

# Concerned Citizens of Cattaraugus County, Inc.

Volume 13, No. 1

WWW.HOMESTEAD.COM/CONCERNED CITIZENS

April 2005

## REMEMBER CCCC IS HERE TO PROTECT YOUR HEALTH AND WELL-BEING

- DETAILS ON HOW TO CONTRIBUTE ARE AT THE END OF THIS NEWSLETTER. THANKS!
- CURRENT MEMBERS: HAVE YOU PAID YOUR MEMBERSHIP DUES?
- PLEASE UPDATE YOUR CONTACT INFORMATION

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**What's New** keeps local government officials abreast of current environmental funding opportunities, federal policy updates, important legislative activities, new reports and publications, and other available tools and resources.

New DVD Explains Communities and Environmental Laws” The U.S. Environmental Protection Agency (EPA) has released a new DVD, "Communities and Environmental Laws." The disk contains a 20-minute video that highlights how communities can use environmental laws to protect public health and safety. A copy of the Environmental Law Institute's publication, "A Citizen's Guide to Using Federal Environmental Laws to Secure Environmental Justice" is also included on the disk. To receive a copy of the disk, call 513/489-8190 and request EPA 300-C-04-001.

## We Have More Time to Work

The estimated time for reconvening the issues conference will depend on IWS's (Integrated Waste Management) progress in completing its applications and the DEC (Department of Environmental Conservation) Staff's progress drafting new permits. In late October, IWS wrote to Judge Kevin Casutto, saying only one of the required two new permits has been submitted to the DEC and IWS is awaiting comments on that application before submitting the second permit application; and saying that IWS will write monthly with further status updates.

Once both applications have been accepted as complete by the DEC, the judge will schedule a time for intervenor parties to submit new or supplemental petitions to raise any new issues presented by the new draft permits. IWS must then respond to comments. The issues conference will be scheduled to reconvene following that.

In January of 2005, an attempt by Chautauque county to reopen the Conceptual Review De-

cision, based on the potential destruction of the Carpenter Brook trout stream spawning area, was opposed by the DEC.

At this point, at the end of March 2005, the issues conference will go on into 2006, which is good news for those of us working to make the dump go away.

IWS has yet to submit their water treatment proposal to the DEC, which needs to be done before the application is complete.

New data concerning the wetlands, on which the dump site is proposed, will be brought to the DEC when the issues conference reconvenes.

Later in 2005 the issues conference will probably be reconvened. At that time it will be decided whether evidence for and against the Farmersville landfill will be brought, in a trial-type hearing. Such hearings often take more than a year to conclude.

## HOW MUCH HAS THE DUMP FIGHT COST THE COUNTY?

The County has already spent over \$300,000 fighting the landfill proposal in DEC administrative hearings. Most of that amount was provided by state grants, not local taxpayers. In the mid-1990s New York State made "environmental impact grants" to three counties that were under consideration for a low-level nuclear waste site: Cortland, Allegany, and Cattaraugus counties. (One proposal was to site such a dump at West Valley.)

The County also received \$200,000 in a grant from the state to undertake planning for a park at the site of the proposed dump in Farmersville.

The County spends tens of thousands each year to haul away and treat toxic leachate from the closed Farwell Landfill alongside the Ischua Creek and the closed Five Points Landfill in Mansfield. Finally, some of the City of Olean's municipal water wells are shut down because of TCE pollution.\*

If a landfill with over a million tons of waste operates, then closes in Farmersville, the town could be caught holding the liability for treating leachate and other pollutants left behind, if IWS or its successor doesn't have the resources. Such a landfill will require maintenance for decades after it closes.

\*TCE is a known carcinogen, highly soluble in water. (More info on TCE is available on our ToxLinks page.) The City of Olean and the companies responsible for the pollution of the city's wells are currently spending large sums to run air strippers at contaminated wells--devices that draw the water up from the ground and spray it out, in order to put the TCE into a gaseous form (it's highly volatile as well as water soluble), collect the gas, and take it away. This puts enough negative pressure on groundwater around the well to prevent the underground contaminant from moving out as quickly as it might, or even to stop it from migrating.

