagara Group at the Public Hearing held in Lewiston on June 16, 2014. This letter is being additionally submitted to reassert our opposition to this expansion proposal. Our justification is itemized in the following excerpts of that hearing.

1) New York State Department of Environmental Conservation has concluded that a new hazardous waste landfill in New York is unnecessary. The New York State Hazardous Waste Facility Siting Plan was adopted in October 2010, stating that no additional hazardous waste disposal capacity is required. In 1995, the EPA eliminated the requirement that states provide hazardous waste management capacity assurance due to long-term excess capacity. Excess capacity continues as noted in the Siting Plan's Ch. 6:

“Based on the national availability of facilities, there are sufficient transfer, storage and disposal facilities for management of hazardous waste generated in New York, and will be for the foreseeable future.”

2) Inequitable Distribution of Hazardous Waste Storage Sites:

According to *Mapping Waste: Setting the Stage to Clean up Niagara* (2010), accurately revised by DEC and EPA staff, the comparative legacy and ongoing contamination in Western New York with the rest of New York State is substantially overburdened. Of sixty-two counties within New York State, three counties have more than their share of toxic sites. Such legacy sites are particularly unsuited for new hazardous waste storage and disposal facilities since it would further delay the cleanup of legacy wastes. Further expansion of CWM would exacerbate this situation.

3) Hazardous Waste Landfills pose risk to human health and the environment. In addition to compliance with New York's State Environmental Quality Review Act, regulation specific to hazardous waste landfills requires the evaluation of contamination of groundwater, risk from fires, transportation and to public health. The regulation seeks to operate these facilities as safely as possible. Expansion of CWM is not synonymous with "safe." CWM has a long history of state and federal fines for permit violations.

The designated inbound truck route to CWM passes in front of all public schools serving two towns in Niagara County. These trucks originate from throughout the country on interstate highways that typically merge in greater Buffalo. In addition, monthly "monitor" reports issued by NYS Department of Environmental Conservation (DEC) frequently cite hazardous waste trucks arriving at CWM's gate as already leaking. According to a study by the New York State Department of Health, children living in the school district hosting CWM Chemical experienced nearly double the rate of expected childhood cancers compared to the rest of the state. The cases identified were downwind, downgradient or in areas hosting CWM's truck route.

4) The WNY REDC Development Plan calls for "Sustainable Economic Growth" and "improvement upon the region's image." A hazardous waste landfill is unsustainable and has a negative image that has been publicized by media across Upstate and also the *New York Times*. There are 17 commercial hazardous waste landfills left in the United States. Several have closed in the past 20 years and more may close over the 30-year term of CWM's application. Hosting one of the last toxic waste dumps in the United States is incompatible with REDC objectives. Just 1.4% of CWM landfill volume was produced by New York State businesses. In addition, the Siting Plan states that CWM could be considered if it brought economic benefit to the community, but if you read that section carefully it calls as much attention to the economic downside of such facilities as it does to cash flow with "potential reduction in property values, new housing construction, attracting new clean and sustainable businesses, tourism, etc." If Niagara County seeks to become a world-class tourist destination, the operation of a hazardous waste landfill would certainly be in conflict with that goal.

5) Lastly, the potential effects of future climate destabilization places the Niagara County region at risk for contamination of regional aquifers, land, and air quality within the vicinity of CWM.

For all of these stated reasons, the Sierra Club Niagara Group stands in opposition to the proposed expansion of CWM. The overwhelming community outcry and rejection of this proposal at the public hearings in June 2014 was evident and demonstrative of the people's rejection of this plan. A new vision for Niagara County is necessary for this

community to thrive and prosper going forward into the future.

Sincerely,

Pamela Hughes

Vice Chair for the Sierra Club Niagara Group

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**From:** [REDACTED]  
**Sent:** Sunday, November 23, 2014 6:46 AM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** CWM New Landfill

I am vehemently against this new landfill. Our county has been the trash dumping area for world. It is time to stop!! The citizens of Lewiston should be outraged. Let the countries of the world keep their own garbage. All our manufacturing industry has been sent to foreign countries and we are the dumping grounds. Why do not you think that Western NY is the cancer center of the country? Lets stop the import of garbage now.

Janis Toenniessen, Manager  
Lake Ontario Motel  
[REDACTED]

**From:** Joseph L. Levesque [REDACTED]  
**Sent:** Monday, November 24, 2014 9:34 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Applications by CWM Chemical Services, LLC for a new Hazardous Waste Disposal Facility in Niagara County ("Applications")

November 24, 2014

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

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

A large black rectangular redaction box covering the signature area.

