

CONCERNED CITIZENS OF CATTARAUGUS COUNTY

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JANUARY 2008

PRESIDENT'S MESSAGE

This past September I became President of the Concerned Citizens of Cattaraugus County. I am both honored and humbled by this present challenge. Having been a member of this great organization for several years, I have seen first hand what is happening in our Enchanted Mountains.

Cattaraugus County is under attack at all its pristine corners. We have had to add more to our agenda as our concerns have become even greater. Without diligence, without keeping abreast of all situations, our County's landscape may change irreparably. Our health and the health of generations to come may be jeopardized. Our tourist economy has the potential of suffering as well. From a proposed landfill in Farmersville to gravel mine operations in both Olean and Yorkshire, wind turbines slated for the area, West Valley demonstration project, the 219 decimating the environment at the north end of the county, and the Laidlaw project in Ellicottville, we are being assaulted by many forces.

Our group was formed to work together against a cause, the proposed mega dump. Some 15 years later, we are still fighting against it and in the process are finding that we need to continue to work together to keep the rest of the county from being made something far less than "enchanted." Recent developments with regard to Southern Tier Waste defaulting on taxes gives us reason to be optimistic, yet until the legislature decides as to its final disposition, we cannot rest on our laurels.

My family and I moved here in 2001 and I still see this area through the eyes of a tourist. I will never forget driving down Route 98 South and over Chapel Hill marveling at the majesty of these hills in all their autumnal glory. Having lived in Buffalo's south towns my entire life, moving to an area filled with such beauty in its natural state was nearly overwhelming! How fortunate we were to have this in our very own backyards! (add to that, the wonderful people we have met along the way!) I want to do all I can to KEEP this county as beautiful as I saw it back then.

In an effort to meet our neighbors, we are making the CCCC a "moving experience." Meetings are held the first Thursday of each month and will be moved to locations around the County. In the past we have met in Olean, Farmersville and Franklinville; our last three meetings were in Humphrey, Ellicottville and Machias. Please see our web site or watch the local papers for future meeting dates and locations.

Please join me in supporting the Concerned Citizens of Cattaraugus County.

Eco Blessings,

Lois Ann Zendarski

IN THIS ISSUE

- Farmersville Landfill
- West Valley
- Energy Resources
- Giardini Gravel Mine
- Route 219 Extension

Officers:

President:

Lois Ann Zendarski

Vice President:

David C. Amsler

Treasurer:

Marie Comstock-Johnson

Secretary:

Barry Miller

NEXT CCCC MEETING

**Thursday, February 7
7:00 PM**

Franklinville
Conservation Club
Elm Street
Franklinville NY 14737

COUNTY NOW OWNS LANDFILL PROPERTY

Cattaraugus County is the new owner of the proposed Farmersville dump site. It has taken 19 years.

The County went to court after the company missed a January 4 deadline for payment of the \$359,984 in property taxes that had accumulated over the past three years. On January 9, word reached Concerned Citizens of Cattaraugus County (CCCC) that the Cattaraugus County Court had that day awarded to the County the deeds for Southern Tier Waste Services' five parcels.

As this new development takes shape, the County government is considering its options. At the top of the list is a park feasibility study

recommended a decade ago. Costly eminent domain proceedings are no longer necessary to carry out that plan for the 437-acre site.

Legal advisors—and the very wise and wary—say the title transfer could be reversed if the County Legislature decides to return the land to Southern Tier Waste in exchange for the back taxes. Others say the County could send the properties to the auction block, thereby inviting the dump proponents to buy the property back.

But most observers expect that the Legislators would find that move counterproductive, especially in light of the large amounts of public funding used in the past to hire consultants

for research and testimony at environmental hearings. The record is clear. The County's experts found numerous environmental flaws in the proposal and these have never been refuted by Southern Tier Waste.

Most CCCC members will recall that this issue and the Farmersville Town Board's September 9, 1991, contract with Southern Tier Waste's parent, Integrated Waste Systems, is what spawned the incorporation of our group that year. That was two years after IWS made its first misleading offers to the landowners and took tentative steps toward applying to the State for a landfill permit.

