

# Concerned Citizens of Cattaraugus County, Inc.

Volume 13, No. 3

WWW.HOMESTEAD.COM/CONCERNED CITIZENS

November 2006

## REMEMBER, CCCC EXISTS TO PROTECT YOUR HEALTH AND WELL-BEING

- CURRENT MEMBERS: HAVE YOU PAID YOUR MEMBERSHIP DUES?
- PLEASE UPDATE YOUR CONTACT INFORMATION

### Inside this issue:

U. S. Route 219 Extension	2
Hyland Landfill Expansion Proposal	3
Product Order Form & Membership Form	4
West Valley News	

## Mission Statement

Our Mission: To assure Cattaraugus County's air, soil, water and environment is clean and healthful, and to advocate with the public and governments that policies be implemented and that laws be passed to assure such a clean and healthful environment; to assure that local, state and federal environmental protection laws are enforced; to encourage skills for citizen advocacy for a clean and healthful environment.

## Humor Corner

A camping expedition got lost, and spent several weeks hiking over snow-covered peaks, across flower-strewn alpine meadows, and fording sparkling, trout-filled brooks, until finally an automobile junkyard flanked by a smelly mountain of trash tires appeared around the bend. "At last", gasped the expedition leader, "civilization."

## NEXT MEETING

The December meeting of Concerned Citizens will be on Thursday the 14th at Franklinville town hall, 7 p.m.

## Ellicottville Incinerator Proposal

Michael B. Bartoszek of Laidlaw Energy Group, Inc., proposes to operate a waste wood incinerator at a closed natural gas-burning power plant on Route 219 outside the Village of Ellicottville. The waste would be trucked in from New England.

The Ellicottville Planning Board met Monday, August 28 at 6:00 PM to consider the proposal.

CCCC is very skeptical, having seen a number of similar proposals modified later to burn other wastes that are far more lucrative, at the expense of local people's health. It doesn't quite add up: why truck what Bartoszek insists is "clean wood" that has a variety of other money-making uses hundreds of miles to Ellicottville to be incinerated? Even land-filling such wastes is cheaper than burning them, and much more environmentally responsible since emissions are dramatically reduced.

Bartoszek has a record of utilizing government subsidy programs to start projects that often aren't long-lived. By packaging this project as an "alternative energy source," Bartoszek would take advantage of substantial public subsidies.

At present the Town of Ellicottville Planning Board is reviewing the proposal. Any new information or comments should be sent to CCCC through our "about us" page on our web site <http://concernedcitizens.homestead.com/>

The proposal has recently become subject to new federal rules regulating small incinerators. We've also posted a link to additional information on these rules.

On pp. 39-40 of its Fact Sheet explaining new regulations for small municipal waste combustion (MWC) incinerators, EPA notes it decided "we should not exempt sources located where waste disposal alternatives are available at a reasonable cost...a 50 mile distance to dispose of waste is approximately the

distance where the costs of operating an incinerator (without control technology) would equal those of taking the waste to a landfill, transfer station, or small or large MWC unit." Shipping waste from New England to Ellicottville thus makes little economic sense. Under EPA's rationale, Laidlaw would not qualify for a rural exemption from the new rules because it is less than 50 miles from a landfill (take your pick: mega-landfills operated by Hyland in Angelica, Chautauqua County in Ellery, or Waste Management of NY in Chaffee).

An anonymous ad claiming to be from "CC of Ellicottville" appears in the latest issue of Ellicottville's "Special Effects" newsletter, making deceptive claims as to the sources of the wood waste. This is NOT from CCCC and we are concerned about attempts to pirate our name and confuse the citizens.

## Lawsuit Challenges Giardini Gravel Mine

Concerned Citizens of Cattaraugus County and Harold Michaels have filed a lawsuit against the City of Olean and the Town of Allegany challenging the expansion of the Giardini Bros. Construction Company gravel mine. Mr Michaels is the owner of the Meadowbrook Colony, a 48-unit mobile home park located on Gargoyle Road in Allegany, adjacent to the gravel mine.

Earlier this year Giardini obtained a permit to expand from the Department of Environmental Conservation, followed by city and town approval to start a new gravel mine in Olean, and expand the company's mine on Gargoyle Road. The lawsuit contends that under local law only limited mining in the Town is permissible.

The lawsuit names LaDorna Fox as Olean Zoning Board of Appeals chairperson, and John Hare as Allegany Planning Board Chair, as well as the

*(Continued on page 3)*

# U. S. Route 219 Extension —A Hazard?

The N.Y.S. Dept. of Environmental Conservation has been seeking public comments on the three-mile segment of the freeway alternative, on an application for a permit to destroy wetlands submitted by the N.Y.S. Dept. of Transportation (NYSDOT). The freeway segment is part of NYSDOT's larger project, to build a four-lane freeway from Springville to Salamanca. This segment would connect Springville to Ashford at Peters Road.

