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Update on CWM Chemical Services landfill application

BY R. NILS OLSEN JR.

CWM Chemical Services' last landfill closed when it reached capacity in 2015. The company applied to build a massive new landfill, however, its applications have been pending for what begins the 20th year.

In 2001, the Town of Porter rezoned property for CWM by an intensely controversial 3-2 vote. The group, Residents for Responsible Government Inc. (RRG), was formed as a result. In 2003, CWM revised its application and the community revolted. Gary Abraham, a public interest attorney with expertise in landfills, was hired to represent Niagara County, the Town of Lewiston, and the villages of Lewiston and Youngstown.

The Town of Porter was barred from opposition due a host agreement signed with CWM in 2001 on the belief there was nothing it could do to stop a new landfill. However, major obstacles changed the course of CWM's application:

NYS Department of Health Order

Members of RRG came across a New York State Department of Health Order filed on the CWM

property back in 1972-74, restricting excavation due to radioactive contamination left behind by the federal government. However, CWM had not complied with the Order for 20 years. The company tried unsuccessfully to dispute the Order from 2004-2008. The State Health Department refused to lift the Order and imposed more restrictions on the property.

NYS Hazardous Waste Facility Siting Plan

State law requires hazardous waste landfill applications to be consistent with a State Siting Plan. However, a 1996 lawsuit by the Town of Porter and R.O.L.E. voided the first Plan. In 2003, the NYS Department of Environmental Conservation (DEC) began drafting a new Plan. Finally, the Siting Plan was adopted in 2010. It crucially concluded there was no need to site new landfill capacity anywhere in the state. This conclusion required for the first time that CWM demonstrate its application is "otherwise necessary or in the public interest."

Technical Reviews and New Parties

Technical experts for the municipalities found extensive prob-

lems in CWM applications that the regulators had overlooked. It took years for CWM and DEC to resolve them. The landfill application was ready to begin the decision-making process in 2014 before an eight-member State Siting Board convened by the governor. Mr. Abraham filed a petition in opposition for the municipalities, as did I for the Lew-Port Central School District, the Niagara County Farm Bureau, and RRG. Amy Witryol, a resident and retired business banker, also filed a petition.

CWM then submitted required applications for an air emissions permit and a water discharge permit from 2015-17. Abraham's experts and the U.S. EPA sent CWM and DEC back to the drawing board for revisions. These applications finally entered the decision-making process in 2018, with CWM's admission that its last landfill discharged PCBs into the Niagara River, and so too would a new landfill. The Tuscarora Nation and Buffalo Niagara Waterkeeper also filed petitions in opposition.

Experts for RRG and Amy Witryol also submitted reviews of potential CWM operation impacts on health, real estate values, agri-

culture, economic development, tourism, traffic and noise.

CWM's Public Interest Case Under Review

Numerous briefs have been filed by petitioners and are pending a ruling by the DEC Commissioner's designee on what issues may require sworn testimony. However, none of those disputes matter if CWM cannot prove to the State Siting Board that a new landfill would be "otherwise necessary or in the public interest" as mandated by law.

CWM submitted its "public interest" case in March of 2020. The case rests largely on economic impacts that no longer exist or are insignificant. That's before even considering the costs of stigma and other negative factors.

We are awaiting a ruling on whether CWM's public interest testimony will be heard, curtailed or dismissed. With the application process is in its final stages, there's never been a better time to support RRG's success and final push to permanently end hazardous waste disposal in the community. You can contribute by visiting RRG-WNY.com.

Protests roll peacefully through Tonawandas



A young man raises his fist in solidarity at a Black Lives Matter rally in Tonawanda and North Tonawanda. A group of Police Lives Matter pro-police counter protesters were on hand to show support to law enforcement officials. (Photos by Mark Williams Jr.)

Black Lives Matter protesters demonstrated peacefully through the streets of Tonawandas last Thursday. Demonstrations began at the Walgreens on Young Street in Tonawanda, and headed into North Tonawanda before returning to Tonawanda.

Roughly 80 people took part in the movement, which was organized on social media alongside plans for a BLM rally in Amherst that took place Sunday. Initially announced as a "slow roll" type of event, participants were encouraged to ride bicycles, skateboards and rollerblades.

Along the way, demonstrators were escorted by police units from both cities. Aside from some moments of yelling between BLM activists and a small group of Blue Lives Matter pro-police counter protesters, the protests went on without any major incidents.

The rally was part of ongoing protests condemning unchecked police violence against Black Americans. Recently, widespread demonstrations were sparked by the death of George Floyd, a Minneapolis man who died while in the custody of a police officer during an arrest in May.

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