(Continued on page 3)

WEST VALLEY DEMONSTRATION PROJECT UPDATE

By Judy Einach, Director of the Coalition on West Valley Nuclear Wastes

The Coalition on West Valley Nuclear Wastes (Coalition), the public advocacy group that has been "watch dogging" the site for over 30 years, has never wavered from its position that the site must be left fully clean – "Dig It Up!" The Coalition expects that the preferred alternative will reveal a decision to leave the longest-lived and most radioactive wastes on-site indefinitely. The Coalition is convinced that DOE decisions are based on models that offer unrealistic predictions about how the site will erode over time, how groundwater will be impacted by wastes that remain in place, and what dose rates will be. This view is supported by other interested parties and independent experts.

We are not seeing from DOE a commitment to fully clean the site. The Coalition understands that the technologies needed to dig up the underground radioactive tanks and the wastes buried in unlined trenches and holes has not been invented yet. But in the mid-90s when the decision was made to vitrify (turn into a solid, glass-like form) the high level wastes stored in the underground tanks, vitrification technology hadn't been invented yet. Commitment led to invention and invention led to success. The Coalition believes that same process can happen again with the remaining wastes.

DOE has listed a couple of actions it will take that will need new technologies. One is to stop the migration of strontium 90 and cesium from leaking into Frank's Creek. Strontium is

leaking, slowly, into the waterways. DOE plans to build a structure that will stop the strontium before it reaches the creek. But like vitrification, this is experimental. And, the wall will be built some distance in from the creek. Strontium beyond the retaining wall will continue to leak into the water. DOE is also committed to covering one of the burial grounds which is close to overflowing. If it overflows, radioactivity will spill across the land and into the waterways.

In addition to the buried tanks, wastes in unlined trenches and holes, and the leaking strontium and cesium, there are still 275 canisters of high level vitrified wastes on-site. The only place to which these canisters can be moved is to a national high level waste storage facility. But this nation has none. A Yucca Mountain facility may never be built, for good reasons. But even if Yucca were built the West Valley canisters are not cued to enter until 40 years after a facility opens. There is that much nuclear waste ahead of it. And that much waste might fill the facility to capacity.

The Coalition believes that leaving radioactive wastes in place will be more expensive in the long run than developing technologies and doing the work to dig them up and store them above ground where they can be monitored and maintained until there's someplace else to store them, or, until erosion dictates they must be moved. Senator Catherine Young funded a Member Item that provided funding for a Full Cost Accounting Study to analyze the various

alternatives DOE may propose for the site. That study is expected to be released in 2008.

The West Valley nuclear site was this nation's first and only commercial venture to reprocess nuclear wastes. Given the problems at West Valley, including serious environmental damage from accidents and carelessness, President Carter outlawed commercial reprocessing of nuclear wastes. President Bush, supporting the nuclear industry, plans to overturn Carter's decision. The problem of nuclear wastes has never been solved and is the biggest thorn in the side of an industry that wants desperately to increase the nuclear industry's share of the energy market. Regardless of your position on nuclear energy, the issue of nuclear wastes must be solved and will only be solved if the public demands it.

West Valley is home to the most complex mix of nuclear and hazardous wastes in the US. That cocktail is exponentially more dangerous than nuclear or hazardous wastes alone. The DOE needs to hear that WNY residents want this site fully cleaned. The nation needs to hear our voices. It's time to ramp up public participation in decision-making about the West Valley nuclear site. Public outcry has led to smart decisions being made with respect to the site. We need to make ourselves known again.

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ENERGY FOR OUR ECONOMY AND OUR ENVIRONMENT

By David C. Amsler, Vice President, Concerned Citizens of Cattaraugus County

Advances in technology are presenting us with an opportunity to save money and do much more to help the environment and our economy than the talked about goals of 15 - 20% clean energy in 15 - 20 years. We can make this country largely energy independent again by replacing inefficient, polluting imported fuels with more efficient use of electric power. To be successful, that electric power must come from sources that are clean, available when needed, and economical. Two examples:

- Improved batteries** make it possible to drive automobiles 40 miles on a single charge costing about 80 cents. The internal combustion automobile engine converts only about 20% of the available energy in gasoline to motive power, while electric motors operate at near 90% efficiency and electric vehicles can recapture energy when braking.
- Heat pumps** can move about 5 times more energy than they consume to heat homes and buildings. Heat pump efficiency can be en-

hanced by using the earth as a constant temperature heat source.

