



February 15, 2012

Mr. John Sheppard, Supervisor
Town of Seneca
3675 Flint Road
Stanley, NY 14561

**RE: Evaluate Proposed Expansion of Ontario County Landfill
CHA Project No.: 23909**

Dear Supervisor Sheppard:

CHA has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed Ontario County Landfill Expansion and reference documents to determine whether the DEIS appropriately identifies anticipated adverse impacts and mitigation measures.

Ontario County is proposing to expand its currently permitted Landfill Facility which is located in the Town of Seneca. The proposed expansion will primarily be located within the 389 acres currently owned by Ontario County, with the exception of soil borrow activities that are proposed to occur on an additional property that will be acquired to the south of the existing landfill property. The Ontario County Board of Supervisors, the lead agency under SEQRA, has accepted as complete a DEIS on December 22, 2011.

In connection with this proposed project, CHA has reviewed the following documents that were provided by the Town of Seneca:

- The DEIS for the Ontario County Landfill Expansion dated December 2011, prepared by Barton & Loguidice, P.C. (including Appendices A through L).
- Draft Resolution regarding the Establishment of Lead Agency and Positive Declaration of Significance for the Ontario County Phase III Stage VIII and IX Landfill Expansion (no date)
- The Restated First Amendment to the Operations Management Lease (OML) between Ontario County and Casella Waste Services dated December 21, 2007.
- OML Agreement between Ontario County and NEWSNY and Casella Waste Systems Inc. dated November 25, 2003.
- First Amendment to the Town of Seneca Host Agreement between the Town of Seneca and Casella dated October 20, 2008.
- Host Agreement between Town of Seneca and NEWSNY and Casella Waste Systems Inc. dated January 24, 2004.
- Litigation Settlement Agreement between the Town of Seneca, Ontario County and Casella dated August 2011.
- Letter dated January 20, 2012 from Town of Seneca Supervisor John Sheppard to Ontario County Board of Supervisors with comments on the DEIS.

As a result of this review we have made a series of observations, opinions and recommendations which are presented below.

Opinions and Recommendations

In general, the Draft EIS accurately identifies anticipated impacts and identifies appropriate mitigation measures that will be employed to minimize adverse environmental impacts. However, certain elements of the DEIS lack supporting documentation, do not provide an adequate analysis or factual demonstration to support a conclusion, or have other specific deficiencies that are noted below.

Moreover, because the Part 360 Permit application and Title V Permit application have not yet been prepared or submitted, certain details about the proposed project are not presented or discussed in the DEIS. This leads to the following questions which should be directed to the County:

- When will the Part 360 Permit application documents and the Title V Permit application Documents be submitted to the NYSDEC?
- Will the details of the Part 360 permit Application and the Title V Permit Application be subject to Supplemental SEQR review?

Other comments on the DEIS are presented by topical area below.

Off-site Soil Borrow Area

- Regarding the proposed southern borrow area (Page S-3) it is noted that there are no significant impacts anticipated because the ablation and lodgement till units to be excavated are not significant sources of groundwater and because the depth of the borrow excavation will not intersect the water bearing zone on top of the weathered bedrock or adversely impact groundwater recharge of the phase III landfill footprint. The DEIS should be revised to provide site specific data or analysis on the soil borrow site which would support the conclusions that were made.
- The conceptual soil balance presented in the DEIS does not justify the need for the new soil borrow area.
 - Section 2.5.3 of the DEIS presents an estimated soil balance which shows a deficit of 339,600 CY required from the soil borrow area.
 - Why is the soil borrow area graded to yield 922,850 CY of soil, if the soil balance deficit is only 339,600 CY?
 - The soil balance deficit would be reduced or even eliminated if it were not assumed that the BUD materials used for cover was only 10% instead of 25%. According to the 2010 annual report filed with the NYSDEC, when measured by weight, BUD materials represented between 16% and 42% of the waste material accepted for disposal at the facility from 2006 through 2010. As a weighted average over this five year period BUD materials represented 29% of the waste materials accepted. The soil balance presented in the DEIS should be revised to re-calculate the off-site soil deficit under the assumption of 25% BUD material by volume.
- Section 7.5 is titled Alternative Soil Borrow Area, but contains no substantive discussions of alternative soil borrow areas either on-site or off-site. Discussion in this section notes that “*The design of the proposed soil borrow area is based on the quantity of soils required and the proximity of the area to the proposed landfill expansion*”. This is not supported by the preliminary soil balance presented in Section 2.5.3, as noted in the previous comment. This section of the DEIS requires revision to provide a more detailed analysis of alternative soil borrow areas, both on-site and off-site.