# Gravel Mine Next to Gargoyle Park!!

In February, 2005, Giardini Bros. Construction Co. proposed adding a total of 88.50 acres to the Giardini Brothers' Gravel Pit (formerly Rehler Gravel Pit) currently permitted for 20.5 acres in the Town of Allegany. The expansion consists of 52.52 acres west of Gargoyle Road in the Town of Allegany (West Site), and on the east side of Gargoyle Road, east of the City of Olean's fire company training area (East Site), 26.68 acres in the Town of Allegany and 13.30 acres in the City of Olean. The southwest corner of the active mining operation at the West Site

would be 125 feet from the Allegheny River Valley Trail, and 600 feet from the Allegheny River. An existing 20.5 acre gravel mine at the proposed "West Site" would be enlarged to 70 acres and operate for 74 years. Mining on the Olean side, where 36 acres would be excavated for 35 years, is at odds with the zoning code, which designates the area a "Waterfront Conservation District," where new development must be "in harmony with the conser-

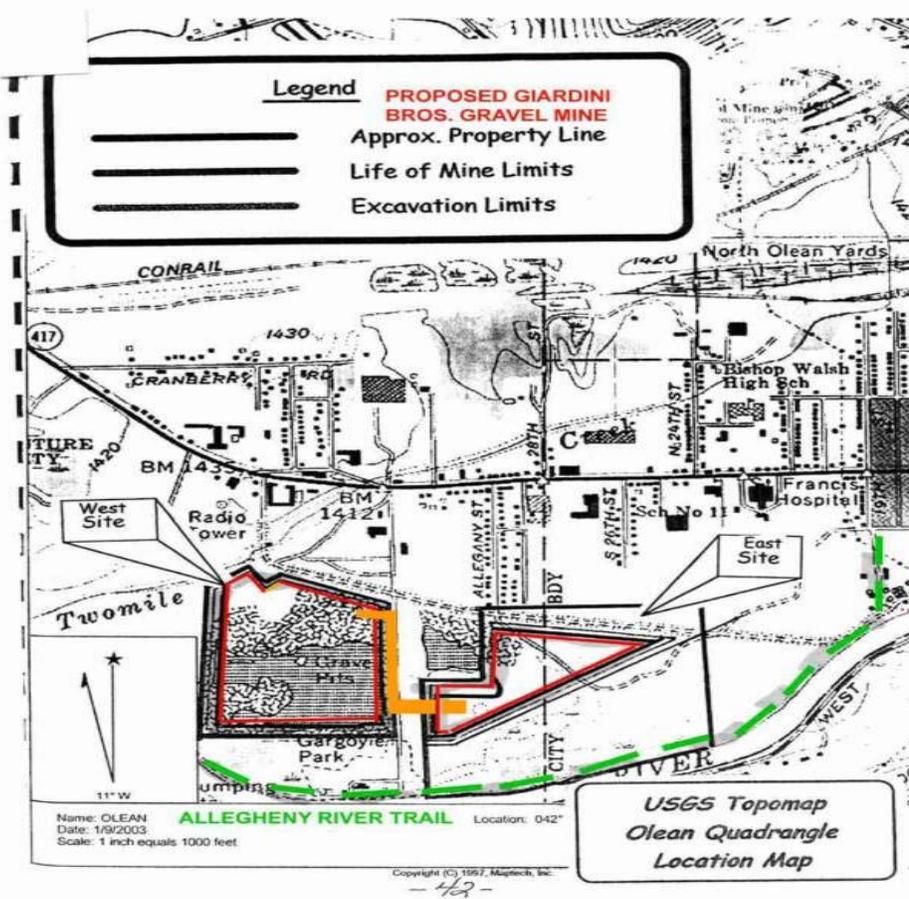
vation of the district's general recreational and open space character and the historic environmental areas adjacent to the creek and river." However, last October the Olean Zoning Board held a public hearing on this proposal and nobody commented. In December the Board granted a variance for the mine expansion. According to the DEC, "The reclamation objective for both [gravel mining] sites is to create a recreation area with lakes, for the Giardini family's private use." A number of different standards must be met for approval of this proposed project. The NYS Dept. of Environmental Conservation applies minimum environmental standards for design and operation of gravel mines and, if any discharge of water would occur, minimum standards for discharges associated with industrial activity. In addition, the DEC must apply the