The U.S. Environmental Protection Agency objected to the freeway proposal because, according to NYDOT's own research, the accident rate for a four-lane divided highway is "slightly higher" than the accident rate for the existing road. (July 24, 1998 EPA Comments)

EPA also notes that NYDOT is obligated to show why an alternative (such as the "upgrade" option that would include four travel lanes along the existing alignment) cannot be found that would avoid destruction of wetlands, which "are relatively scarce in the Cattaraugus Creek watershed." (February 28, 2006 EPA Comments, Attachment item 5).

U.S. Fish and Wildlife also objected to the freeway proposal because impacts to wildlife and habitat have not been adequately considered. However, following the intervention of Rep. John R. "Randy" Kuhl (R-NY, 29th Dist.), NYDOT provided supplemental information for one segment of the project, the three-mile road segment from Springville to Peters Road in Ashford Junction. By reducing wetland fill from 12.2 to 10.8 acres for this phase of the project, EPA found NYDOT modified the project enough to justify withdrawal of EPA's objections. (July 12, 2006 EPA Comments)

However, EPA's and USF&W's objections remain valid: total wetland fill for all phases of the Route 210 Project would be over 32 acres plus elimination of 37,000 feet of perennial and intermittent streams vs. 11.6 acres and few impacts to streams for the "upgrade" alternative. (June 4, 2003 EPA Comments, p. 2).

Thus, notwithstanding political pressure, there remain serious concerns about whether the stated goal of the Project--to improve traffic conditions, address safety issues, and enhance economic opportunities--is enough to justify the impacts of the four-lane freeway option.

CCCC submitted comments discussing these concerns, and criticizing the piecemeal review of the Springville-to-Peters Rd. segment of the larger project.

## The National Environmental Policy Act (NEPA)

NEPA is the national charter for protection of the environment. It establishes policy, sets goals and provides means for carrying out the policy. NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

The NEPA Process is intended to help public officials make informed decisions that are based on understanding of envi-

ronmental consequences, and take actions that protect, restore, and enhance the environment.

The N.Y.S. Dept. of Environmental Conservation is seeking public comments on the three-mile segment of the freeway alternative, on an application for a permit to destroy wetlands submitted by the N.Y.S. Dept. of Transportation (NYSDOT). The freeway segment is part of NYSDOT's larger project, to build a four-lane freeway from Springville to Salamanca. This segment would connect Springville to Ashford at Peters Road.

Some streams crossed by the Peters Road segment would be destroyed, and the impact would be balanced by enhancing an off-site trout stream in Yorkshire. A link to the full notice is [HERE](#); comments must be received by October 26, 2006. Preferred Alternative Chosen (See April 2003 Newsletter)

\* Freeway Alternative - Build 4-Lane Divided Freeway - \$612.6 million (estimated)

\* A map of the Freeway (149k)

## Public Comments and Questions:

If you would like to submit comments on this project, or have further questions, you may call our Regional Planning Office @ (716) 847-3241, or the office of the Regional Director at (716) 847-3238. You may also contact us over the internet by e-mail—Send comments to "Route219@dot.state.ny.us"

The Olean Times Herald reported Nov. 4 that the DEC will issue a water quality certification for the Springville-to-Peters Rd. segment next week, and DOT will put out bids for construction of the project on December 14.

## Chris Madden Cartoon



## Hyland Landfill Proposed Expansion

Casella Waste Systems in Angelica, NY, has obtained a permit to add a new 48-acre landfill unit to its existing regional landfill in Angelica, NY (Allegany Co.). Casella owns and operates the Hyland Landfill in Angelica.

On October 26, 2006, an administrative law judge heard local concerns about the manner in which the existing landfill is operated at a public meeting but dismissed all such concerns as lacking evidence and directed DEC staff to issue all required permits for the expansion. A link to the full decision is on our website.

**HISTORY**—The landfill was permitted in 1995 as an ash monofill under a decision of former DEC Commission Zagata, against the recommendation of his administrative law judge that the site was unsuitable due to its high water table. Immediately following the Commissioner's decision Hyland brought a Commerce Clause suit against the Town. In 1996 the Town proposed to settle the suit in exchange for the host community agreement, approved 3-2 by the Town Board.

Concerned Citizens of Allegany County, Inc., opposed the settlement in federal district court in Buffalo, which was required to grant judicial approval of the pact in the interest of justice. Evidence was submitted of private meetings in Town Board members' homes with Hyland's attorneys in violation of the state open meetings law, but in vain; in 1997 a federal district court approved the settlement.

Casella Waste Systems, Inc., of Rutland, Vermont, purchased Hyland following judicial approval of Angelica's host community agreement. Soon thereafter Casella applied for an modification of the Hyland permit, to accept municipal solid waste.

