

# *LAW OFFICE OF GARY A. ABRAHAM*

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September 11, 2002

VIA EMAIL AND U.S.MAIL

Steven J. Doleski, Regional Permit Administrator  
New York State Department of Environmental Conservation  
270 Michigan Avenue  
Buffalo, NY 14203-2999

Re: Proposed Western Expansion of the Chaffee Landfill, Waste Management of New York, L.L.C.

Dear Mr. Doleski:

Please accept the following comments on the scope of the above-referenced proposal on behalf of three residents of Chaffee, NY, Lana and Ronald Sheridan and Tess Cullis, all of whom live on Hand Road in close proximity to the site proposed for this major solid waste landfill expansion. Please also include me on the service list for the expansion application.

## **1. Consistency with the State's solid waste management policy.**

The expansion application should consider whether the proposed project is consistent with New York's solid waste management policy. At least three areas should be addressed in this regard:

(1) The State has a policy of closing older landfills that do not and cannot meet current Part 360 engineering standards in order to promote safer, more protective regional landfills. This policy has been in place since 1984. *Closure of Active Solid Waste Landfills* (issued Sept. 17, 1984, revised DEc. 29, 1998.; available at [http://www.dec.state.ny.us/website/ogc/egm/close\\_swlf.html](http://www.dec.state.ny.us/website/ogc/egm/close_swlf.html)). The policy applies to this proposal because the existing landfill lacks the double liner system now required of all new landfills, and because the expansion proposal requires overfilling over a substantial portion of the old landfill, leaving an unlined, substandard landfill portion unremediated or uncorrected while a double liner is installed above the existing waste. The application should show how the concept of overfilling avoids circumventing the 1984 policy.

(2) The State has also adopted a hierarchy of solid waste management methods, with disposal at the bottom of the hierarchy in order to promote reuse and recycling of waste materials. ECL § 27-0106. "Thus the hierarchy considers landfilling as the least desirable avenue to ultimately dispense with solid waste, unless factors militate against favoring the more preferred options." *Matter of Combined applications of the Harbert/Triga Company and the St. Lawrence County*

*Solid Waste Disposal Authority*, Final Decision of the Commissioner, UPA Nos. 60-87-0889 etc., 1990 N.Y. ENV LEXIS 46, \*18. The application should address how, if at all, this proposal fulfills the goals of this policy.

(3) Because the proposed expansion would be on a principal aquifer, (see Comment #6, below), the proposal must address whether there is “a demonstrated public need” for further landfill capacity. 6 N.Y.C.R.R. Part 360(c)(1)(ii). According to Department figures, currently about 95 percent of the state’s permitted disposal capacity is located in western New York (DEC Regions 8 and 9), and tipping fees (the cost of dumping) are at a historical low point. The application should also show how additional permitted disposal capacity will affect publicly owned disposal facilities and the market for waste.

## **2. The fitness of the Applicant.**

The compliance record of the Applicant and its relation to its parent corporation should be addressed, pursuant to the Department’s *Record of Compliance Enforcement Guidance Memorandum* (issued August 8, 1991; revised March, 1993; available at <http://www.dec.state.ny.us/website/ogc/egm/roc.html>) (“ROCEGM”).

There can be no question but that a fitness inquiry is within the reasonable expectation of the Applicant because its parent corporation Waste Management, Inc. (“WMI”), disclosed in its year 2000 public 10-K disclosure with the Securities and Exchange Commission that such inquiries should be considered as part of the business risk taken by its investors:

Many states and local jurisdictions in which the Company operates have enacted “fitness” laws that allow agencies having jurisdiction over waste services contracts or permits to deny or revoke such contracts or permits on the basis of an applicant’s (or permit holder’s) compliance history. Some states and local jurisdictions go further and consider the compliance history of the parent, subsidiaries or affiliated companies, in addition to the applicant. These laws authorize the agencies to make determinations of an applicant’s fitness to be awarded a contract or to operate and to deny or revoke a contract or permit because of unfitness absent a showing that the applicant has been rehabilitated through the adoption of various operating policies and procedures put in place to assure future compliance with applicable laws and regulations.

Waste Management, Inc., Form 10-K, filed on 3/30/2000 with the Securities & Exchange Commission for the fiscal year ending 12/31/99, page 21; available at: <http://www.sec.gov/Archives/edgar/data/823768/0000950129-00-001540-index.html>.

The legal authority of the Department to consider the compliance history of the corporate “parent, subsidiaries or affiliated companies, in addition to the applicant” is well established and set forth in the ROCEGM, Section III. Under the ROCEGM, evidence of noncompliance or lack of trustworthiness of the Applicant and related entities must be considered over a ten-year period prior to the application. *Id.*, Section IV. The basis for the Department’s authority in this area is the need to determine whether an applicant is trustworthy, considering the heavy reliance the

Department and the public must place on self-reporting to determine environmental compliance. *Id.*, Section III (citing cases).

Recent decisions of the Commissioner have required an initial showing that Applicant's own compliance history, or the compliance history of affiliates within the state or region is questionable, before proceeding to an inquiry into the fitness of the corporate parent. See *Matter of Waste Management of New York, LLC (Towpath)*, Interim Decision of the Commissioner, May 15, 2000 (available at <http://www.dec.state.ny.us/website/ohms/decis/towpathid.htm>). The application should therefore include a review of incidents that bear on the trustworthiness of Chaffee Landfill to maintain a high level of compliance with the various permits under which it has operated.

The ROCEGM includes within a fitness inquiry the question, "Whether the permittee has exceeded the scope of the project as described in any permit." ROCEGM, Section IV-e. Once events within the scope of this question are identified, the Applicant has an opportunity to provide evidence "that a violator is rehabilitated and has re-established a reasonable record of compliance with the relevant laws." *Id.* Accordingly, the scope of the application for this proposal should consider the substantial number of incidents the Department has identified in monitoring reports or that can be found in the Applicant's own annual reports over the last ten years.

A preliminary collection of such incidents going back to mid-1996 is attached to these comments as Schedules A through J, showing the inability of Waste Management to prevent chronic discharges of leachate, silt and sediment outside the landfilling area; to adequately maintain daily, intermediate and final interim cover at the landfill; to prevent emanation of landfill odors; to prevent the migration of explosive levels of methane outside the landfilling area; to prevent the migration of air toxics contained in landfill gas outside the landfilling area; and to maintain the main flare at the landfill at all times with a pilot flame present. In many cases the landfill's discharge of leachate, sediment and litter has been directly into the wetlands surrounding the landfill, including Hosmer Brook. In each Schedule, the applicable regulatory provisions that were violated are set forth in an introductory footnote.

### **3. Slope stability and berm and cover containment problems**

The slope of the existing landfill would be equaled or exceeded by the proposed expansion, and cover materials would be obtained locally and presumably have the same properties as those used on the existing landfill. This combination of a steep slope and local cover materials has proved to result in repeated slope instability and containment problems. These problems are shown in Schedule C ("Violations of Construction Requirements"), showing landfill berm failures on July 12 and September 12, 2001; Schedule H ("Violations of Other Operational Requirements"), showing repeated berm erosion and threatened containment failure; Schedule D ("Violations of Landfill cover Requirements"), showing excessive erosion of berm cover materials throughout June, 2002; Schedule A ("Uncontrolled Leachate"), showing leachate bubbling through cover materials, escaping the landfill area from erosions channels and swales, and breaking through the landfill berm repeatedly from 1996 to the present; Schedule B ("Uncontrolled Landfill Gas"), showing that on October 12, 2000, explosive levels of methane

migrated at least to the landfill perimeter (there is no provision for measuring levels beyond that point), and at numerous other times unhealthy levels of air toxics (indicated by a reading of 500 ppm methane or more) were emitted from the landfill.

