

Concerned Citizens of Cattaraugus County, Inc.

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December 15, 2004

Keeping Big City Garbage Out

Why should Cattaraugus County take all of the burden of urban garbage? Cities in the region recycle at less than half the rate we do. But they dispose of the burden this creates in rural communities.

Breaking News: Could This Be Our Chance to Stop IWS in Farmersville?

by Maureen Sheahan-McClure

Last year at this time the DEC began a public review of the Farmersville dump proposal. As a result of objections to the proposal made at an "issues conference" (see sidebar) held at the Machias Fire Hall on April 27 and 28, 2004, the review has been postponed until IWS provides additional technical studies. While IWS was preparing those studies, a motion was introduced by Chautauqua County, one of the objectors, to take another look at the DEC's 1996 site approval.

The review to determine whether to permit an IWS landfill in Farmersville has

REMEMBER CCCC ON YOUR GIVING LIST

We need your help too! We've got at least a full year ahead of us fighting a complicated battle to protect water quality in the Olean Creek Watershed of the Allegheny River, air quality in the Franklinville area, and the cost of road repair all over Cattaraugus County. Details on how to contribute are at the end of this newsletter. Thanks!

Current members: please update your address, email and phone number; annual dues are requested each January

proceeded in two parts. In the early 1990s IWS applied for and won "conceptual" approval for a landfill on the Route 98 site below Kingsbury Hill Road.

However, approval of the site was not approval of a landfill. The DEC Commissioner in 1996 ruled that IWS could not begin construction until it obtained a permit. Theoretically, the site could be engineered for a landfill, even

WHAT'S AN ISSUES CONFERENCE?

It's one stage in the timetable DEC follows permitting a landfill like the Farmersville proposal. The stages of the process are as follows:

- **permit application to DEC; IWS's application was submitted in July 1999**
- **pre-completeness review by DEC; technical staff at the DEC help IWS complete the application materials; this period often takes years—it did not end until the fall of 2003 in this case**
- **notice of completeness, opening of public comment period, invitation to petition for intervenor party status; all three generally come in one notice published in the local newspaper and the DEC's weekly Environmental Notice Bulletin—this notice was published in Nov. 2003**
- **legislative hearing and petitions for intervenor party status; unsworn oral comments are received by an administrative law judge (ALJ) at a hearing at the close of the public comment period; petitions must include offers of proof for each issue proposed—these petitions were submitted in March-April 2004**
- **issues conference; the ALJ tries to narrow and eliminate proposed issues that would not have an effect on the draft permits; the issues conference may be adjourned and reconvened if the application materials are found to be insufficient—the first session was held in late April 2004, and has been adjourned indefinitely**
- **adjudicatory hearing; any issues the ALJ could not eliminate should be accepted by the ALJ for adjudication (litigation), and hearing times are scheduled at which all sides can bring their proof subject to cross-examination—this hearing cannot be scheduled now until next year**
- **ALJ's recommendation on whether to issue, issue with further conditions, or deny any permits; this comes after the close of the adjudicatory hearing**
- **objections to the DEC Commissioner; this is an appeal of the ALJ's recommended decision**

continued on next page . . .

though it had a number of problems, including high ground water and wetlands all around. Later, a trout spawning area that produces most of Ischua Creek's wild trout was found about a mile downstream.

Before a landfill can be approved IWS must provide details about how it would engineer the landfill to deal with these problems. That's where we are today. The permit application from IWS was accepted in the fall of 2003, and objections were filed last spring by CCCC, a coalition of Municipal Objectors (Cattaraugus County, City of Olean, Town of Ischua, and the Village of Franklinville), another coalition of Individual Objectors, and Chautauqua County.

Now [Chautauqua County has asked the Commissioner to go back to the 1996 "conceptual" approval](#). Chautauqua County notes that the DEC recently remapped wetlands on the IWS property, finding many wetlands once thought to be isolated are in fact interconnected into one wetlands system. But the 1996 "conceptual" approval would not have been granted if the DEC knew about the wetlands then. In fact, the site would have been disqualified for landfills. The site should therefore be disqualified now, according to Chautauqua County.

WHAT CAN YOU DO?

IWS must file their objections to the motion by January 24, 2005. The DEC Commissioner will have 60 days to decide who's right. This means the issue will not be decided until some time in March, 2005.

In the meantime, you need to write our elected officials to ask them to actively help us end this farce. This community has spent fifteen years protecting our water. From the beginning we said the area around the dump site is full of wetlands that should be protected. The wetlands provide flood protection for nearby residents and habitat for migratory and sedentary birds, amphibians and fish. The wetlands clean the water downstream for spawning trout, a major natural resource in our county. Only in 2004 did the DEC recognize the wetlands are protected!

Taxpayers have paid for this charade long enough. State money is spent for the DEC to review IWS's application materials and to attend legal proceedings. Local taxes are spent for Cattaraugus County and other municipal objectors to protect our water and other natural resources. Massive amounts of time, money and work have been volunteered by citizens trying to protect themselves. Now is the time for everyone to write Pat McGee, Cathy Young, and Dan Burling: *insist that DEC Commissioner Erin Crotty and Governor Pataki end this costly process now.*

Now that it is clear that IWS's initial application did not protect the environment, the public needs to tell their state representatives. A proposed 3,000-ton-per-day dump for urban garbage on a steep slope with active springs is a threat to the entire Olean Creek Watershed. Wells and municipal water supplies in Farmersville and Franklinville are threatened. Trout

WHAT'S AN ISSUES CONFERENCE? . . . con't

- **final decision of the Commissioner;** *the Commissioner usually accepts the ALJ's recommendation, but can object and remand the matter back to the ALJ for further hearings*
- **judicial review;** *a final decision of the Commissioner can be challenged in court*

WHO SHOULD I CONTACT?