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**From:** Laura Bierman [REDACTED]  
**Sent:** Tuesday, November 25, 2014 3:27 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Cc:** [REDACTED]  
**Subject:** Applications by CWM Chemical Services, LLC to Site a New Hazardous Waste Disposal Facility in Niagara County ("RMU-2")  
**Attachments:** letter to CWM on Siting of Waste in Niagara Nov 2014.docx

Judge McClymonds,  
Attached please find a letter from the League of Women Voters of NYS concerning applications by CWM Chemical Services, LLC to site a new hazardous waste disposal facility in Niagara County ("RMU-2") .

Thank you.

Laura Ladd Bierman  
Executive Director  
League of Women Voters of NYS  
[REDACTED]



The League of Women Voters of New York State

THE LEAGUE  
OF WOMEN VOTERS  
*of New York State*

November 24, 2014

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)

**RE: Applications by CWM Chemical Services, LLC to Site a New Hazardous Waste Disposal Facility in Niagara County (“RMU-2”)**

Dear Judge McClymonds,

We are pleased to submit comments on portions of the above-referenced applications.

The League of Women Voters, a multi-issue nonpartisan organization which works to promote political responsibility through the informed and active participation of citizens in government, opposes the application now pending to site a new hazardous waste disposal facility in Niagara County.

The criteria against which a Siting Board must evaluate an application, as set forth in the Hazardous Waste Facility Siting Plan adopted by New York State in 2010 are: (a) consistency with the Plan; (b) need for the facility based on capacity; (c) need based on other factors (whether the facility is “otherwise necessary”); and (d) public interest.

Since the principal finding of the Plan is that:

“based on present national capacity, *there is no need* for additional hazardous waste management facilities or expanded hazardous waste management capacity in New York<sup>1</sup>. . .

<sup>1</sup> Siting Plan p. 9-3 [http://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/hwspfinal.pdf](http://www.dec.ny.gov/docs/materials_minerals_pdf/hwspfinal.pdf)

it can hardly be argued that this application satisfies the criteria that there is a need for the facility based on capacity. This, alone, should be sufficient basis upon which to deny this application.

Further, denial of an application to construct or operate a hazardous waste facility can be supported if the ‘board finds that the facility is not otherwise necessary *or in the public interest.*’”<sup>2</sup>

With respect to whether or not the operation of this facility would be in the public interest, we ask this body to consider the fact that approval of this application would exacerbate the already disproportionate burden placed on Niagara County as the only area of the state ever to host commercial hazardous waste Treatment, Storage and Disposal Facilities, and would violate the statutory requirement for “an equitable geographic distribution of facilities.”<sup>3</sup>

This application also triggers the provisions of SEQRA, which mandates that all state and local government agencies consider environmental impacts equally with social and economic factors during discretionary decision-making,”<sup>4</sup> and, that “If the agency concludes that some impacts will not be fully avoided or mitigated, the agency must explain how it balanced those unmitigated adverse environmental impacts against economic, social, or public needs.”<sup>5</sup>

Operation of a commercial hazardous waste land disposal facility would most certainly result in adverse environmental impacts that cannot be fully mitigated. New York State Environmental Conservation Law, §361.7, requires a Siting Board to rate applications against criteria that includes, “Contamination of ground and surface waters, Fires and explosions, Air quality, Risk of Accident in transportation, and Preservation of endangered, threatened, and indigenous species.”—all of which are endemic to a hazardous waste facility.

If there are impacts that cannot be fully avoided or mitigated, all potentially significant economic and social impacts arising from the applications should be considered, whether positive, negative or neutral.

CWM applications assert that the proposed hazardous waste landfill would be “in the public interest” or otherwise mitigated based on factors which include “economic benefits.” The applications purport to set forth the monies which have been expended for the benefit of the community, but the information lacks sufficient detail about those expenditures to allow intelligent evaluation of whether the claimed expenditures should, in fact, be considered to be “of

<sup>2</sup> Siting Plan p. 9-5 [http://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/hwspfinal.pdf](http://www.dec.ny.gov/docs/materials_minerals_pdf/hwspfinal.pdf)

<sup>3</sup> § 27-1102 Hazardous waste disposal capacity assurances and statewide hazardous waste facility siting plan.