The application should show how these problems will be avoided, whether the slope and cover materials will differ from those at the existing landfill, and how gas pressure from the existing landfill will be prevented from migrating into the expansion beneath the tie-in area, where the Applicant proposes to overfill the existing landfill.

#### **4. Overfilling will result in an unstable and uncontainable overliner**

Slope and containment failures at the existing landfill, documented in the attached Schedules, indicate the underlying existing waste mass is under pressure from landfill gas or is otherwise fundamentally unstable. The instability of the underlying waste mass is likely to compromise the integrity of the expansion overliner in the area proposed to tie in to the existing landfill. In addition, the landfill gas collection system for the existing landfill in the proposed overfilling area will either have to be abandoned, substantially reducing the gas collection efficiency where older waste is at its peak level of gas production, or the gas collection wells will have to penetrate the overliner, further compromising the overliner's containment function.

The application should therefore detail extraordinary measures, including monitoring, that will be adopted to safeguard overliner integrity to prevent leachate from being discharged into the environment. The proposal should also include alternatives to overfilling that would avoid these risks, including a separate landfill.

#### **5. Overfilling will cause the existing landfill liner and collection system to fail**

Conceptually, overfilling seems clearly to create increased risks of contamination from the existing landfill and increased obstacles to remediation of the existing landfill. At the very least, new landfilling beyond what is currently permitted at the Chaffee site should be engineered in a separate area. The unlined existing landfill will never be excavated should corrective measures be necessary to remediate groundwater contamination. The Department has proposed a similar strategy in Albion at Waste Management's proposed Towpath Landfill, where an older, unlined landfill is contaminating groundwater resources and would be excavated and its contents landfilled in a new, doubled-lined landfill adjacent to the old landfill. Here, the proposal to overfill a substantial portion of the existing landfill would make such corrective measures impossible as a practical matter. Overfilling would also make the necessity for such corrective measures more likely than they would be if the existing landfill was closed and new landfilling was located in a separate area.

In recent months drinking and bathing water supplies provided by household water wells at the Sheridans' and Cullis residences have turned brownish or yellowish, oily and odorous. Considering the close proximity of these residences to the existing landfill, there is a strong presumption the landfill is contaminating the ground water in the immediate area.

Landfill leachate produced by the existing landfill is known to contain hazardous substances, and

landfill gas produced by the existing landfill is known to contain hazardous air pollutants. These toxic pollutants already pose a substantial risk to the environment. Constructing tons of new landfilling space on top of the western side the existing landfill will result in substantial pressure exerted downward toward the uncontained clay liner. Such pressure is likely to weaken the barrier to groundwater contamination beneath the existing landfill, and thereby increase the potential public health hazard presented by migration of leachate and landfill gas into the underlying aquifer. As shown above, (see Comment #3), the existing waste mass is unstable and subject to internal pressure, external erosion, and an excessive and uncontainable slope.

The application should therefore include within its scope the effect overfilling will have on the likelihood of groundwater contamination and waste containment failure at the existing landfill and on the ability to undertake corrective measures should such contamination or failure occur.

**6. The application must consider whether the site is over a primary drinking water aquifer**

The existing landfill site and the proposed expansion site are located directly over or in close proximity to the Cattaraugus Creek Aquifer, federally designated as a sole drinking water source aquifer. 52 Fed.Reg. 36100 (September 25, 1987). The application should explain why the Department should not exercise its discretion under its aquifer protection policy, 6 N.Y.C.R.R. 360-2.12(c)(1), to prohibit siting of additional landfilling capacity where, as here, a substandard existing landfill is being left in place and not upgraded to modern protective standards.

Respectfully submitted,

/s

Gary A. Abraham

*Attorney for Lana and Ronald Sheridan and Tess Cullis*

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**SCHEDULE A: UNCONTROLLED LEACHATE<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
10/8/96	DIR	leachate weeps escaping east slope area, "being worked on by CID"
10/16/96	DIR	same: "Gas again coming up in ditch area on the east side of the landfill," previously remediated, CID "planned to remediate [again] on 10/17/96"
10/29/96	DIR	same: "gas again coming through soil underneath east drainage ditch [stormwater swale] along inside of haul road (access) in vicinity of MW#1"
Oct., 1996	MMR, 11/10/96	same: "This area has been remediated a few times in the past, but needs a permanent fix"
Nov., 1996	MMR, 12/6/96	same: landfill gas observed escaping from east perimeter stormwater swale throughout month
11/1/96	DIR	same, noted as contaminated stormwater ditch, leachate weeps escaping from east slope
11/19/96	DIR	same
12/3/96	DIR	same
12/17/96	DIR	same: "gas still noted as coming through underside of east perimeter stormwater collection swale"
12/18/96	DIR; MMR, 1/9/97	same: "gas coming in contact with stormwater contained in the [stormwater] swale"
1/22/97	DIR	breakout of leachate, melting snow and precipitation from landfill
4/22/97 to 4/29/97	FIR, 4/22/97; DIR 4/22/01, 4/23/97, 4/29/97	violation citation, 4/22/97; remediation completed 4/29/01
4/30/97	DIR, 4/30/97	recurrence of 4/22/97 violation, remediated by end of day; "Leachate breakouts should be a #1 priority"
1/5/98	DIR, 1/5/98	unremediated breakout

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<sup>a</sup>"All run-off which emanates from active disposal areas covered with only daily cover or run-off which comes into contact with solid waste or leachate, must be considered leachate and be appropriately collected and removed by the landfill's leachate collection and removal system." 6 NYCRR Part 360-2.7(b)(8)(ii). See 40 CFR §258.26. "Leachate must not be allowed to drain or discharge into surface water except pursuant to a State Pollutant Discharge Elimination System permit." Part 360-1.14(b)(2). See 40 CFR §258.27. "All landfills must be constructed, operated, and closed to . . . prevent the migration of leachate into surface and groundwater." Part 360-2.17(g). Also, Part 360-1.14(j) addresses an owner or operators obligation once " discharges that may cause a release to the environment or a threat to human health" are detected: "Where a hazard is imminent or has already occurred, remedial action must be taken immediately."

<sup>b</sup> DIR = Daily Inspection Report of DEC on site monitor (noting observations, incl. violations)  
 FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)  
 OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent  
 MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

6/24/98	DIR, 6/24/98	unremediated breakout
9/1/98	DIR, 9/1/98	unremediated breakout
12/1/98	DIR, 12/1/98	unremediated breakout
2/26/99	FIR, 2/26/99	unremediated breakout
4/13/99	DEC letter to CID Landfill, 4/23/99	unremediated breakout; see 4/22/99, below
4/14/99	same	unremediated breakout; see 4/22/99, below
4/19/99	same	unremediated breakout; see 4/22/99, below
4/21/99	same	unremediated breakout; see 4/22/99, below
4/22/99	same	unremediated breakout, continuous from 4/13/99; "CID does not currently have enough equipment or manpower to adequately handle problems as they arise."
6/11/99	DIR, 6/11/99	unremediated breakout
6/29/99	FIR, 6/29/99	contaminated runoff pooling in landfill area and overflowing outside landfill area, caused by "poor operation"
June/99	MMR, 7/7/99	"reoccurring leachate breakouts in the southwest landfill area"
8/16/00	DIR, 8/16/00	unremediated breakout
9/12/00 to Oct./00	DIR, 9/12/00; MMR, 11/14/00	failure to direct runoff from active portion of the landfill to the leachate collection system, causing contaminated runoff to escape landfill area
10/2/00 to 10/26/00 (23 days)	DIR, 10/12/00; MMR, 11/14/00; DIR, 10/26/00; FIR, 10/2/00	unremediated breakouts "around the site," including the toe of the east berm, the drainage ditch adjacent to access road entering landfill and feeding the pooling water at north west corner of the landfill," all "leaving the landfill over the containment berm," FIR, 10/2/00 (map)
2/15/01 to 2/20/01 (6 days)	DIR, 2/15/01, 2/20/01; MMR, 3/14/01	unremediated breakout in four distinct areas
2/15/01 to March/01, entire (41 days)	MMR, 5/2/01	two of the previous four unremediated breakouts were remediated on 2/20/01 (DIR), but remaining two still not contained throughout March; "WM has previously been informed that the landfill surface must be walked daily to identify and promptly remediate [leachate] breakouts"
4/9/01	DEC letters to WMNY, 4/19/01 & 7/10/01; MMR, 5/2/01; DIR, 4/9/01	discharges from leachate storage tanks ##3 and 4 as a result of landfill gas pressure backing up into tank, and breakouts at five additional areas; breakouts also create "strong leachate odor"
4/11/01	DIR, 4/11/01	unremediated breakouts; two of the previous six areas remediated
4/9/01 to 4/25/01 (15 days)	FIR, 4/25/01	four remaining breakouts of six reported 4/9/01 finally remediated
4/12/01	DIR, 4/12/01	unremediated breakout

