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September 17, 2001

TO: Sardinia Town Comprehensive Planning Committee

SUBJECT: WMNY Chaffee Landfill application for local approval for expansion

Please consider these comments on the above-referenced matter, on behalf of three residents of Chaffee, Lana and Ronald Sheridan and Tess Cullis, all of whom live on Hand Road in close proximity to the applicant's solid waste landfill.

Chaffee Landfill Must Install New Environmental Protections if the Town Does Nothing

If the Town does nothing the landfill will not be permitted to expand. If the Town does nothing the landfill will still be required to comply with all applicable state and federal environmental laws up to at least the year 2009, the year the landfill's current operating permit expires.¹

Among these laws are the federal Clean Air Act's (CAA) rules for controlling landfill gas. Comments on this topic at greater length will be provided to the Town in connection with the landfill's application for a CAATitle V operating permit, which could be granted for a five year term. The landfill's Title V permit application is currently in a public comment period until October 12, 2001. However, at this time we can say Chaffee Landfill has shown no willingness to comply with minimum CAA requirements for landfills.

Landfill Gas Regulations Apply to Chaffee Landfill

The CAA's landfill gas rule is incorporated into the DEC's regulations at 6 N.Y.C.R.R. Part 360-2.21, which administers the rule for the U.S. EPA in New York.² The rule provides that a landfill designed to contain 2.5 million megagrams and 2.5 million cubic meters of waste (the mass/volume threshold) and that emits 50 Mg/yr. or more of nonmethane organic compounds (NMOCs) (the

¹In Comments submitted July 17, 2001 to the DEC on Chaffee Landfill's proposal to expand soil and gravel mining we made the error of stating the permitted life of the landfill ends in 2003. Our July 17, 2001 Comments were distributed to the Planning Committee at the Committee's public hearing on August 2, 2001. We have attached a copy of the current permit, which indicates it is valid to December 31, 2009.

²DEC's Part 360 regulations are on line at <http://www.dec.state.ny.us/website/regs/360.htm>.

emission rate threshold) must install a well-designed and well-operation gas control system.

Chaffee Landfill submitted both a design capacity report and an initial NMOC emission rate report to DEC on Feb. 16, 1999, showing both these thresholds had been exceeded. The landfill's design capacity was reported then to be 5.9 million cubic meters, and its NMOC emissions were reported then to be 527 Mg/yr. Since it exceeds the mass/volume and the emission rate thresholds, the control requirements of the landfill gas rule clearly apply to Chaffee Landfill.

Chaffee Landfill Has Failed Come Close to Compliance

Under the landfill gas rule, Chaffee Landfill had 30 months from the time it became subject to the rule to install a well-designed and well-operated gas control system. Since it became subject to the landfill gas rule on Feb. 16, 1999, the deadline for installation of such a system for Chaffee Landfill was August 16, 2001.

The EPA says to be well-designed and well-operated, the system required under the rule must capture gas from "the entire area of the landfill" and must destroy 98 percent of the NMOCs in the gas or "[r]oute the collected gas to a treatment system that processes the collected gas for subsequent sale or use." 40 C.F.R. §§ 60.752(b)(2)(ii)(A)(1); (b)(iii).³

The landfill is a long way off from routing any gas to a treatment system. *The Buffalo News* reported recently, "Peter Martin, Waste Management's district manager, said the drilling and installation of a methane collection system will take at least three years to complete" at the Chaffee Landfill. (July 17, 2001). *The Buffalo News* reported on April 11, 1995:

"Ultimately, CID hopes that methane from all parts of the landfill can be drawn to the flare building," said CID vice president Ronald Chapin. "The structure is up and we expect to light it in May. We think it will eliminate landfill odors."

This single gas flare was a partial response to \$40,000 in fines imposed on the landfill by the DEC in 1994 for odor violations, excess liquid leachate pressure on the landfill liner, an unauthorized drainage ditch from an adjoining mining area and waste placement too close to an existing landfill berm. *Buffalo News* (9/7/94). However, the flare was never intended to comply with landfill gas regulations, which became effective in 1996. See 61 Fed.Reg. 9905 (March 12, 1996).⁴

Many more flares will be needed to collect gas from the entire area of the landfill. In their pending application for a Title V air permit, Chaffee Landfill admits it is collecting, at best, 37.5 percent of the landfill gas produced. See Title V Application (Dec. 1998), page 6. Moreover, as many people know, there have been numerous emission leaks at the landfill's leachate tanks, emissions from sizable

³The Code of Federal Regulations is on line at <http://www.access.gpo.gov/nara/cfr/index.html>.

⁴The Federal Register is on line at http://www.access.gpo.gov/su_docs/aces/aces140.html.

leaks of leachate from the landfill surface, and a continuing need for patches of extra cover to respond to exceedences of the limit for emissions (500 ppm methane) at various places along the landfill surface. The flare flame itself has regularly gone out, resulting in the direct venting of uncontrolled gas to the local atmosphere in violation of regulations. See 40 C.F.R. § 60.756(c); Part 360-2.21(g)(3).

Chaffee Landfill has repeatedly misled the Town about its willingness to comply with state and federal regulations that require it to control landfill gas. It is past the deadline for installing a protective control system and cannot comply for another three years according its own statements. The inadequate flaring system it has in place has repeatedly broken down and the landfill has shown no willingness to do what it takes to make even this system run consistently and efficiently. Additional sources of emissions from leachate breakouts and leachate tanks add to continuous production of uncontrolled noxious gases from the landfill.

The Town of Sardinia Should Not Extend the Life of This Landfill

The Town should insist that Chaffee Landfill come into full compliance with the landfill gas rule. This rule requires an expensive comprehensive gas control and NMOC destruction system that have been installed routinely at large landfills around the country. The parent company that owns this landfill is the largest, most profitable waste management company in the world, with over \$13 billion in revenue in the year 2000. Not only can it afford the cost of compliance, it is making residents of the Town shoulder the cost of its noncompliance with health and safety risks that are, under the circumstances, unreasonable and in violation of the law.

While the landfill has a substantial permitted life, producing revenues that can support compliance, the Town should benefit from the minimum protections imposed on Chaffee Landfill under applicable state and federal law. If these protections are installed now, when it closes at the end of 2009 the landfill will be in a favorable position to undertake proper post-closure measures over the following thirty years to maintain adequate protections. If the Town allows anything less, it increases the likelihood that it will shoulder more of the costs associated with the inevitable cleanup.

The town deserves no less than full compliance with the Clean Air Act which, it should be noted, provides a minimum level of protection of human health and the environment. Indeed, should the Town decide to act at all, it should impose greater protections than these minimums afford.

Given the poor track record of this landfill, and the absence of any indication that Chaffee Landfill will come willingly and swiftly into compliance, the Town would be unwise to extend this landfill's life any farther than is currently permitted. We therefore urge the Town to take no action to allow further expansion of the landfill, and we urge the Town to assert its interests in seeking the landfill's full compliance with all state and federal regulations. Such a position is the best way to protect the health and safety of the Town's residents and visitors.