<sup>4</sup> <http://www.dec.ny.gov/permits/6208.html> Introduction to SEQR, NYSDEC

<sup>5</sup> 2005, NYS DEC SEQR: Guiding the Process

benefit” to the community. The majority of expenditures listed in CWM applications provide no detail as to who benefits. For example, the application states millions of dollars a year are paid to Erie & Niagara county suppliers, contractors and haulers, with no specification of who these entities are, whether they are local entities or whether the monies paid under this category are not of benefit to the locales affected by the presence of the facility, but flow out to other locations. “Who benefits?” is a question frequently asked when evaluating public interest matters.

Partnership for the Public Good and the New York Public Interest Research Group have advised us of their concurrence to this letter as well.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Sally Robinson".

Sally Robinson  
President, League of Women Voters of NYS

cc: Sam Magavern, Co-Director, Partnership for the Public Good, [REDACTED]  
Laura Haight, Senior Environmental Associate, New York Public Interest Research Group

November 25, 2014

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 strongly support the new landfill, which is proposed for construction at the CWM Chemical Services, LLC (CWM) facility in Model City, NY. I am the Permitting Manager at the CWM facility and have worked at this location for 5 years and had worked for CWM as a consultant for the previous 20 years. I have a Bachelor's degree in geology. I am well versed in the treatment and disposal of hazardous waste and the hydrogeologic setting of the facility. I believe that the hydrogeologic setting of RMU-2 and its design, with a double liner system, leak detection and leachate remove system is very protective of the environment.

Only solid waste that meets all regulatory and permit specifications may be placed in the landfill. While the waste minimization requirements of the Resource Conservation and Recovery Act (RCRA) have greatly reduced that amount of process based waste that our facility receives, we continue to receive large quantities of remediation based waste. For these contaminated soils, other treatment options such as soil washing, oxidation or incineration are often not practical (difficult to perform successfully) or they generate large volumes of treatment residuals. Long-term containment in an off-site secure landfill is often the most practical way to remediate contaminated property and make it available for future development. Our largest customers are NYSDEC and USEPA, Region 2!

While some may say that there is sufficient capacity in other landfills in the U.S. and another landfill is not necessary in Western New York, looking at the big environmental picture, it doesn't make sense to truck hazardous waste from the East Coast to all the way Alabama or Michigan, the two closest RCRA/TSCA permitted landfills. One needs to consider the extra diesel fuel consumed and the air pollution produced by the all the additional truck miles. Construction of the RMU-2 landfill at the Model City facility will provide disposal capacity for remediation waste generated in New York and the other eastern states.

Thank you for considering my Comments.

Sincerely,



Jonathan P. Rizzo  
Permitting Manager  
CWM Chemical Services, LLC.

**From:** Union [REDACTED]  
**Sent:** Monday, November 24, 2014 9:40 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** CWM Landfill  
**Attachments:** cwm comment.pages.zip

see attached

AFSCME Local 182  
[REDACTED]  
[REDACTED]

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

November 20, 2014

Judge McClymonds,

On behalf of the members of AFSCME Local 182, Niagara County Blue Collar Workers, and the residents of Niagara County, I am submitting comments on the proposed expansion of CWM Landfill.

Our members, as well as all residents of Niagara County have had to endure an unfair exposure to many chemical, and radioactive substances for too long. The current facility at CWM should be prevented to expand for many reasons including:

The waste that is buried presently has never been contained. A 1993 investigation at CWM found that Groundwater, Surface and Subsurface contaminant concentrations were in excess of appropriately protective risk based levels. Still further storage of additional Hazardous compounds has been occurring. This has also been done in violation of a 1972 Niagara County Board of Health order preventing such use of this property.

The Hazardous Waste Siting Plan, issued by the NYS DEC, is not geographically equitable. There has never been proven that such expansion is necessary to meet the needs of our region. The need for additional storage does not outweigh the inequity burdened upon our region that this expansion will saddles with.

Please consider my comments when you, along with the siting committee consider this very important decision.

Bill Rutland, President, AFSCME Local 182  
[REDACTED]  
[REDACTED]

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**From:** Lauren Williams [REDACTED]  
**Sent:** Tuesday, November 25, 2014 1:02 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** NYFB's comments on CMW RMU-2 proposed applications  
**Attachments:** NYFB\_CWMComments.pdf

Dear Judge McClymonds,

Please find attached a copy of New York Farm Bureau's comments on the CWM Chemical Services, LLC's proposed RMU-2 facility.

If you have any questions, please feel free to contact me.