general standards of the State Environmental Quality Review Act (SEQRA). These standards require the DEC to (1) take a "hard look" at adverse impacts on noise, dust, air pollution, traffic, recreational resources and community character, as well as the natural environment, and (2) find that the project would minimize such adverse impacts to maximum extent that is practical. Local government planning and zoning boards must also comply with SEQRA. In addition, local officials should apply standards that determine whether a project

qualifies for approval within a given zoning district. The zoning ordinance elaborates standards which must be met before a special exception permit may be issued. These standards are in addition to environmental standards under DEC regulations or under SEQRA. A project may be approved by the DEC and still disapproved by a local government body, in which case the project cannot be built or operated. One approach to preparing comments is to review the DEC's statement justifying a finding that none of the adverse impacts of this project will be "significant." Look also at our guide to preparing comments under SEQRA, and the links there. If you believe the DEC's

statement is inaccurate based on your information or experience, list all such inaccuracies in your comments. If there are impacts our SEQRA guide says must be addressed and you think the project fails to address them, list those too and discuss how the impacts should be minimized--including by not having the project at all. Local approval is required from both the City of Olean and the Town of Allegany, regardless of DEC approval. Each municipality's Planning Board must still review the proposal and approve a special use permit for the mining areas within their jurisdiction.

In the Town of Allegany, the area is zoned for agricultural and forest land use (A-F). The Town Code says: "The A-F District is designed to preserve farmland and woodlands."



# Time to Stop Backyard Burning

Assemblymember Colton has joined Assemblymember David Koon, Chair of the Legislative Commission on Toxic Substances and Hazardous Wastes, to introduce legislation to ban the burning of household wastes. The bill (A 7202, KOON, COLTON, ENGLEBRIGHT, JOHN, DINAPOLI, DINOWITZ, ESPAILLAT, HOYT, M. Cohen) prohibits the open burning of solid waste in New York (with certain exemptions for agriculture. The bill allows municipalities to enact local ordinances which are more restrictive. The Department of Environmental Conservation promulgated regulations (6NYCRR Part 215) to allow open burning in towns (not villages or cities) of under 20,000 people.

According to the paper "Confronting the Problems of Backyard Burning in the Northeast: The Case of New York", a 1998 unpublished report by Dr. David R. Lighthall, Colgate University and Steven Kopecky, Pennsylvania State University, changes in the chemical composition of the waste stream have contributed to an increase in the health risks of backyard burning. Increased volume of wastes produced by households and a higher proportion of synthetic chemicals, particularly plastics from packaging, have increased the risks of open burning. Incomplete combustion and low temperatures are characteristic of burn barrels, which can result in the formation of dioxins and furans.

The impacts of open burning far surpass those caused by other disposal methods. The U.S. Environmental Protection Agency (EPA), in cooperation with the NYS Departments of Health and Environmental Conservation, reported that average polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDDs/PCDFs) from burning 50-900 pounds of household waste in burn barrels are equivalent to those from burning 400,000 pounds of household waste in a modern, well-controlled incinerator. Other emissions from open burning include carbon monoxide, sulfur dioxide, nitrogen oxides, benzene, formaldehyde, chromium, cadmium, mercury, arsenic and hydrogen cyanide.

The primary exposure pathways from backyard burning and their associated toxins include direct inhalation of VOCs and particulates, ingestion of metals that have been absorbed by plants, ingestion of contaminated soil by children and ingestion of organochlorine compounds that have bioaccumulated in fatty tissues of animals.

"...changes in the chemical composition of the waste stream have contributed to an increase in the health risks of backyard burning."

Acute or short term impacts from inhalation of these emissions include respiratory distress and breathing difficulties.

Most recently, the EPA has now found that dioxin is ten times more likely to cause cancer in humans than they previously estimated. Dioxin has been classified as a known human car-

cinogen. There is a growing evidence that organochlorine compounds are at least partially responsible for the increased incidence of breast and prostate cancer in the US EPA has also found that dioxin has the potential to negatively affect human metabolism, and the development of reproductive systems at average exposures. At higher than average exposures, endometriosis, demasculinization, birth defects, cardiovascular disease, hypertension, miscarriage and infant death, low birth weight and growth retardation may occur.

There is solid support for this legislation, including the NYS Conference of Mayors, the NYS Association of Counties, the Department of Environmental Conservation, the NYS Association of Towns, the NYS Solid Waste Management Association, the American Lung Association, the NYS Association of Firefighters and others. Assemblymembers Colton, Koon and Englebright are committed to achieving passage of legislation this year to finally end this damaging practice.