The high cost of imported fuels contributes to our country's being the largest debtor nation. High energy costs hurt our ability to compete in the global economy. We are also the largest contributor to greenhouse gases which most scientists agree play a major roll in global warming and climate change.

China is expected to pass the U.S. in greenhouse gas production in 2008. Developing countries do not follow in the footsteps of developed countries but leapfrog to best available technology which to them usually means lowest cost.

The entrepreneurial culture of the U.S. is ideal for developing clean alternative energy sources that are economical and that other countries will want to adopt, thus helping the world's environment while positioning ourselves to profit and create real jobs from that new technology.

Greenhouse gases allow sunlight to pass through, but either absorb or reflect back to the earth a significant portion of the heat that our earth would normally radiate back into space. Most greenhouse gases are naturally created and reabsorbed by earth. We add to greenhouse gases by burning most any fuel, but especially carbon- and hydrocarbon-based fuels like coal, oil, and natural gas. Carbon dioxide in our atmosphere has increased by more than 25% since the start of the industrial age, and methane, a less prevalent but more potent greenhouse gas, has about doubled. When we put more greenhouse gases into the air than can be reabsorbed, the earth retains more heat and climates change. Farmland that lacks rain quickly becomes desert; adding rain to desert does not quickly create farmland.

Some Major Energy Sources:

Conservation: Helps the environment, and making the buck go further is the essence of

(Continued on page 3)

(Continued from page 2) — **ENERGY**

good economics. However, overemphasis of conservation leads to thinking in terms of limited resources, whereas energy resources abound in our universe. Finding clean, efficient ways to capture and use those resources is our challenge.

Coal: Economical, not imported, but the worst choice environmentally. Coal is almost entirely carbon and burning it creates more carbon dioxide per unit of energy than alternatives. Mining coal destroys large areas and releases methane gas from the holes made in the earth. To date, no carbon recapture process exists that is economically feasible or available for large-scale use.

Petroleum (oil, gasoline, diesel, propane) and **Natural Gas:** All compounds of carbon and hydrogen. Much of ours is imported at high cost. Produce less carbon dioxide per unit of energy than coal, but are still major sources of greenhouse gases.

Hydroelectric: Both clean and economical. If you think cost does not matter, consider the recent fuss about redistributing the low-cost power from Niagara Falls.

Geothermal: May be one of our best long-term energy resources. We are the world leader in mass producing power from geothermal sources. This has been mostly in geyser areas of the western U.S., but technology developed drilling for oil now allows us to drill down 2 to 3 miles where very high temperatures needed to generate electrical power exists under much of the U.S. Cost is still prohibitive, but major reductions are expected. A Massachusetts Institute of Technology study estimates that *just 0.001% of the heat energy available under the U.S. can supply 100% of this country's total annual energy needs.*

Nuclear: May be one of our best near term sources. Technology exists to provide the large amounts of mostly greenhouse-gas-free electric power needed to allow quick conversion from carbon and hydrocarbon fuels and buy us time to develop other resources. The waste problem remains, but we know how to store it for a few hundred years, if not ten thousand, while we work to develop better recycling means. We need not rush into another West Valley project.

Bio-fuels: Can be very good when generated from waste sources. Problems arise when we attempt to grow crops for energy and divert land from food production, raising food costs. Corn-to-ethanol is an example of “feel good” energy and good intentions that result in bad consequences. Ethanol derived from corn yields little if any net energy after taking into account energy used in planting, fertilizing, harvesting, transporting and converting. Worse, it has been estimated that when the effect of the very potent greenhouse gas nitrous

oxide that is given off by the fertilizer used to grow corn is taken into account, burning corn-based ethanol creates 70% *more* greenhouse effect than burning gasoline—all this to make fuel for internal combustion auto engines that convert only 20% of the resulting energy to motive power. We know better, and must do better.

Intermittent energy sources: Solar, wind, tidal and wave power all share a major problem: Their power is not always available when needed and must be backed up by conventional power plants that have to be maintained, staffed, and ready to go on line at a moment's notice. The hidden cost of maintaining this conventional backup makes most intermittent sources uneconomical.