Thank you,

Lauren

Lauren Williams  
New York Farm Bureau  
Assistant Director of Public Policy





New York Farm Bureau •

November 25, 2014

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)

Dear Mr. McClymonds,

New York Farm Bureau, the State's largest agricultural advocacy organization with almost 25,000 members across New York State wishes to voice its opposition to the proposed RMU-2 landfill and related applications by CWM Chemical Services, LLC. Our membership has serious concerns about the impact that the proposed RMU-2 facility would have on agricultural land and markets. We urge the Facility Siting Board to deny a Siting Certificate to CWM Chemical Services, L.L.C., and to oppose issuance of a permit for the facility by the Department of Environmental Conservation. We also wish to express our support for the Niagara County Farm Bureau's comments and their application for Party Status.

Agriculture is a vital part of the community and roughly one-third of the Niagara County is used to support 760 farms. Generations of family farms have played a significant historical and cultural role in the community. Niagara County produces a wide variety of agricultural products such as milk, beef, vegetables, fruits, wines, grains, and horticulture items. The market value of these products totals over \$122 million and directly impacts the vitality of the local economy.

More importantly, farmers are stewards of the land and work hard to ensure that the land they farm is healthy. The proposed RMU-2 landfill would negatively impact the land and stewardship farmers have instilled. Adding to the discharges of PCB's, volatile and semi-volatile chemicals from the CWM facility would be adverse to area farms. A new hazardous waste landfill would have a serious impact on our environment with lasting implications. Adding this kind of pollution to waterways and farmland could make them unusable in future years and damage the reputation and marketability of agriculture products from the region.

Niagara County is home to a vast wealth of natural resources including the Niagara River, Niagara Falls, and is part of the Great Lakes Watershed, which is the largest source of surface fresh water in the world. The addition of another hazardous waste landfill and the large associated lagoons in Niagara County would add an unwise and unnecessary burden to our waters. This not only impacts Western New Yorkers, but the tens of millions of Americans and Canadians located near these water bodies.

Not only are there environment concerns associated with a new hazardous waste landfill but significant economic costs to the community as well. Reductions in property values, new housing construction, attraction of new clean sustainable businesses, tourism, and tax dollars are all a concern. Growth-reducing impacts to local populations from the proposed RMU-2 would, in turn, adversely impact the farm markets and overall farm profitability.

Recently, Niagara County has experienced some positive economic development, especially in the area of tourism. The New York State-designated Niagara Wine Trail, which runs through the heart of Niagara County, is host to 13 wineries and seasonal wine tastings and community events. The Trail's popularity has brought in increased tourists and tourism dollars. The Trail supports not only wineries, but vineyards and local farmers who market their goods. Further wine trail expansion opportunities would be limited by a new landfill because not only would tourists be competing with landfill trucks on roadways but also the perception that local goods maybe compromised by leaked contaminants could deter tourists.

RMU-2 would increase the past 40 years' hazardous waste landfill burden on Niagara County by an estimated 65%. Per estimates provided by DEC in 2008, waste under long-term management at CWM is depicted below, with RMU-1 and RMU-2 capacity shown beneath.

<u>Haz. Waste Landfills</u>	<u>Operated</u>	<u>Acreage</u>	<u>Tons (cy x1.5)</u>
SLF's 1-6,7,10,12	1971-1995	78	3,705,378
RMU-1	1995-2015	49	5,400,000
Proposed RMU-2	2015-2045	47	<b>6,000,000</b>

According to evaluations by experts for Niagara County and its Board of Health, RMU-2 would increase leakage and migration of contaminants from the site, adding to the environmental and public health burden on residents, as well as additional spills, leaks, and accidents on surrounding roadways from trucks travelling to and from the facility. There are significant numbers of homes and facilities, including school and hospitals, along routes to the facility that would be affected.

As part of the Facility Siting Board's decision process, they must consider the 2010 New York State Hazardous Waste Facility Siting Plan, that stated, *"Based on the national availability of facilities, there are sufficient available TSD (Treatment, Storage, and Disposal) facilities for management of RCRA (Resource Conservation and Recovery Act) hazardous waste generated in New York, and will be for the foreseeable future. Periodically, US EPA will revisit the issue of national capacity and need through analysis of available data and regulators at both state and federal level will have years of lead time to address potential capacity shortfalls. Thus there is no current or near term need for increased capacity for hazardous waste management in New York State."* This statement alone shows that RMU-2 is not needed.

Our farmers take the care and protection of our environmental resources in New York very seriously. Clean water is essential to healthy crops and livestock and ensures the protection of drinking water for our farm families, their communities, and all residents of New York. All the work that farmers have done to protect the water and other natural resources would be further jeopardized by discharges and accidents that would occur due to RMU-2 operations.