7/11/01	DEC letter to WMNY, 7/11/01	unremediated breakout
8/18/01	DIR, 8/1/01	soils around leachate collection tanks generally contaminated
9/12/01	DIR, 9/12/01	leachate seeps discharged under south access road
9/12/01	same	pooling liquid from landfill area discharged into stormwater runoff
9/12/01	same	“overflow[ing] the east berm leaving the landfill”
9/12/01	same	same in another area
9/19/01	FIR, 9/19/01	same
9/19/01	same	waste-contaminated runoff discharge to the NE (map)
11/20/01	DIR, 11/20/01; WMNY letter to DEC, 12/4/01; DEC letter to WMNY, 1/2/02	discharge from several leaks in tanker truck hose to the environment; cf. DEC letter to WMNY, 5/15/01 (warning WMNY that because it requires moving two leachate collection tanks, berm construction in this area presents significant hazards)
3/8/02	FIR, 3/8/02 (map)	LFG “bubbling through the intermediate cover around GW-7”; leachate mixing with runoff from daily cover discharged off site

**SCHEDULE B: UNCONTROLLED LANDFILL GAS (LFG)<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
Oct., 1996 <sup>c</sup>	MMR, 11/10/96	LFG escaping from area along access road, outside landfill perimeter; "This area has been remediated a few times in the past, but needs a permanent fix"
5/5/00	surface gas re-scan. 5/5/00	following 4/25/00 quarterly methane surface scan showing methane concentration ">1,000 ppm", 5/5/00 re-scan reports "no <i>sustained</i> levels of methane detected at the surface above the 500-ppm threshold" (emphasis added)
10/12/00 to 7/10/01 (unremediated for 300 days)  (overlaps reports in next two rows)	quarterly surface gas scan, 10/12/00; DIF, 12/5/00, 4/11/01, 3/12/01, 4/25/01, 5/16/01; FIR, 5/31/01; MMR, 1/19/01, 3/14/01, 4/25/01, 5/2/01, 7/23/01; DEC letter to WMNY, 7/10/01	area around leachate tank #1 exceeding 500 ppm methane surface concentration: "This area has repeatedly failed since [Oct. 12, 2000 surface] scan. WM has not implemented the agreed upon corrective measure. WM has been informed of this non-compliance issue on multiple occasions." (FIR, 5/31/01); valve box adjacent to leachate tank #1 not connected to vacuum on tank #1, methane >500 ppm, and violation persisted for "several months" prior to 4/11/01 (DIF, 4/11/01); first exceedence was in October, 2000, and exceedence reported "repeatedly" without corrective action until sometime after 7/10/01 (DEC letter to WMNY, 7/10/01); failed surface scans incl. Oct./00, 1/10/01, 5/1/01, 5/10/01, June/01; DEC supervised scans on 10/12/00 showed six areas at perimeter of the landfill with methane concentration ">10,000 ppm"; <sup>d</sup> DIR, 4/11/01 reports "gas pressure is still causing gas to escape . . . in violation of the time requirements outlined in the surface scan monitor plan and Part 360-2.21"; protective casing around gas pipe GP-10A damaged, allowing LFG to escape into the environment, (DIR, 12/5/00), remains unremediated despite repeated notices for months, (MMR, 1/19/01, 3/14/01, 5/2/01).

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<sup>a</sup>Permit No. 62-00001/00006 (October 19, 1999), Special Permit Condition Nos. 33 and 34 require landfill surface gas monitoring and corrective action to abate exceedences of surface methane concentrations in excess to 500 ppm in those areas showing such an exceedence, in accordance with 6 NYCRR Part 360-2.21(f)(3). "Owners or operators of all solid waste landfills must ensure that air emissions from the landfill will not violate any applicable requirements developed pursuant to section 111 of the Clean Air Act (see section 360-1.3 of this Part)." Part 360-2.17(x).

<sup>b</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

DIR = Daily Inspection Report of DEC on site monitor (noting observations, incl. violations)

FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)

OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent

MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

<sup>c</sup>Also noted in SCHEDULE A: UNCONTROLLED LEACHATE.

<sup>d</sup>"The concentration of methane and other explosive gases generated by the facility must not exceed: (i) 25 percent of the lower explosive limit for gases in structures on or off-site, excluding gas control or recovery system components; and (ii) the lower explosive limit [LEL] for the gases at or beyond the property boundary." Part 360-2.17(f)(1); 40 C.F.R. § 258.23(a). The LEL for methane is 10,000 ppm.

9/12/01	DIF, 9/12/01	“The MH [manhole] for the clean-out on the east end of the north slope of waste is discharging LF gas through a crack in the second concrete riser section. A very strong LF gas odor in this area. Promptly, the gas must be diverted through stick flares.” Remediated on 9/19/01 (DIF). Also, “The flare (stick) is out at the south west corner of the landfill.”
12/6/01	DIF, 12/6/01	landfill gas collection trench installed but left uncovered; “until the trench is covered, the situation has been made worse. Strong gas smell.”
1/10/01 to at least June/01	DIR, 1/10/01, 4/11/01, 4/12/01, 5/1/01, 5/16/01, 5/24/01; FIR, 4/25/01, 5/31/01; MMR, 2/22/01, 3/22/01, 5/2/01, 7/23/01	four areas exceeding 500 ppm methane surface concentration, but due to cold weather, “The landfill will be re-scanned in the spring”(DIR 1/10/01); compliance schedule agreed upon 3/22/01, to achieve compliance by 4/6/01 (MMR, 5/2/01); continued non-compliance at 4/25/01 (FIR); next re-scan is 5/1/01 showing exceed 500 ppm; re-scan on 5/16/01 shows area near leachate tank #1 fails
5/1/01 to 5/16/01 and ff.	DIR, 5/1/01, 5/16/01	10 areas exceeding 500 ppm methane surface concentration at ten-day re-scan after 4/25/01, incl. previous four areas (DIR 5/1/01); area near leachate tank #1 fails subsequent re-scan on 5/16/01
4/9/01	DIR, 4/9/01	LFG bubbling in pooling leachate in landfill area
4/11/01-5/1/01	DIR, 4/11/01, 4/12/01, 5/1/01	candlestick flare failure, not combusting LFG emitted from GW-1 strong gas odor
5/31/01	FIR, 5/31/01	failure of gas well on north berm
7/18/01-6/13/02, con’t	DIR, 7/18/01, 2/21/02; FIR, 3/8/02	candlestick flare failure, not combusting LFG emitted from leachate tanks ##3/4; LFG emitted from leachate tanks ##3 and 4 and tank pad drain, linked to tank pad drain cover silting in (“WM was made aware of the problem several months ago yet no action has been taken,” FIR, 3/8/02); no report of remediation through 6/13/02
9/12/01	DIR, 9/12/01	candlestick flare failure, not combusting LFG emitted from GW-1
3/8/02	FIR, 3/8/02	LFG bubbling through intermediate cover around GW-7