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spawning habitat in Carpenter Brook, now known to provide nearly all native trout in Ischua Creek, will be destroyed.

Please pick up the pen and write. And keep on writing so we can put an end to a second decade of fighting to save our water, our culture, our home.

Feel free to contact me at (716) 372-6950 moshe@localnet.com.

Check our website for updates: www.concernedcitizens.homestead.com

Hyland Dump gets ready to expand

The [Hyland Landfill in Angelica](#) (Allegany Co.), owned by New England-based Casella Waste Systems, announced plans in 2002 to add 38 acres to its 28-acre dump, enough space for over five million tons of additional garbage. Casella owns 600 acres at the Hyland site. Where will it end?

Hyland is one of the few dumps in this part of the state to take waste from New York City and Long Island. In 2002 and 2003 Hyland lost two referenda, under which local voters decide whether to allow further expansion of the dump. But on November 2, 2004 the company won a third referendum by about 30 votes, paving the way for expansion.

The company must now submit an application to expand and go through a public review like the one now taking place for the IWS proposal in Farmersville. It won't be easy: during the campaign for the 2004 referendum citizens obtained environmental monitoring reports showing that the Hyland dump is leaking, fails to control blowing litter, and has taken illegal wastes. When added to [Casella's record](#) (busted in 2002 for dumping recyclables in downstate NY landfills, and sued by a number of communities in New England for fouling the local air and water), Hyland may have a tough time showing they can comply with the law.

Another hurdle for IWS

On August 27, ALJ Casutto ruled that a new public comment period and another opportunity to file petitions raising water-related issues must be provided, after IWS completes applications for two new permits. Anglers and conservation organizations concerned about fishing resources and the fouling of

a crucial watershed for the southeastern portion of our county and the Allegheny River should consider preparing a petition, if you are not already represented by the existing intervenors.

In addition to a landfill permit, IWS must obtain permits to discharge over one million gallons of stormwater and extracted groundwater per day into Carpenter Brook, and to destroy wetlands on its 450-acre property. The company applied for the wetlands permit but on July 28, 2004, [the DEC found the application to be incomplete](#). IWS has not yet applied for the discharge permit.

We expect this new opportunity to get involved will come sometime in mid-2005.

What happened to Benderson's plan to clear-cut along the Allegheny River?

We understand Benderson has sold the land behind the Olean Nursing Home and Cellular One along West State Street in Olean. The company has therefore abandoned its plans to develop the land. However, somebody else will want to develop it. When that happens, concerned citizens need to re-assert their interest in a buffer along the Allegheny River Valley Trail. As before, the City of Olean will have to approve any development, and decide whether environmental and community impacts warrant further study before accepting any development plan.

Watch for news that plans have been proposed. Then contact your elected representatives on the Olean Common Council to find out if an impact study has been prepared. And let us know if you hear anything new—like the Benderson proposal, new development plans might not be noticed in the local paper.

What goes into a "modern" landfill?

Our last issue discussed the toxicity of sewage sludge, which would be dumped in an IWS landfill in Farmersville. Another ingredient of "municipal solid waste" worth worrying about is *PVC plastic*.

[CCCC's Board of Directors](#) are Maureen

Sheahan-McClure (President), Don Farrington, Barry Miller, Gary Green, Hal Jacobi, Marie Comstock Johnson, Dr. Frank Bohan, Lois Zendarski and Jack Blumenthal. Our goal is to keep the public armed with information not generally distributed by government officials or private corporations. Please help us in this effort.

[Lois Gibbs' Center for Health, Environment and Justice \(CHEJ\)](#) has released a new study of the health effects of these materials, found not only in construction piping but throughout ordinary trash. It's the plastic bubble-pack you have to take in order to buy what's inside. It's in a lot of non-recyclable plastic containers. It's what computers are made of. When it all adds up, there are tons of PVC plastic in any modern landfill.

What happens when it breaks down? One of the more dangerous results is the production of vinyl chloride gas. This compound is stripped from the waste by methane, produced in large quantities by landfills. From there it is transported into the local air where, in small quantities, chronic ingestion can cause serious health problems.

The EPA has said acute (short-term) exposure to high levels of vinyl chloride in air has resulted in central nervous system effects, such as dizziness, drowsiness, and headaches in humans. Chronic (long-term) exposure to vinyl chloride through inhalation and oral exposure in humans has resulted in liver damage. There are human and animal studies showing adverse effects which raise a concern about potential reproductive and developmental hazards to humans from exposure to vinyl chloride.

Cancer is another major concern. Inhalation of vinyl chloride has been shown to increase the risk of a rare form of liver cancer in humans. The EPA has classified vinyl chloride as a known human carcinogen. See 65 Fed. Reg. 66672, 66674 (Nov. 7, 2000).

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



NAME(S) _____

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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.

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