- No wetland delineation report or threatened and endangered species assessment has been prepared for this property.
- Will the Part 360 facility boundary be amended to include the proposed soil borrow area?
- Will the applicant Casella seek to amend its Host Community Agreement with the Town of Seneca in recognition of this change in the Solid Waste Facility boundary?
- The proposed soil borrow area will reportedly be acquired by Ontario County, which Casella is already under contract to purchase. Such an action would remove ratable private property from the tax rolls of the Town of Seneca. How will the Town be compensated for this lost ratable? Would the County be willing to convey the portion of the landfill site that is located to the north and west of the Phase 1 landfill area to the Town?
- Will the local school district lose tax revenue as a result of the County's acquisition of the proposed soil borrow property?
- The proposed soil borrow area is located in an agricultural zoning district. The SEQR Positive declaration adopted by the Board of Supervisors for the proposed project amended the answer to question 25 on part B to the attachment to the EAF part 1 to note that "*If an off-site soil borrow area is used, a Special Use Permit may need to be issued by the Town of Seneca Zoning Board of Appeals, a Site Plan approval may be needed from the Town of Seneca Planning Board, and/or a determination would have to be made that the use was exempt from Zoning involving the Seneca Town Board.*" Section 3.2.1.2 of the DEIS notes that "*The existing Landfill and the proposed expansion (including the proposed borrow area) would not be subject to local zoning.*" A discussion should be provided in the DEIS to explain why local zoning would not be applicable if an off-site borrow area is used.

Proposed Site Capacity and Duration

- In section 1.3 (Project Description) it is noted that "*..The proposed expansion will increase the available airspace by approximately 11,504,800 cubic yards which is anticipated to provide adequate airspace through 2028 depending on waste acceptance rates and effective airspace utilization.*" This statement of landfill expansion capacity is repeated throughout the document.

This is an overly optimistic site life considering that the facility is approved to accept over 920,000 tons of waste per year (not including BUD materials). During the year 2010, the facility accepted 911,389 tons of waste and 306,590 tons of BUD materials, and consumed almost 1.3 million cubic yards of airspace. Assuming that the facility continues to operate at the 2010 levels, the expansion will provide about 8.8 years of additional capacity. Based on the existing permitted landfill exhausting its site life by November 2015, the proposed landfill expansion would last until only September 2024. An updated more conservative exhaustion date of February 2015 for the existing permitted landfill will further reduce the date on which the landfill expansion will reach its full capacity.

This is important because the existing OML between the County and Casella extends until the year 2028, and so it is likely that an additional landfill expansion will be proposed in order for Casella to continue operations until the expiration of the OML. Given the proximity of the soil borrow area to the south face of the currently permitted landfill, the property proposed to be acquired for soil borrow area would be a very likely location for the next expansion proposal. Another alternative would be a subsequent height increase on the proposed expansion area. If either of these is being contemplated, a more thorough analysis of potential impacts related to the development of another landfill cell in this borrow area or another height increase should be conducted.

Air Quality Impacts

- No estimate of dust emissions (PM-10 and PM 2.5) associated with new cell construction or the proposed soil borrow area have been included either in the DEIS document or the detailed air quality review presented in Attachment G. These emissions should be quantified pursuant to NYSDEC policy CP-33 “Assessing and Mitigating Impacts of Fine Particulate Matter Emissions”.
- The landfill gas generation estimates developed for the DEIS assume that leachate recirculation may occur during operation of the landfill expansion. This is a conservative assumption that results in an estimate of more rapid waste degradation with more landfill gas generation occurring during the operational life of the facility. However, the DEIS does not identify any additional mitigation measures that would need to be employed with the leachate recirculation program to ensure that these increasing quantities of landfill gas are efficiently collected and do not increase fugitive landfill gas emissions.
- Although not presented in the body of the DEIS, Attachment G estimates that up to 4,000 lb of fugitive VOC emissions could be emitted from the leachate storage lagoons that will be re-located to the northern boundary of the site. These fugitive emissions could cause odor problems off-site and should be mitigated. At a minimum, the mitigating measures to be considered should include covering of the lagoons with collection and treatment of the exhaust gases and the establishment of a nuisance complaint hot-line that has been established to accept calls from citizens reporting odor problems or other nuisance conditions they believe are being caused by the landfill. The DEIS should also consider an alternative leachate management option which includes conveyance to the local wastewater treatment plant in Canandaigua through a sewer interceptor that could be constructed.
- The discussion of air impact modeling results for the peak year does not present the cumulative landfill gas emissions. In section 3.1.6.2 it is noted that “ *Based on site specific gas generation modeling and collection efficiency estimates, a maximum PTE landfill gas generation rate for the landfill expansion of 9,618 scfm is projected to occur following the permitted landfill closure year.*”. This section of the DEIS should be amended to explain that this will occur during the year 2029, during which time the waste in the currently permitted landfill will also be generating an additional 2,895 scfm of landfill gas. This section of the DEIS should also be amended to explain that the cumulative landfill gas generation rate during 2029 will be 12,513 scfm.
- Similarly, Table 5, which presents Peak Methane Generation and Emission estimates, does not present the cumulative landfill gas emissions from both the currently permitted landfill and the proposed landfill expansion. The Table should be modified to note that the existing permitted landfill will generate 16,870 tons on methane in 2029, and that cumulative methane generation during that year will be 69,482 tons.
- The Landfill Expansion should be required to install sufficient flare capacity to be capable of combusting all of the landfill gas that will be generated. This flare capacity should be independent of and in addition to any gas combustion capacity that is provided by third-party landfill gas to energy facilities.