**SCHEDULE C: VIOLATIONS OF CONSTRUCTION REQUIREMENTS<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
6/7/01	DIR, 6/7/01	maximum permitted 1:2 slope requirement for landfill berm construction exceeded, compromising berm slope stability
6/7/10	same	new berm material placed against nearly vertical slope of existing berm without required cutting in new slope
6/7/01	same	new berm materials placed on dessicated existing berm material
6/14/01	DIR, 6/14/01	exceeding maximum permitted 1:2 slope requirement for landfill berm construction
6/14/01	same	new berm material placed against nearly vertical slope of existing berm without cutting in new slope
6/14/01	DIR, 6/14/01	exceeding requirement to place waste one foot below final berm elevation; observed waste 10-12 feet higher than final berm elevation
6/14/01	same	new berm materials placed on dessicated existing berm material
July 2001	DEC letter to WMNY, 7/11/01	MW-3R: 18" seal installed on monitoring well in violation of 36" requirement in Part 360-2.11(j)(ii)(d) and approved work plan
same	same	MW-R4A (same)
same	same	MW-R4C (same)
same	same	MW-R1A (same)
same	same	MW-R1B (same)
same	same	MW-20 (same)
same	same	MW-50 (same)
same	same	MW-51 (same)
same	same	MW-52 (same)
same	same	MW-53 (same)

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<sup>a</sup>Permit No. 62-00001/00006 (October 19, 1999), Special Permit Condition No. 1 requires compliance with operational requirements of 6 N.Y.C.R.R. Part 360 generally; with the operational requirements of C.I.D. Landfill, Inc. permit renewal application; with 35 approved design plan sheets listed on page 9 of the permit; with the landfill's approved Environmental Monitoring Plan; with the landfill's approved Site Analytical Plan; and with the landfill's Operation and Maintenance Manual. Compliance with each of the plan or operation documents is incorporated by reference into the Part 360 permit. See 40 CFR § 258.40. Each incident included in this table violates a construction requirement set out in such documents.

<sup>b</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

- DIR = Daily Inspection Report/Form of DEC monitor (noting observations, incl. violations)
- FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)
- OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent
- MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

same	same	MW -54 (same)
same	same	MW -55 (same)
same	same	MW -56 (same)
same	same	MW -71 (same)
same	same	MW -72 (same)
7/2/10	same	new berm material placed against nearly vertical slope of existing berm without cutting in new slope "in violation of specifications"
7/12/01	DIR, 7/12/01	berm slope failure
8/1/01	DIR, 8/1/01	failure to promptly report berm slope failure
8/22/01	DIR, 8/22/01	failure to observe max. five-foot separation betw. top of berm and upper elevation of waste, compromising containment function of berm
8/22/01	same	exceeding maximum permitted 2:1 slope requirement for landfill berm construction
8/23/01	DIR, 8/23/01	mixing waste with berm construction material
9/12/01	DIR, 9/12/01	berm slope failure resulting from "repeated documentation of construction violations" noticed from DEC to WMNY
9/12/01	same	continued excavation of waste following berm slope failure in same area
9/12/01	same	waste contaminating berm material as it is being placed
9/12/01	same	unremediated excessive slope around condensate knockout risers in GCCS
9/12/01	same	unremediated excessive slope of berm in area of leachate tank #1; absence of CQA <sup>c</sup> personnel oversight, Part 360-2.8(b)
9/14/01	DIR, 9/14/01; MMR, 10/19/01	lack of CQA oversight of excavation in area of leachate tank #1, "a sensitive area" because of "several gas collection header pipes in the waste" in that area
9/19/01	FIR, 9/19/01	gas well hit by equipment, rendered nonfunctional (map)
10/16/01	DIR, 10/16/01	mixing waste with berm construction material
11/1/01	DIR, 11/1/01	failure compact landfill cap subgrade, Part 360-2.13(I)
11/1/01	DIR, 11/1/01	geo-membrane cap sagging into gas venting trench at north slope

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<sup>c</sup>CQA = Construction Quality Assurance; compliance with the landfill's CQA Plan is incorporated by reference into the landfill's 1999 permit renewal, including the presence during certain construction of CQA personnel certified to supervise the construction.

11/20/01	DIR, 11/20/01; WMNY letter to DEC, 12/4/01; DEC letter to WMNY, 1/2/02	exceeding maximum permitted 2:1 slope requirement for landfill berm construction; WMNY letter of 12/4/01 "indicates that this procedure has been used previously during construction of the east berm. However, the north end of the east berm support material failed earlier this year. The construction of the berm in excess of a 2-on-1 slope was identified as one item that possibly contributed to that failure." (DEC letter to WMNY, 1/2/01).
11/20/01	DIR, 11/20/01; WMNY letter to DEC, 12/4/01; DEC letter to WMNY, 1/2/02	lack of CQA oversight of placement of barrier protection materials over landfill cap
12/2/01 to at least 4/2/01	DIR, 12/4/01; MMR, 4/2/02 (for Jan.), 4/2/02 (for Feb.), 4/2/01 (for March); FIR, 1/3/02	WMNY directed to submit design modification for new inlet couplings on leachate tank #1, failed to comply with directive; during this time the tank may have been disconnected from inlet pipe (cf. FIR, 1/3/01)
12/6/01	DIR, 12/6/01	a number of gas wells filled in with stone to the surface on the west perimeter, making wells unmonitorable and non-functional ("must be capped off to prevent the escape of gas")
5/16/02	DIR, 5/16/02	failure to remediate final cover geocomposite line run over by grader
6/11/02	DIR, 6/11/02	Construction Quality Assurance personnel failed to inspect construction daily and verify repair within 48 hours, NOV (The CQA engineer/contractor is not conforming to this spec.)

**SCHEDULE D: VIOLATIONS OF LANDFILL COVER REQUIREMENTS**

DATE	REPORTS <sup>a</sup>	COMMENTS
4/29/98	DIR, 4/29/98	daily cover failure <sup>b</sup>
2/26/99	FIR, 2/26/99	failure to place daily cover <sup>b</sup>
2/23/99 to 2/26/99 con't	same	inadequate intermediate cover <sup>c</sup>
5/22/00	DIR, 5/22/00	unremediated eroded intermediate cover, protruding waste <sup>d</sup>
9/7/00	DIR, 9/7/00	waste protruding through daily cover <sup>d</sup>
9/12/00	DIR, 9/12/00	unremediated eroded intermediate cover, protruding waste <sup>d</sup>
10/20/00	DIR, 10/20/00	unremediated eroded intermediate cover, protruding waste <sup>d</sup>
2/20/01	FIR, 2/20/01	daily cover failure, violation citation <sup>b</sup>
3/13/01	DIR, 3/13/01	daily cover failure (map) <sup>b</sup>
3/29/01 (3 days con't)	FIR, 3/29/01	daily cover failure, violation citation (failure to cover waste with ADC for three days) <sup>b</sup>
March/01 con't	<i>see comments</i>	intermediate cover failure at south slope west end observed 2/20/01, (DIR), 2/27/01, (DIR), and citation of violation issued 3/29/01 (FIR) (map). <sup>c</sup>
4/9/01 to 4/25/01 con't	<i>see comments</i>	waste protruding through interim cover, in violation of permit Special Condition No. 3, DIR, 4/9/01; same, DIR 4/11/01; same, DIR 4/12/01; same, and violation citation, FIR, 4/25/01 <sup>e</sup>

<sup>a</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

DIR = Daily Inspection Report of DEC on site monitor (noting observations, incl. violations)  
 FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)  
 OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent  
 MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

<sup>b</sup>Daily cover is required on all active areas of the landfill at the end of each working day. 40 CFR §258.21(a); 6 NYCRR Part 360-2.17(c). Alternative daily cover (ADC) materials must be approved by the State. 40 CFR §258.21(b). Special Condition No. 1 to the landfill's 1999 permit allows pulverized construction and demolition debris to be used as ADC.