On March 6, 1998, Casella's Hyland Landfill was granted the modification. The modification does not change the design capacity of 500 tons per day for 19 years in two landfill cells on 28 acres, and lifetime volume of 2.5 million cubic yards. In August, 2000, NYSDEC granted the landfill another modification to its permit, increasing the allowable annual tonnage by 50 percent, to 234,000 tons from 156,000 tons annually.

**CASELLA CONNECTION**—The purchase of Hyland is part of a program of merger and acquisition the waste company has pursued since 1994. Since then Casella has acquired over 100 garbage companies. These waste facilities, located primarily in Vermont, New Hampshire, Maine, northern Massachusetts, upstate New York, and northern Pennsylvania, include five solid waste landfills, two construction and demolition debris landfills, 49 transfer stations, and 14 recycling facilities. However, western New York is the latest market Casella has broken into, including purchases of transfer stations and landfills in Erie and Chautauqua counties and in Olean, NY, as well as the Hyland Landfill in Allegany County.

The company's glitzy website, [www.casella.com](http://www.casella.com), hides a dismal record of environmental violations, lawsuits by host communities and community complaints, mostly in New England where they've operated the longest and dominate the waste

industry.

Casella is reportedly now increasing disposal fees for recyclables at its Southern Tier transfer stations in western New York to approximately \$50 per ton. The local market rate for solid waste disposal is about \$30 per ton. (Hyland gets \$35.) Local governments in the three counties believe Casella plans to monopolize the regional waste market in order to force publicly owned landfills in Chautauqua and Allegany counties out of business.

In the summer of 2003, Casella emerged as one of two bidders for McKean County's publicly owned landfill, just across the state line from Cattaraugus County. However, the Solid Waste Authority board members are considering Casella's record before they make any decision.

**WHERE DOES THE WASTE COME FROM?**—According to Hyland's 2003 Annual Report to the DEC, Hyland takes in four times as much garbage from the Bronx than from all of Allegany County. The dump took in 31,634 tons of garbage from all New York city boroughs in 2003, compared to 294 tons from Allegany County. 12,510 tons came from Cattaraugus County, presumably via Casella's hauler SDS of Olean and the Olean Homer Street transfer station owned and operated by Casella.

### **Gravel Mine** *(Continued from page 1)*

Giardini company. According to the complaint, these agencies illegally made new law by changing the zoning regulations in each municipality in order to allow Giardini to expand.

“Former mayor Quinlan made it clear to DEC that gravel mining is illegal in Olean, and the Allegany Planning Board wrote to Dec saying Giardini must not operate within 500 feet of Meadowbrook Colony,” according to Concerned Citizens president Barry Miller. “But at the end of the process the local boards in both municipalities read the local laws differently so as to approve the mining. We think they did not have the power to do that.”

Mr. Michaels wants gravel mining to be set back 500 feet from mobile homes at Meadowbrook Colony, a requirement under Allegany's zoning code. For several years he has been receiving regular complaints from residents about noise and dust from the mine. “The mine interferes with their ability to breathe, and noise from mining operations is annoying,” according to Mr. Michaels. “The least the town can do is enforce it's setback requirement.”

Concerned Citizens wants to preserve recreational and environmental green space between the flood protection dike and the Allegany river, where gravel mining would be expanded. The City of Olean zoned the area as a Waterfront Conservation District in order to promote development of recreation along the river.

“The neighborhood is dominated by the dike, the River Trail, and Gargoyle Park, All heavily used by the public,” according to Miller.

# West Valley News —Alert

The U.S. Dept. of Energy (DOE) is proposing a major cleanup project at the West Valley Demonstration Project (WVDP). Industrial, hazardous, and radioactive waste resulting from decontamination and demolition of 42 buildings and other structures at the WVDP would be transported off-site for disposal. According to the Environmental Assessment (EA) prepared by the DOE for this project, 727,712 cu. ft. of industrial waste would be packaged in boxes and sent to either the CWM hazardous waste landfill in Model City (Niagara Co.) or to SDS in Olean (Cattaraugus Co.), at an unspecified facility. Another 4,600 cu. ft. of concrete debris would

be delivered to one of these two sites by dump truck. The relevant excerpt from the EA is attached. The full EA is available from the WVDP website here: <http://www.wv.doe.gov> (4,270K PDF).

The Olean site is probably the Homer Street Transfer Station operated by SDS, a subsidiary of Casella Waste. Materials sent to Homer Street are generally transferred to Casella's Hyland Landfill in Angelica (Allegany Co.).

**WE MUST MONITOR THIS!!** Other DOE accelerated cleanups have been disastrous. We must not let it happen here.

**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
- \_\_\_\$???
- \_\_\_\$15.00      Cookbook

NAME(S) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE (optional): Daytime: \_\_\_\_\_ Evening: \_\_\_\_\_

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

Please make checks payable to: Concerned Citizens of Cattaraugus County. **Many employers 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

**BULK RATE**  
U.S. Postage  
**PAID**  
Franklinville, NY  
Permit NO. 23