The Assembly unanimously passed A 7202 on April 23, 2001. The Assembly is now working with Senator Maziarz, sponsor of S 3772, for passage of this important legislation in the Senate.

## TOUR DE BURN BARREL

The First annual Tour de Burn Barrel was held Friday April 16 - Monday April 19, 2004. Everyone had a great time and recommended we repeat it annually (at least until the NYS Senate passes a burn barrel ban). So, this year the Second Annual (2005) Tour de Burn Barrel will take place from Saturday April 16 to Tuesday April 19, 2005. More information on route and ride including maps below.

Ride description:

The ride is scheduled to arrive in Albany at Empire State Plaza to coincide with Earth Day Lobby Day where hundreds of environmentalists will be gathered to push for environmental bills in the New York State Legislature, including a bill to ban burn barrels statewide.

The bicycle tour will travel scenic back roads following the Oswegatchie, Black, and Mohawk River Valleys. It will pass through prime burn barrel country. The tour will cover about 50 miles a day and everyone is welcomed to join for a few miles or the entire four day trip. Contact Tour de Burn Barrel info for details.

Gas masks are optional.

**(DOES ANYONE WANT TO ORGANIZE A RIDE IN THIS AREA?)**

**IS THIS GRAVEL PIT LEGAL? HERE ARE SOME RELEVANT EXCERPTS FROM THE OLEAN ZONING CODE**

**4.6 Waterfowl Conservation Use District (WC).**

**4.6.1 Intent.** The intent of the Waterfront Conservation use district established in this Section is to recognize the unique role which the Alleghany River and Olean Creek and their waterfront areas have played in the formation, growth and life of the City of Olean. All construction within this use district is required to conform with the provisions of chapter 9 of part II of the Code of Ordinances of the city of Olean, entitled "Flood Prevention". The objectives of this district are:

- 1. To provide for a compatible mixture of waterfront-related used, including recreational, park, open space and boating uses, as well as limited waterfront enhanced uses such as waterfront-related residential and commercial uses;
- 2. To encourage appropriate land development, including the utilization of land and buildings

and the adaptive reuse of existing structures, which is in harmony with the conservation of the district's general recreational and open space character and the historic environmental areas adjacent to the creek and river;

- 3. To recognize the sensitivity of the unique waterfront environment in this area and reinforce appropriate safeguards to protect the area from periodic flooding, soil erosion, sedimentation and slope failure due to unregulated construction, removal of vegetation, dredging, filling, damming or channelization;
- 4. To further protect scenic views of the creek, river, open space areas and mountains;
- 5. To provide for a mix of land uses and developments as well as active and passive recreational areas and opportunities that take advantage of the unique location and

characteristics of the waterfront area;

- 6. To promote the maintenance and/or extension of public access to the river and creek, when practical and feasible, and where such access relates to and is compatible with the primary purpose of the proposed development or activity.
- 7. To provide for a variety of activities in a planned, controlled environment in a manner blending all uses into a functionally and aesthetically complementary whole.

**4.6.6 Site plan review.** Site plan review and approval shall be required for all uses permitted within the WC District. In addition to the general requirements for site plan review and approval as specified in article 9 of this law, the following standards shall apply to site plan review within the WC Use District: (Editors Note: There is not mention of gravel pits anywhere in the Code.)

**PLEASE CONTRIBUTE! GIVE A GIFT OF OUR COOKBOOK—RARE WILD GAME RECIPES AND OTHER BACKWOODS DELICACIES AND BECOME A CCCC MEMBER:**

- \_\_\_\$30.00      Group/Organization
- \_\_\_\$20.00      Individual/Family
- \_\_\_\$12.00      Senior/Student
- \_\_\_\$???        Patron/Gift
- \_\_\_\$15.00      Cookbook

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Email: \_\_\_\_\_

Please make checks payable to: Concerned Citizens of Cattaraugus County. **Many companies provide matching Contributions. Please see your Human Resources Dept. However, you should know that as a 501(c)(4) not-for-profit Corporation, contributions to CCCC aren't tax-deductible.**

Concerned Citizens of Cattaraugus County, Inc.  
P. O. Box 23  
Franklinville, NY 14737

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