Therefore New York Farm Bureau respectfully requests that the Facility Siting Board for CWM's Proposed RMU-2 landfill project deny the application for a Certificate of Environmental Safety and Public Necessity. We also request that the DEC deny all permit applications related to the hazardous waste Treatment, Storage, and Disposal Facility. We thank you for the opportunity to comment on the RMU-2 landfill and the impact it will have on agriculture in Niagara County.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Williams". The signature is written in dark ink and is positioned above the printed name and title.

Lauren Williams  
Assistant Director of Public Policy

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**From:** [REDACTED]  
**Sent:** Tuesday, November 25, 2014 3:57 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Cc:** [REDACTED]  
**Subject:** Comments on CWM Expansion  
**Attachments:** CWM\_Expansion\_BuffaloNiagaraRiverkeeperComments.pdf

Mr McClymonds,

Please accept the attached PDF as Buffalo Niagara Riverkeeper's comments on the proposed expansion of CWM.

Thank you,

Katherine Winkler  
Buffalo River Projects Manager  
Buffalo Niagara Riverkeeper  
[REDACTED]

November 18, 2014

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

Judge McClymonds:

Thank you for providing this opportunity to submit comments concerning Chemical Waste Management's (CWM) proposed RMU-2 expansion to its existing landfill in Niagara County. Buffalo Niagara Riverkeeper (Riverkeeper) is one of Western New York's leading non-profit organizations regarding the protection and stewardship of the region's fresh water resources. As such, our interest in this permit application and the larger subject of waste management practices is to ensure that the policy, process, science and community-based analyses used to evaluate the request are given careful and thoughtful attention in order to ensure that no adverse impact will occur to the community or environment now or in the future, as a result of the proposed activity. The existing facility and proposed expansion locations are located in the Niagara River watershed, approximately two miles from the Niagara River and three miles from Lake Ontario. The Niagara River is currently being addressed by the New York State Department of Environmental Conservation, the International Joint Commission, and US Environmental Protection Agency based on its designation as an "Area of Concern" which is due, in part, to contaminated bottom sediments. Lake Ontario provides drinking water to approximately 8 million people throughout the United States and Canada.

The following comments mainly address the findings of three basic permit documents that will inform the Siting Board's decision on CWM's proposal for RMU-2. These documents include: the *New York State Hazardous Waste Facility Siting Plan* (Plan, 2010), the CWM Draft Environmental Impact Statement (DEIS), and the Facility Siting Criteria and CWM scoring anticipated for RMU-2. Based on our review of these documents and our knowledge of the project area, **Riverkeeper concludes that the proposed RMU-2 facility is not consistent with the State Hazardous Waste Facility Siting Plan and therefore a permit should not be issued for its construction.** We provide the following:

## 1. NYS Hazardous Waste Facility Siting Plan

The NYS Hazardous Waste Facility Siting Plan (Plan) states two basic criteria for deciding whether or not to site a new hazardous waste facility in New York State:

**Criteria 1 - Is a proposed facility consistent with the Plan?** See Sections 2 and 3 below for an itemization of inconsistencies with the Plan's criteria.

**Criteria 2 - Is a proposed facility otherwise necessary or in the public interest?** The Plan itself provides a clear "No" to this question in regard to proposed RMU-2, as follows:

- Clear need not demonstrated. The Siting Plan begins and ends with a clear statement that current "capacity exists for the foreseeable future", and since its publication, capacity was added in Wayne County MI—adding 44 years to NE PCB landfill capacity at current disposal rates as of 2014. In addition, the following statement appears within the plan: **"Based on the national availability of facilities, there are sufficient available TSD facilities for management of RCRA hazardous waste generated in New York, and will be for the foreseeable future."** Periodically USEPA revisits the issue of national capacity and need through analysis of available data and regulators at both a state and federal level and will have years of lead time to address potential capacity shortfalls. Thus there appears to be no current or near term need for increased capacity for hazardous waste management in New York State. For PCB wastes that can be landfilled, landfill capacity is estimated to exist through 2021, with landfill capacity for Mega Rule PCB remediation waste estimated to exist beyond 2100 for the northeast quarter of the country." (Plan, 6-9)
- Phase-out goal. Creating more landfill capacity contradicts and undermines the Plan's phase-out goal. The Siting Plan states that its goal is "to phase out land disposal of hazardous wastes, other than treated residuals posing no significant threat to public health or to the environment." It ranks landfilling as the least desirable alternative in the hazardous waste management hierarchy of alternative treatments, due to:
  - "the long-term containment uncertainties associated with land burial,
  - the characteristics of the hazardous waste which degrade containment mechanisms used in authorized hazardous waste land burial facilities, and
  - the persistence, toxicity, mobility and propensity to bio-accumulate of such hazardous wastes and their toxic constituents." (Plan, 4-5)
- Environmental Justice. The Plan states that "the Siting board should evaluate the location of a proposed facility, including past and present activities at the property and in the surrounding area including transportation issues, the facility's compliance history, and environmental justice considerations." It quotes the DEC environmental justice policy including "fostering green and healthy communities...redevelopment of contaminated land, air and water quality,...[and] quality of life and public health." (Plan, 9-6,7)  
 The burden on residents of existing hazardous waste makes this location least favorable for adding more. Past activities at the CWM/Model City site include landfilling of over 9 million tons of hazardous waste and a long history of permit violations and corrective actions. The RMU-2 facility would add an estimated 4 million cubic yards or 6 million tons to the waste burden. (Draft permit)