Wind energy is an unfortunate example of “feel good” energy. The turbines are large, highly visible, and seem to be making use of a free resource. However, they are expensive, usually produce rated power less than 25% of the time and, unlike solar, no major cost breakthroughs are anticipated. They divert resources from more economical generating means, increase our cost of electricity, and thus inhibit investment in technology such as electric vehicles and heat pumps which could be weaning us away from imported hydrocarbons. Our current subsidy policies are also a disincentive to development of energy storage for wind power.

Solar electric energy does hold promise. Rapid advances deriving from the semi-conductor and nano-technology industries may bring costs down to where solar power can be economically teamed with energy storage to make power available when needed. Solar heating of homes and buildings usually includes heat storage, making this a viable option in much of the U.S.

Intermittently available electric power can be stored by pumping water into reservoirs, or air into large deep underground chambers, for later use in generating power when needed. It can also be used to break down water into hydrogen and oxygen to later be recombined to generate energy. Some energy is always lost in conversion, and cost of the total cycle must be considered when examining costs of intermittent energy.

We have a window of opportunity to help both our country's economy and the world's environment. We must act quickly to choose the most cost effective sources of clean alternative energy and not saddle ourselves with uneconomic “feel good” energy projects that only hurt our economy and do not make a real contribution to improving our environment. ■

For more on greenhouse gases, please see: www.umich.edu/~gs265/society/greenhouse.htm or Google “Greenhouse Gases and Society”

(Continued from page 1) — **LANDFILL**

As word of this development gets around, even diehard dump opponents find it hard to believe. You have to hear it a couple of times before you feel the wave of relief and remember what it was like “Before the Dump.”

The irony of the possible construction of a County park is not lost on those who were on hand when IWS came calling. The company men, chiefly Bill Heitzenrater—who now represents STWS—worked with the Route 98 hunting camp landowner, Ken Lefler, to obtain the neighboring Burrell and Burlingame farms for less than \$150,000. These two families were told the three properties would soon be transformed into a Rainbow Lake-type campground or recreational facility. The Burrells and Burlingames were to be the caretakers of the idyllic paradise.

Later, the company announced that their advisors had recommended the best use of the land would be a dump. Soon afterward the Burrells and the widow Burlingame were asked to move off the property. Appeals for common sense and reason from town residents and alarmed neighbors of all ages were ignored by town officials. The rest of the story is long and colorful and the stuff of legends, leaving many scars that may never completely heal.

It is almost certain there will be legal action from Southern Tier Waste to force the County to return the land, and the company will make a mighty noise about its supposed financial losses. But the landfill proposal cost residents even more: new businesses not started, families uprooted, friends parted, lost opportunities. Farmersville stood still and the northeastern section of the County was held hostage for almost two decades.

We all stand to be counted behind the legislators who must make the decision to end this long-running threat to the future of our community. ■

BECOME A MEMBER OF CCCC!

If you are already a member, are your dues up to date?

Your dues enable us to continue our mission of preserving the environment in Cattaraugus County and protecting the welfare of its citizens.

Please see the enclosed flyer for some of the reasons you should be a Concerned Citizen and a convenient membership form.

GIARDINI BROS. GRAVEL MINE EXPANSION

By Gary Abraham, Esq., CCCC Attorney

CCCC is appealing dismissal of a complaint that seeks to stop gravel mining in the City of Olean along the Allegheny River and seeks enforcement of a setback from mobile homes in Allegany. Some of our members live at Meadowbrook Colony, a mobile home park adjacent to the Giardini Bros. Construction Co. gravel mine on Gargoyle Road in Allegany.

The Town of Allegany zoning ordinance includes a requirement that excavation and stockpiling be no closer than 500 feet from homes unless the homeowner agrees otherwise. No homeowners agreed to allow Giardini Bros. to continue stockpiling mined materials, which Giardini Bros. does now within 200 feet of Meadowbrook Colony. The owner of the mobile home park joined CCCC in filing a lawsuit to enforce this requirement.

The Planning Board refused to enforce the setback because Giardini Bros. Gargoyle Road mine has been operating since 1976, and the board concluded it was grandfathered. The setback should not therefore apply. However, Giardini Bros. purchased over 100 acres to the east, partly in Olean, and asked for permission to expand the Gargoyle Road mine, add about 35 acres of new mining to the east, and haul the newly mined materials from the east to the site of the existing stockpile adjacent to Meadowbrook Colony. Once hauled to the Gargoyle Road mine, the materials would be mechanically sorted, cleaned and stockpiled.