<sup>c</sup>The State may establish alternative frequencies for cover requirements. 40 CFR §258.21(d). New York requires intermediate cover on areas inactive for 30 days. Part 360-1.2(h)(91). Intermediate cover may be removed only "if odors and blowing litter are effectively controlled on-site." Part 360-2.17(d).

<sup>d</sup>All landfill cover must prevent waste from being exposed. 40 CFR §258.21(a); 6 NYCRR Part 360-2.21(f)(3)(iv).

<sup>e</sup>Final cover is required on landfill areas inactive for one year. 40 CFR §258.60(g); 6 NYCRR Part 360-1.2(h)(66). However, in 1999, WMNY was granted a variance from the requirement to place final cover on such areas, contingent on placing and maintaining "interim cover" of 24 inches of soil cover on such areas. Cf. Permit No.

4/9/01	same	inadequate intermediate cover <sup>c</sup>
4/11/01	DIR, 4/11/01	litter on top of intermediate landfill cover <sup>d</sup>
4/11/01	DIR, 4/11/01	whole tires included in Alternative Daily Cover ("ADC") stockpile <sup>b</sup>
4/11/01	same	inadequate intermediate cover <sup>c</sup>
4/12/01	DIR, 4/12/01	same, three violations observed <sup>c</sup>
4/25/01	FIR, 4/25/01	inadequate intermediate cover <sup>c</sup>
4/25/01	same	inadequate intermediate cover <sup>c</sup>
4/25/01 to 5/31/01 con't	same & FIR, 5/31/01	inadequate interim cover <sup>e</sup>
5/1/01	DIR, 5/1/01	failure to place intermediate cover on south slope of waste <sup>c</sup>
same	same	failure to place intermediate cover on east slope of waste <sup>c</sup>
same	same	failure to place intermediate cover on north slope of waste <sup>c</sup>
5/16/01	DIR, 5/16/01	whole tires included in ADC <sup>b</sup>
June/01	MMR, 7/23/01	failure to place daily cover "on several occasions" in June <sup>b</sup>
7/10/01	DIR, 7/10/01	waste protruding through daily cover <sup>d</sup>
8/1/01	DIR, 8/1/01	failure to place daily cover <sup>b</sup>
8/9/01	DIR, 8/9/01	inadequate intermediate cover <sup>c</sup>
8/16/01	DIR, 8/16/01	inadequate intermediate cover <sup>c</sup>
9/14/01	DIR, 9/14/01	whole tires mixed with landfill cover <sup>b</sup>
10/5/01	FIR, 10/5/01	inadequate interim cover <sup>e</sup>
10/15/01	DIR, 10/15/01	failure to place daily cover <sup>b</sup>
10/20/01	FIR, 10/20/01	inadequate interim cover <sup>e</sup>
11/20/01	DIR, 11/20/01	failure to place daily cover <sup>b</sup>
12/4/01	FIR, 12/4/01	whole tires mixed with daily cover <sup>b</sup>
12/4/01	DIR, 12/4/01; FIR, 12/4/01	Construction & Demolition Debris ("C&D") mixed with intermediate cover (allowed only for ADC) <sup>c</sup>
1/29/02	FIR, 1/29/02	inadequate intermediate cover <sup>c</sup>
3/8/02	FIR, 3/8/02	final cover failure, NOV Part 360-2.17(e)
4/3/02	DIR, 4/3/02	waste protruding through daily cover <sup>b</sup>

6/11/02 to 6/25/02 con't	DIR, 6/11/02, 6/13/02, 6/19/02, 6/25/02	excessive erosion of intermediate cover in NE & SW not remediated after notice on 6/6/02; exposed waste in drainage trench on north slope of waste, 6/13/02 <sup>c,d</sup>
6/11/02 & 6/13/02 con't	same & DIR 6/13/02	waste exposed in drainage channel on east end of north slope of waste <sup>d</sup>
6/25/02	DIR 6/25/02	insufficient daily cover <sup>b</sup>

**SCHEDULE E: UNAUTHORIZED DISPOSAL OF WHOLE TIRES<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
5/26/98	DIR, 5/26/98	whole tires disposed on working face of landfill
6/10/98	FIR, 6/10/98	whole tires disposed on working face of landfill
6/16/98	DIR, 6/16/98	whole tires disposed on working face of landfill
11/9/98	FIR, 11/9/98	whole tires disposed on working face of landfill
11/12/98	DIR, 11/12/98	whole tires disposed on working face of landfill
3/10/99	DIR, 3/10/99	whole tires disposed on working face of landfill
5/1/00	DIR, 5/1/00	whole tires "scattered across the landfill"
8/9/00	DIR, 8/9/00	whole tires disposed on working face of landfill
8/16/00	DIR, 8/16/00	whole tires disposed on working face of landfill
9/8/00	DIR, 9/8/00	whole tires disposed on working face of landfill
9/12/00	DIR, 9/12/00	whole tires disposed on working face of landfill
9/26/00	DIR, 9/26/00	whole tires disposed on working face of landfill
11/6/00	FIR, 11/6/01	whole tires disposed on working face of landfill
2/5/01	FIR, 2/5/01	whole tires disposed on working face of landfill
4/5/01	FIR, 4/5/10	whole tires disposed on working face of landfill
4/11/01	DIR, 4/11/01	whole tires disposed on working face of landfill, and on landfill surface
5/1/01	DIR, 5/1/01	whole tires disposed on working face of landfill
5/6/01	DIR, 5/6/01	same
6/16/01	DIR, 6/16/01	whole tires mixed with landfill cover (one tire)
6/23/01	DIR, 6/23/98	whole tires disposed on working face of landfill
7/10/01	DIR, 7/10/01	same
8/23/01	DIR, 8/23/01; MMR, 9/21/01 (August)	whole tires mixed with landfill cover, and four tires buried with waste
9/2/01	DIR, 9/12/01	whole tires "scattered across landfill"

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<sup>a</sup>"Disposal of whole tires in any landfill is prohibited." 6 N.Y.C.R.R. Part 360-2.17(v).