Additionally CWM is located adjacent to and over other major hazardous waste sites including the Niagara Falls Storage Site and the 7,500-acre Lake Ontario Ordinance Works (LOOW) where the waste mix includes radioactive waste. As CWM notes in the DEIS scoping document for RMU-2, “previous use by the US government as part of LOOW, or other reasons could explain any contamination of off-site fish or surface ditches. Without more information it is not possible to evaluate any such off-site contamination and related causes or sources.” (p.10) By the same token, adding RMU-2 to this landfill complex will further complicate efforts to characterize and delineate the volume, location and migration of existing contaminants and will further postpone remediation of the LOOW site.

The surrounding area includes rates of Colorectal, Prostate and childhood cancer at 50-100 times expected rates. (NYS DOH Cancer Incidence by zip code, Niagara County). Also, depressed property values are a direct result of the general perception that the groundwater and soils are not safe.

## 2. Draft Environmental Impact Statement (DEIS)

Potentially impacted ecological communities. The DEIS looks at ecological communities potentially affected by the RMU-2 “project region,” which is defined as the area north of Route 104 to Lake Ontario between the Niagara River and Ransomville Road. This definition is flawed insofar as it excludes the lower Niagara River itself and the western basin of Lake Ontario, both downstream of and potentially affected by CWM discharges of persistent toxic contaminants to groundwater, surface water and sediments via outfalls to the Niagara River, Four Mile Creek and Twelve Mile Creek. Reference is made to issues raised by the Niagara County Municipal Stakeholders' petition on this matter regarding discharge limits for PCBs. We ask DEC to fully evaluate this issue as we consider it to be significant and substantive.

As a connecting channel between Lake Erie and Ontario, the Niagara River is a globally significant corridor for migratory fish and birds, but also a significant source of contaminants like PCBs, causing fish and wildlife consumption advisories in the lower river and across Lake Ontario. Aquatic species potentially impacted by CWM outfalls should not be ignored.

The DEIS states that “there have been no recent observations of rare or state-listed animals and plants, significant communities and other significant habitats located within the proposed project site.” (DEIS 3.5.5.) **Riverkeeper disagrees with this assessment. Here are some of the New York State-listed wildlife species/communities that potentially are impacted by the CWM facility expansion:**

- Lake Sturgeon (NYS threatened): The lower river, including “Peggy’s Eddy” which is in the area of CWM outfall 001, is a known Lake Sturgeon area (US FWS; Lowie, 1999). Populations of Lake Sturgeon are considered to be at about 1% of historic abundance (Carlson, 1995; Hay-Chmielewski and Whelan, 1997; COSEWIC, 2006). As a long-lived, bottom-feeding species, Lake Sturgeon may be especially vulnerable to contaminants like PCBs accumulated in river sediments and benthic biota.
- Indigenous State-listed fish-eating birds and wildlife. The lower river also plays an important role in the life cycle of many of the bird species that make the Niagara River a globally significant Important Bird Area. PCBs and other persistent toxic contaminants in the water and sediments threaten the biotic integrity of aquatic communities, including

benthic organisms, fish, and the animals that eat them. Buffalo Audubon records include many piscivorous, NYS-listed RTE and species of concern in Joseph Davis State Park, which is within the DEIS-defined project region. These species include Pied-billed Grebe, Bald Eagle, Common Tern, Osprey, Common Merganser and a variety of listed gulls. The DEIS itself lists several other NYS-listed species of concern in the project region including Blue-winged Teal, Great Blue Heron, and a Pocketbook mussel species *Lampsilis ventricosa*. (DEIS, Table 3-6)

- State-listed upland birds that likely breed in the project region include Savannah Sparrow, Bobolink, Eastern Bluebird, Eastern Meadowlark, Horned lark, Whip-poor-will, Northern Harrier, Sharp-shinned Hawk, Cooper's Hawk and Common Nighthawk (Audubon).