Meadowbrook residents have long complained about noise and dust from the stockpiling activity, and now that the operation would be expanded, they felt it was time to comply with the setback.

CCCC will argue on appeal that grandfathering applies only when operations do not substantially expand. If they do, the operator must comply with current local laws.

In Olean, the Zoning Board of Appeals disregarded the City zoning ordinance, which prohibits gravel mining from Olean Creek westward along the Allegheny River to the Town of Allegany border (about where K-Mart on Route 417 is located). In fact, the Zoning Board of Appeals appears to have bent over backwards to approve Giardini Bros. project in the City.

The City has zoned the area as "Waterfront Conservation Use District," and has said only waterfront-compatible development such as recreational and dining facilities are allowed. No industrial uses are allowed, including gravel mining.

The law says the Zoning Board of Appeals must apply four factors to determine whether a project can be allowed under a variance, notwithstanding the zoning restriction. But the Zoning Board of Appeals never complied with that law, and one Board member said so in the 4-3 vote for Giardini Bros.

In addition, the variance was limited to six months. Giardini Bros. let the variance lapse, then nine months after it was issued asked the Zoning Board of Appeals for an extension. CCCC argues the Zoning Board of Appeals lacked authority to act on Giardini Bros. request; Giardini Bros. was required to reapply for the variance. But the Zoning Board of Appeals extended the variance anyway.

Last April, the Honorable Judge Larry M. Himelein dismissed the CCCC challenges because there is a 30-day limit on lawsuits challenging unreasonable zoning decisions. However, we argue these decisions were not just unreasonable, they were illegal because the boards violated their own local laws (as well as state laws governing the procedures zoning and planning boards must follow). If we're right, the 30-day limit does not begin to run until a legal zoning decision is made, and Judge Himelein's dismissal should be reversed.

Zoning laws are an important way to achieve environmental protection and environmentally sensible development. The CCCC Board decided that its mission, which includes supporting the enforcement of environmental laws, makes challenging illegal zoning decisions appropriate. The CCCC Board felt that, if a court agrees that these decisions are illegal, zoning boards around the county will start doing a better job of enforcing their own land use laws. ■

ROUTE 219 EXTENSION

Construction has been approved for the new Route 219 divided highway for 4.2 miles south of Route 39 in Springville and is scheduled for completion in 2009.

The federal U.S. Army Corps of Engineers is holding up the 219 project because a Clean Water Act permit is required to disturb wetlands. If disturbance of wetlands is unavoidable, the NYS Department of Transportation must show there is no alternative.

But DOT has already identified an alternative: upgrading the existing road.

For this reason, the Corps of Engineers has taken the position that DOT should adopt the alternative.

The Corps of Engineers also criticized DOT because wetlands were not adequately surveyed in earlier studies.

Other considerations:

As of now, there is no agreement with the Seneca Nation to cross their land with the new route to connect with Interstate 86. There would be little point in building a divided highway that must dead-end in Great Valley.

Along the most rural parts of the highway where traffic does not warrant a divided highway, communities bypassed by

the new route risk becoming like other bypassed communities in Appalachia.

The EPA submitted comments last spring on the project, stating that surprisingly the accident rate on the divided highway can be expected to be "slightly higher" than the accident rate on the existing road.

CCCC also submitted comments pointing out that no evidence has been offered by DOT or the County that the divided highway proposal will create economic benefits to the County.

CCCC supports the Army Corps of Engineers' position on protecting the wetlands. ■

PLEASE CONTRIBUTE TO HELP CCCC PROTECT OUR ENVIRONMENT IN CATTARAUGUS COUNTY

CCCC WELCOMES YOUR INPUT ON THESE MATTERS AND ANY OTHERS THAT YOU FEEL WE SHOULD BE WATCHING. PLEASE VISIT OUR WEB SITE, www.concernedcitizens.homestead.com, OR GOOGLE CONCERNED CITIZENS OF CATTARAUGUS COUNTY, OR WRITE US AT CONCERNED CITIZENS OF CATTARAUGUS COUNTY, P.O. BOX 23, FRANKLINVILLE, NY 14737.