<sup>b</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

DIR = Daily Inspection Report/Form of DEC monitor (noting observations, incl. violations)

FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)

OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent

MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

12/4/01	FIR, 12/4/01	whole tires on the landfill not picked up at end of day
12/4/01	same	whole tires mixed with ADC, along with sofa cushions
1/3/02	FIR, 1/3/02	whole tires on the landfill
1/23/02	DIR, 1/23/02	same

**SCHEDULE F: UNCONTROLLED LITTER<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
3/5/97	DIR	in adjacent wetland <sup>c</sup>
6/16/97	DIR	NB no violation, "Due to high winds, CI stopped accepting wastes containing a lot of papers or other items harder to control at the working face"
11/30/98	DIR 11/30/98	along east slope
12/1/98	DIR, 12/1/98	along west slope
2/16/99	DIR, 2/16/99	along east slope
2/23/99	DIR, 2/23/99	same
2/26/99	FIR, 2/26/99	off landfill site
3/24/99	DIR, 3/24/99	In east perimeter fence
3/1/00	DIR, 3/1/00	off landfill site
3/16/00	DIR, 3/16/00	off landfill site
6/7/00	DIR, 6/7/00	litter observed on areas with intermediate cover
9/12/00	DIR, 9/12/00	litter observed on areas with intermediate cover
11/6/00	MMR, 1/19/01	west end of south berm
11/27/00	DIR, 11/7/00	west end of south berm; "Litter in this area has been a problem in the past and must be removed"
1/19/01 to 1/31/01 (12 days)	DIR, 1/19/01; MMR, 2/22/01	accumulated in trees, remains unremediated from 1/19/01 to 1/31/01
2/5/01 to 5/24/01 (108 days)	FIR, 2/5/01, 2/20/01; DIR 2/5/01, 2/15/01, 5/1/01; MMR, 3/14/01	after being cited for violations, where litter was "carried from the working face into the drainage ditches, brush and tress east of the landfill, . . . WM was still not in compliance at the end of the month." (MMR, 3/14/01).

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<sup>a</sup>"Blowing litter must be confined to solid waste holding and operating areas by fencing or other suitable means. Solid waste must be confined to an area that can be effectively maintained, operated and controlled. Solid waste must not be accepted at a solid waste management facility unless the waste is adequately covered or confined in the vehicle transporting the waste to prevent dust, and blowing litter." 6 NYCRR Part 360-1.14(j); 40 CFR §258.21(a).

<sup>b</sup> DIR = Daily Inspection Report of DEC on site monitor (noting observations, incl. violations)  
 FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)  
 OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent  
 MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

<sup>c</sup>Also included in SCHEDULE I: DISCHARGE OF WASTE/FILL INTO ADJACENT WETLAND.

3/2/01 to 3/22/01	DIR, 3/2/01, 3/13/01; MMR, 5/2/01	accumulated litter remains unremediated; "Waste Management has not adequately addressed this problem since being cited with a violation on 2/23/01," (DIR, 3/13/01); compliance achieved, 3/22/01, (DIR).
3/29/01	FIR, 3/20/01	violation citation (map)
April/01	<i>see comments</i>	seven areas observed, incl. along Hand Rd. (DIR, 4/9/01); six areas remain out of compliance (DIR 4/11/01); same (DIR, 4/12/01); violation citation issued (FIR, 4/25/01); continuous non-compliance throughout month noted (MMR, 5/2/01)
4/01 (30 days)	DEC letter to WMNY, 7/10/01; DIR 4/9/01, 4/12/01; MMR, 5/2/01	"large volumes of nested papers" discharged off site and "throughout the month" of April
4/25 to 5/24/01	DIR, 4/25/01, 5/1/01, 5/15/01, 5/16/01, 5/24/01	same, unremediated until 5/24/01; also observed litter in adjacent wetlands <sup>c</sup>
4/11/01	DIR, 4/11/01	litter on top of intermediate landfill cover
4/11/01	DIR, 4/11/01	in north berm ditch, Hand Rd. Fence, east of east berm, south of access road
4/12/01	DIR, 4/12/01	same
4/25/01	FIR, 4/25/01	same
4/22/01 to 4/29/01	DIR, 4/22/01, 4/23/01, 4/29/01	east side drainage swale, remediation begun 4/23, completed 4/29
8/1/01	DIR, 8/1/01	in adjacent wetland <sup>c</sup>
9/12/01	DIR, 9/12/01	same, remaining unremediated <sup>c</sup>
9/14/01	DIR, 9/14/01	same, remaining unremediated <sup>c</sup>
10/9/01	DIR, 10/9/01	same, remaining unremediated <sup>c</sup>
10/11/01	DIR, 10/11/01	same, remaining unremediated <sup>c</sup>
10/16/01	DIR, 10/16/01	along Hand Rd.
10/30/01	DIR	NB no violation, "site closed at 12:00 PM due to high winds"
11/20/01	DIR, 11/20/01	along Hand Rd.
12/4/01	FIR, 12/4/01	"in the trees" in north and west corner of landfill
Jan. 2002 con't	FIR, 1/3/02; DIR 1/16/02, 1/29/02; MMR, 4/2/01 (for Jan.)	litter remains in wetlands east of landfill, in east drainage ditch and elsewhere east and north of landfill, incl. in trees and brush throughout the month <sup>c</sup>
2/13/02	DIR, 2/13/02	litter remains in wetlands east of landfill <sup>c</sup>
3/8/02	FIR, 3/8/02	litter remains in wetlands and brush east of landfill, NOV of Part 360-1.14(j) <sup>c</sup>

4/3/02-5/16/02	DIR, 4/3/02, 4/13/02, 5/16/02; FIR, 5/3/02	insufficient litter control fencing allows litter deposited north of Hand Rd. and east of landfill, continuing unremediated throughout this period, NOV issued 5/3/02
6/13/02	DIR 6/13/02	“minimal” off site litter
6/19/02	DIR 6/19/02	“minimal” off site litter

**SCHEDULE G: OFF SITE ODOR VIOLATIONS**

DATE	REPORTS <sup>a</sup>	COMMENTS <sup>b</sup>
10/1/96	DIR	moderate
10/8/96	DIR	strong
10/15/96	DIR	light
10/23/96	DIR	light
10/27/96	DIR	strong
10/31/96	DIR	moderate
11/6/96	DIR	moderate (two observations)
11/11/96	DIR	moderate
11/12/96	DIR	strong
11/14/96	DIR	strong
11/19/96	DIR	strong (to Route 16) (two observations)
12/3/96	DIR	strong
12/22/96	DIR	moderate
1/8/97	DIR	moderate
2/2/97	DIR	moderate
2/12/97	DIR	strong
2/12/97	DIR	light
3/4/97	DIR	light
3/27/97	DIR	strong
4/22/97	DIR	strong
4/23/97	DIR	strong, along south access road

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- FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)
- OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent
- OS = Odor Surveillance report of DEC pursuant to 1995 Order on Consent
- MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)
- LETTER = DEC to CID Landfill, Inc., dated Feb. 10, 1998

<sup>b</sup>“Odors must be effectively controlled so that they do not constitute nuisances or hazards to health, safety or property.” 6 NYCRR Part 360-1.14(m); 40 CFR §258.21(a). All odor observations are reported by DEC observers along Hand Rd. unless noted otherwise. Observations are made at least weekly, sometimes more frequently, but not every day. Levels of odors are reported as light, moderate, or strong.