### 3. Siting Criteria

A site scoring above 200 points is deemed inconsistent with the State's siting considerations and criteria (NYS ECL 361.7). CWM scores the proposed RMU-2 facility at 152 points based on 14 criteria. Based on Riverkeeper's review of those siting considerations within our area of expertise, the overall score for RMU-2 should substantially exceed 200 points as per the discussion below.

- 1a: Population density in the vicinity of the proposed site. "Vicinity of the proposed site" is defined as "residential and nonresidential population within 0.5 miles of the site boundary." This definition not only contradicts the project region as defined in the DEIS; it also excludes potential project impact areas such as the wastewater pipelines and air emissions that move contaminants off-site. It excludes a major vulnerable population—school-age children in the Towns of Lewiston and Porter. The campus of the largest of these schools, LewPort (2,100 children), is situated over hydraulic connections between the CWM site and the Niagara River. Due to these potential exposures this criterion should reflect a vicinity of 3 miles and receive a Least Favorable ranking of 3.
- 4b: Proximity to incompatible structures. All of the public schools in the Towns of Lewiston and Porter are located along the transportation route or within the potential impact area of air and water discharges off site. This should also be scored a Least Favorable ranking of 3.
- 6. Municipal effects. Can "consistency with the intent of master land use plans" and with local laws be ranked a "2" when all Niagara County local governments, agencies, and school districts are on record opposed to the proposed CWM expansion and when the 2007 Niagara River Greenway Plan has invested tens of millions of dollars into ecological and recreational improvement of the Niagara Greenway? The siting of the proposed facility has major inconsistencies with the specific intent and overall approach of the Greenway Plan and with every municipal waterfront master plan within the Greenway. Given what these local officials have said about declining public revenues and increased public awareness of the negative quality-of-life effects, such as health issues and depressed real estate values, associated with living near a major toxic landfill, all three categories here should be ranked 3, Least Favorable.
- 7. Contamination of ground and surface waters: Annual discharges ranging from between 10 and 30 million gallons of treated wastewater from CWM facultative ponds

add to PCBs in the Niagara River each year. (Abraham, 2005) Over a dozen permit violations associated with these discharges were cited in a DEC 2008 Consent Order with CWM. However, the permit application does not evaluate the condition or useful life of this discharge pipeline which is over 35 years old, potentially subject to leaking and/or infiltration and runs generally west from the facility, under the LewPort School campus to the Niagara River. Increasingly severe and flashy storms will potentially generate more runoff and more groundwater overflow as when the snowmelt from the “Blizzard of ‘77” caused Love Canal to overflow the following spring.

Discharges of CWM wastewater into tributaries of Four Mile and Twelve Mile Creeks have exceeded permitted concentrations of PCBs. As a result, the DEC proposed additional internal outfalls for CWM to identify the source(s) in 2008. However, to date the SPDES permit for these discharges has not been modified. A 2010 NYSDEC Biological Assessment Profile at Four Mile Creek shows in-stream habitat to be severely impacted for aquatic life. The 1.89 BAP score at this site may be the lowest on record for streams in Western New York. Riverkeeper is waiting for a response from DEC as to the location of CWM’s outfalls in relation to this stream segment.

These histories and uncertainties regarding underground migration recall the reasons listed in the Siting Plan for phasing out hazardous waste landfilling in New York State (see 1.2. a-c above). All three items in this category should be scored Least Favorable.