5/4/97	DIR	light
5/11/97	DIR	moderate
5/12/97	DIR	strong
5/14/97	DIR	moderate
5/27/97	OS	strong
6/2/97	OS	moderate
6/8/97	OS	moderate
6/11/97	OS	moderate
6/25/97	OS	moderate
7/2/97	OS	light
7/16/97	OS	moderate
7/23/01	DIR	moderate (response to resident complaint)
8/3/97	OOI	light
8/17/97	OOI	light
8/24/97	OOI	light
8/28/97	OOI	moderate
9/14/97	OOI	light
9/14/97	OOI	light
9/24/97	OOI	light
10/1/97	OOI	light
10/5/97	OOI	moderate
10/7/97	OOI	moderate
10/7/97	OOI	light
10/19/97	OOI	light
10/25/97	OOI	moderate
10/29/97	OOI	strong
11/4/97	OOI	moderate
11/7/97	OOI	complaint from Savage Rd. rec'd
11/10/97	FIR	odor violations "on a regular basis"
11/23/97	OOI	moderate
11/27/97	OOI	strong

11/30/97	OOI, LETTER	moderate
12/1/97	FIR	“odors noted along Hand Rd. on occasion but not at any of the area residences”
12/3/97	OOI, LETTER	strong
12/11/97	OOI, LETTER	light
12/16/97	OOI, LETTER	strong
12/27/97	OOI, LETTER	light
12/28/97	OOI, LETTER	moderate
1/1/98	OOI, LETTER	light
1/4/98	OOI, LETTER	strong
1/5/98	OOI, LETTER	moderate
1/6/98	OOI, LETTER	moderate
1/10/98	OOI, LETTER	light
1/12/98	OOI, LETTER	moderate
1/18/97	OOI, LETTER	light
1/19/98	OOI, LETTER	strong
2/10/98	OOI, LETTER	moderate
1/22/98	OOI, LETTER	light
1/24/98	OOI, LETTER	light
1/25/98	OOI, LETTER	moderate
1/27/98	OOI, LETTER	strong
1/28/98	OOI, LETTER	moderate
2/8/98	LETTER	strong
5/17/98	OOI	light
5/27/98	OOI	light
6/1/98	OOI	light
6/7/98	OOI	light
6/14/98	OOI	light
6/24/98	OOI	moderate
6/30/98	OOI	light
7/7/98	OOI	moderate
7/29/98	OOI	light

July/98	MMR, 8/7/98; DIR, 7/20/98	“odor complaints along Hand Rd.” throughout month; on 7/20/98, 800 feet of gas collection pipe was installed but not tied in to flare
9/1/98	DIR	
9/4/98	DIR	
9/13/98	DIR	
9/22/98	DIR, 9/22/98	
9/23/98	DIR	Hand Rd. residents complaints reported
10/4/98	DIR	
11/1/98	DIR	
11/8/98	DIR	
12/1/98	DIR	
12/9/98	DIR	
12/30/98	DIR	
1/3/99	DIR	
1/30/99	DIR	
1/31/99	DIR	
2/3/99	DIR	interim gas collection and control system down, Jan.-Feb., 1999
2/6/99	DIR	
2/8/99	DIR	
2/16/99	DIR	
2/21/99	DIR	
3/21/99	DIR	
5/23/99	DIR	
12/6/99	DIR	
12/7/99	DIR	
6/11/99	DIR	
6/13/99	DIR	
8/8/00	DIR	
8/14/00	DIR	
8/17/00	DIR	
8/22/00	DIR	
8/28/00	DIR	

8/30/00	DIR	
9/1/00	DIR	
9/7/00	DIR	
9/8/00	DIR	
9/11/00	DIR	
9/13/00	DIR	
9/20/00	DIR	
10/2/00	FIR, 10/2/00; MMR, 11/14/00	strong
10/12/00	DIR	
10/20/00	FIR, 10/20/00	
11/24/00	OOI	
12/5/00	DIR	
12/29/00	DIR; MMR, 1/19/01	complaints rec'd from residents
4/4/01	OOI	light
4/6/01	OOI	moderate; complaints rec'd from residents
4/12/00	OOI	moderate
4/19/01	DIR, 4/19/01	
4/6/01	DIR 4/6/01	
5/4/01	OOI, 5/4/01	moderate
5/7/01	OOI, 5/7/01	moderate
9/12/01	DIR, 9/12/01	traced to LFG leak from surface of landfill
12/4/01	FIR, 12/4/01	mild
12/6/01	DIR, 12/6/01	west perimeter
1/3/02	FIR, 1/3/02	mild
1/23/02	DIR, 1/23/02; MMR 4/2/02 (for Jan.)	"slight" and intermittent throughout month
1/29/02	FIR, 1/29/02	mild to moderate at south end
2/15/02	OOI, 2/15/02	garbage odor; "no landfill gas odor detected"
4/12/02	DIR, 4/12/02	"minimal"
5/29/02	OOI, 5/29/02	garbage odor, moderate

**SCHEDULE H: VIOLATIONS OF OTHER OPERATIONAL REQUIREMENTS<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
4/22/97	DIR, 4/22/97	blue dye waste from Dexter Waste Powder leaking from load-off container "near scale house"
6/23/97	DIR, 6/23/97	Ammonium sulfate waste from Bethlehem Steel Corp. with Ph betw. 2 and 4 leaking substantially outside landfill area; DEC photos taken; "CID was advised this a violation of NYCRR Part 360"
10/2/00	DIR, 10/2/00	failure to water roads during dry period, causing violation of dust control requirement (cf. Part 360-1.14(k))
2/5/01 to 5/1/01?	<i>see comments</i>	gas condensate storage tank near the main flare left with broken connection and improperly repaired with duct tape, observed 2/5/01, 2/15/01, but despite notice from DEC non-compliance persisted throughout March (MMR#1, 5/2/01 (March report)), April (MMR #2 (April report)), May (DIR 5/1/01), and repair was implemented sometime in May (MMR 7/23/01)
6/14/01	DIR, 6/14/01	exceeding requirement to place waste one foot below final berm elevation; DEC observed waste 10-12 feet higher than final berm elevation
6/14/01	same	unremediated excessive dessication of berm, causing cracking
7/2/10	DIR, 7/2/01	same
7/18/01	DIR, 7/18/01	same
7/26/01	DIR, 7/26/01	recyclable metal drums from Ford Motor Co. disposed in landfill
July, 2001	MMR, 8/13/01	failure to repair monitoring well MW-10A
Sept. 2001	MMR, 10/19/01	same, continuing
9/12/01	DIR, 9/12/01	unremediated excessive dessication of berm/failure to scarify and remoisten berm materials
9/14/01	DIR, 9/14/01	waste containment failure resulting from unremediated excessive dessication of berm

<sup>a</sup>Permit No. 62-00001/00006 (October 19, 1999), Special Permit Condition No. 1 requires compliance with operational requirements of 6 N.Y.C.R.R. Part 360 generally; with the operational requirements of C.I.D. Landfill, Inc. permit renewal application; and with the landfill's Operation and Maintenance Manual. Compliance with each of the plan or operation documents is incorporated by reference into the Part 360 permit.

<sup>b</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

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- FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)
- OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent
- MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)
- CQA = Construction Quality Assurance; compliance with the landfill's CQA Plan is incorporated by reference into the landfill's 1999 permit renewal, including the presence during certain construction of CQA personnel certified to supervise the construction

12/4/01	FIR, 12/4/01	unremediated berm erosion at southwest
1/3/02	FIR, 1/3/02	fuel gauge at flare generator empty (not operating?)
1/3/02 to 6/13/02 con't	FIR, 1/3/02, 3/8/02; DIR, 2/21/02; MMR, 4/2/02 (for Feb.)	landfill cap downchute pipes clogged and nonfunctional, compromising final cover stability (discharge ends are "half buried and partially collapsed," DIR, 2/21/02); NOV in FIR, 3/8/02; repaired 6/13/02
2/13/02 to 6/13/02 con't	MMR, 4/2/02 (for March); FIR, 3/8/02 (map); DIR 2/13/02, 5/15/02, 5/16/02, 6/11/02, 6/13/02	north berm silt fencing not fixed after notice on 2/13, allowing uncontrolled discharge of sediment during stormwater events until 6/13/02, when the fence was properly installed; orig. NYSDEC notice directs fencing to be keyed into ground, not stapled
3/8/02 to at least 6/13/02 con't and ongoing	FIR, 3/8/02 (map); MMR, 4/2/02 (for March)	sediment draining from surface of leachate loadout pads at tanks ##1 and 3/4, into improperly positioned drain pipes leading to the tanks; operational failure causes uncontrolled emissions of LFG; notices for at least three months but operational failure goes unremediated; no report of remediation through 6/13/02
2/13/02 to 3/8/02 con't	FIR, 3/8/02	unremediated berm erosion, down to level of waste, west end and southwest berm
5/15/01	DIR, 5/16/02	failure to water roads during dry period, causing violation of dust control requirement (cf. Part 360-1.14(k))
5/16/02	same	failure to smooth drum roll disturbed barrier materials at end of working day
5/22/02	DIR, 5/22/02	unauthorized waste mixed with C&D in ADC stockpile
6/11/02	DIR, 6/11/02	silt fencing protecting wetland east of landfill stapled, not keyed to ground as directed in prior NYSDEC notice
6/11/02	same	gas header valves buried in east area of landfill, unable to verify integrity of valves and piping
6/11/02	same	landfill cap downchute pipes on north berm buried, cannot verify their integrity
6/11/02	same	new silt fencing stapled, not keyed to ground
6/11/02	same	excessive erosion of berm support material on east slope of waste
6/11/02 to 6/19/02 con't	same & DIR 6/19/02	excessive erosion of berm support material on west slope of waste not remediated after notice on 6/6/02
6/25/02	DIR, 6/25/02	two landfill cap downchute pipes clogged, nonfunctional

**SCHEDULE I: DISCHARGE OF WASTE/FILL INTO OFF SITE WATERS<sup>a</sup>**

DATE	REPORTS <sup>b</sup>	COMMENTS
3/5/97	DIR	litter in wetland
4/25 to 5/24/01	DIR, 4/25/01, 5/1/01, 5/15/01, 5/16/01, 5/24/01	same, unremediated until 5/24/01
6/14/01	DIR, 6/14/01	berm support material placed in wetland, causing water to accumulate at toe of berm adjacent to wetland at NW corner of landfill
8/1/01	DIR, 8/1/01	litter in wetland
9/12/01	DIR, 9/12/01	discharge of sedimentation from stormwater runoff into wetland east of landfill, absence of protective silt fencing
9/12/01	DIR, 9/12/01	litter in wetland
9/14/01	DIR, 9/14/01	same, remaining unremediated
10/9/01	DIR, 10/9/01	same, remaining unremediated
10/11/01	DIR, 10/11/01	same, remaining unremediated
10/11/01	same	discharge of sediment from landfill to east wetland
12/6/01 to 6/13/02 con't	DIR 12/6/01	discharge of sediment from landfill; WMNY told at meeting to remove sediment and repair silt fencing causing discharge; as noted below, sediment was not removed until 6/13/02
1/3/02-3/8/02, con't	FIR, 1/3/02	litter in east drainage ditch and wetlands east of landfill; as noted below, litter was not removed until 3/8/02 or after
1/29/02	FIR, 1/29/02 (map); MMR, 4/2/01 (for Jan.)	litter remains in wetlands east of landfill throughout the month; sediment-laden stormwater discharges into wetland; polluted stormwater discharges off site into Hand Rd. ditch
2/13/02	DIR, 2/13/02	litter remains in wetlands east of landfill
2/21/02	DIR, 2/21/02	"collapsed and improperly installed silt fencing along the north berm has not yet been fixed"

<sup>a</sup>Landfill leachate may not be discharged into surface waters without a SPDES permit. 6 NYCRR Part 360-2.3(k)(3). Solid waste, including litter, may not be discharged into surface waters or groundwaters. Part 360-1.14(b)(1). Section 402 of the Clean Water Act also prohibits the discharge of pollutants, including leachate and solid waste, into wetlands without a permit issued pursuant to the Act. 33 U.S.C. § 1311(a); 33 C.F.R. § 328.3(a) (1993); 40 C.F.R. § 230.3(s). Section 404 of the Clean Water Act prohibits the discharge of fill material, including litter and sediment, into wetlands without a permit. 33 U.S.C. § 1344(a) (1988); 33 C.F.R. § 323.1.

<sup>b</sup>Each type of report constitutes a notice of observations made by on site DEC inspectors or monitors provided to WMNY on or about the date indicated:

- DIR = Daily Inspection Report/Form of DEC monitor (noting observations, incl. violations)
- FIR = Facility Inspection Report of DEC (monthly) (enumerating violations)
- OOI = Offsite Odor Inspections of DEC pursuant to 1995 Order on Consent
- MMR = Monthly Monitoring Reports of DEC (narrative summary of all DEC inspections)

3/8/02	FIR, 3/8/02	litter remains in wetlands east of landfill, NOV of Part 360-1.14(b)(1)
3/8/02	same	polluted stormwater escaping off site; leachate seeps from landfill feeding run-off, ponding
4/3/02	DIR, 4/3/02	absence of litter control fencing allows litter deposited in wetlands east
5/15/02	DIR, 5/15/02	sediment-laden stormwater discharges off site under Hand Rd.
6/11/02	DIR, 6/11/02, 6/13/02	discharge of landfill sediment into wetland; "siltation of the west end of the wetland is readily apparent"; sediment removed from wetland on 6/13/02
6/19/02	DIR, 6/19/02	silt fence at SW, near access road, failing
6/19/02	same	drainage ditch at south of old soil mine near wetland failing
6/25/02-present, con't	DIR, 6/25/02	sediment-laden stormwater discharge into wetland; "damage to the wetland will need to be determined"; on or about 8/7/02 NOV from DEC Fish & Wildlife, finding approx. one acre of sediment discharged into wetland, additional sediment discharged into Hosmer Brook

**SCHEDULE J: LFG CONTROL DEVICE FAILURES (MAIN FLARE)<sup>a</sup>**

DATE	HRS. <sup>b</sup>	COMMENTS
12/31/99-1/3/00	80.0	flow spike <sup>c</sup>
1/10/00-1/11/00	23.0	flow spike <sup>c</sup>
1/11/00-1/12/00	29.0	flow spike <sup>c</sup>
1/22/00-1/23/00	21.0	
1/25/00	4.0	
2/21/00-2/22/00	10.0	
2/22/00	3.0	
3/31/00	2.5	
4/7/00-4/9/00	78.0	flow spike <sup>c</sup>
4/20/00	11.0	
5/3/00	6.0	
5/18/00-5/20/00	20.0	
7/28/00-8/1/00	80.0	initial power outage, but system failed to ignite thereafter
8/2/00	2.0	
8/6/00	2.0	
8/7/00	3.0	
9/11/00-9/14/00	71.0	meter malfunction
10/22/00-10/23/00	23.0	maintenance shutdown
12/5/00	.25	
12/6/00	.25	
12/8/00	2.25	
12/11/00	.50	

<sup>a</sup>An open flare must be “designed and operated in accordance with 40 CFR part 60.18.” 6 N.Y.C.R.R. Part 360-2.21(c)(2)(ii)(c)(1). “Flares shall be operated with a flame present at all times, as determined by the methods specified in paragraph (f).” 40 C.F.R. §60.18(c)(2). “The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.” 40 C.F.R. §60.18(f)(2). MSW landfills must comply with an approved state SIP under the Clean Air Act. 40 CFR §258.24(a). All data in the table above are taken from WMNY Chaffee Landfill’s flare monitoring logs, which provide continuous monitoring of the presence of a flame.

<sup>b</sup>From WMNY’s flare monitoring logs, indicating approximate hours during which the main flare was not ignited.

<sup>c</sup>I.e., period during which gas flow exceeded the capacity of the flare to maintain ignition.

12/19/00	5.0	
12/26/00	7.0	
1/2/01	.75	
1/4/01 <sup>d</sup>	9.0	

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<sup>d</sup>No further records have been obtained, but the landfill is obligated to provide updated records on an annual basis.