- 10. Air quality. The proposed expansion includes open air hazardous waste lagoons (66 million gallon capacity) that depend on the air to absorb volatile pollutants (PCBs) with residuals discharged to the Niagara River—called by critics “an uncapped landfill.” Given this exposure of volatiles to air, air quality should be scored a 3 as it was for RMU-1.
- 12. Preservation of RTE species. “Sites are least acceptable where the development and operation of proposed facilities is likely to jeopardize the continued existence of endangered, threatened or indigenous species by destruction of their habitat.” See DEIS comments above concerning the need to protect NYS-listed indigenous species in the project region. Lake Sturgeon and Bald Eagle are just two of the threatened species with critical habitat in the project region. This should be scored at least a 2.
- 13. Conservation of historic and cultural resources. The Niagara River itself; Joseph Davis, Four Mile Creek and Fort Niagara State Parks; the Niagara Greenway; the historic Village of Lewiston; and the pre-Iroquoian and Haudenosaunee “customary use” sites along the river are all part of the Niagara region’s cultural heritage. Their importance increases as the region’s economy shifts away from heavy industry and as funding is more available for habitat restoration, place-based recreation and tourism. Conservation of this natural and cultural capital is likely to be adversely affected by expansion of the landfill. This should be scored a 3.
- 14. Open space, recreational and visual impacts. Development and operation of the RMU-2 facility is likely to adversely affect all the open space, recreational, scenic and tourism resources that are now becoming more robust, visible and treasured in the project region thanks to new interest and funding for the Niagara River Greenway, Niagara Escarpment protection, and NYS Open Space priorities. All three items under #14 should be ranked 3, Least Favorable, given this resurgence of the Niagara region and the advancement of open space, recreation and scenic vistas that is occurring.

**Much has changed in the project region since RMU-1 was approved.** The Niagara River Remedial Action Plan has invested millions of dollars in cleaning up landfills and waste discharges to the river. The Niagara Greenway Plan has helped promulgate and build a vision of connected open space, resilient habitat, cultural celebration and ecotourism in the region. Both plans have fostered research that is increasing our knowledge of the natural and cultural resources of the region including:

- **Lower Niagara Lake Sturgeon and benthic organisms research:** Researchers from the Great Lakes Center, SUNY Buffalo State and U.S. Fish and Wildlife Service
- **Niagara Greenway Habitat Strategy:** Buffalo Niagara Riverkeeper
- **Joseph Davis State Park Bird Habitat Restoration:** Buffalo Audubon
- **Niagara Escarpment Conservation Plan:** the WNY Land Conservancy
- **Stella Niagara conservation and kayak access plan:** the WNY Land Conservancy

All of these efforts are bringing more people and wildlife to the project region and reducing the prospect of an additional hazardous waste facility to the least acceptable use of the land. Within the Western New York region, the cumulative impacts associated with hazardous waste disposal activities have far exceeded the carrying capacity of our human and natural resource systems. For this and all the reasons stated with this letter, Buffalo Niagara Riverkeeper is opposed to requested permit for expansion.

Thank you again for the opportunity to provide comments on this request. If you have any questions regarding our comments, please do not hesitate to contact me at 716-852-7483 x21 or [jedlicka@bnriverkeeper.org](mailto:jedlicka@bnriverkeeper.org).

Sincerely,



Jill Jedlicka,  
Executive Director

MW:KW:jsj

Cc: Margaret Wooster  
Katherine Winkler  
Kerrie Gallo  
Abby Snyder  
Don Zelazny

**From:** [REDACTED]  
**Sent:** Monday, November 17, 2014 3:11 PM  
**To:** dec.sm.CWM.RWMUNIT2  
**Subject:** Oppose CWM Expansion

Mr. McClymonds:

I am strongly opposed to Chemical Waste Management's (CWM) proposal to expand and build a new hazardous waste landfill, known as RMU-2. For 40 years, the residents of Niagara County have been unduly burdened with this hazardous waste landfill, which threatens public health, nearby schools, and the Great Lakes. Building a new hazardous waste landfill would pose an unacceptable risk to public health and the environment, and is completely unnecessary!

The U.S. Environmental Protection Agency (EPA) recognizes that all landfills will likely eventually leak. Hazardous waste leaks pose a threat to the environment due to the close proximity to the Great Lakes, which contain 20% of the world's fresh water and provide drinking water to more than 40 million people.

Ton after ton, trucks haul dangerous toxic waste to this community, including a substantial amount of Polychlorinated biphenyls (PCB's), probable carcinogens that persist in the environment. Trucks pass directly by Lewiston-Porter schools on their way to CWM. CWM is only a mile away from the schools, which consist of 2,500 students and 400 faculty members.

Dumping toxic waste in landfills is not the answer. New York State Law established a hierarchy for managing hazardous waste, which stated that landfilling is the least preferential method of managing waste.

There is no need for a new hazardous waste landfill! A principal finding in the New York State's Hazardous Waste Siting Plan is that there is no need for new or expanded hazardous waste management capacity in New York State.

We must not allow an additional 4 million cubic yards of dangerous hazardous waste to come to our community in the decades to come.

Thank you for your consideration of my comments.