Site Ecology

- The Comprehensive Wetlands Delineation Report presented in Attachment H contained no information to indicate that a wetlands delineation had been performed on the proposed soil borrow property. A wetland delineation (and jurisdictional determination) needs to be performed on the soil borrow property before it can be concluded that the proposed project will have no impact on wetlands.

Visual Impact Assessment

- The viewshed maps presented in Figures 1 and 2 in Attachment F of the DEIS do not include the soil borrow area within the project boundaries.
- Visual Impact Assessment presented in Attachment F included visual impact simulations of proposed future conditions from 13 different vantage points around the project area. Visual impact simulations should be constructed from several additional residential vantage points immediately to the south of the proposed soil borrow area. These simulations should show the screening berms that are proposed for the soil borrow area.
- If the soil borrow area is developed, the screening berms that will be built to mitigate noise impacts should be appropriately vegetated with trees and shrubs to mitigate visual impacts.

Noise Impact Assessment

- Figure 19 does not show nearby residential receptors to the south who could be impacted by the proposed expansion project.
- The noise impact assessment in section 3.2.10.2 of the DEIS notes that *“the proposed borrow area will include the implementation of a soil berm around the area that will extend approximately 20 feet above the starting elevation of the virgin borrow area, which will break the “line of sight” between the nearby receptor locations and the operating equipment.”* Conclusions are then drawn that *“For all locations assessed, the increase above the existing sound levels experienced from landfill operations was less than 6 dBA, with the majority of sensitive receptor locations experiencing an increase between 0 and 3 dBA. The sound levels from the proposed borrow area at nearby sensitive receptors are not anticipated to exceed those experienced due to current landfill operations when operating in the southern part of this landfill. It should be noted that in locations close to busy roads, traffic noise is the predominant noise source experienced by receptors and this will not change with the expansion.”* Data and analytical results need to be presented to support such a conclusion. None were presented in the DEIS or any of the attachments.

Cumulative and Growth Inducing Impacts

- In the discussion of cumulative impacts in Section 6.1 it is noted that: *“Due to the unique nature of the landfill expansion, it is anticipated the cumulative impacts would result from other development of commercial developments or agricultural improvements in the vicinity of the landfill. However at this time, no other developments are proposed in the vicinity of the landfill. Given the lack of other planned developments, cumulative impacts to the surrounding community within the Project area will not occur.”* This is an inappropriate conclusion given the Master Plan for Future Site Development that is currently underway and mentioned in Section 1.2.2 of the DEIS. The proposed landfill expansion should be coordinated with and reviewed in the context of this Master Plan.

Town of Seneca Host Agreement

A proposed expansion of the Landfill which includes the acquisition of the soil borrow area to the south is beyond the scope of the Landfill contemplated in the Town of Seneca Host Agreement or the First Amendment. The First Amendment deleted Section 29 (re: Renegotiation of Host Benefits) and replaced it with a new provision, which says, in part *“This agreement has been prepared based on a Landfill located on property currently owned by the County of Ontario...”*. Since the proposed project includes property which was not owned by Ontario County at the time the First Amendment was executed, the Town may not be

required to support that part of the proposed project and may be in a position to renegotiate its Host Community Agreement with Casella.

We trust that these opinions and recommendations are of benefit to the Town in connection with its review of the proposed Landfill Expansion. Should you have any questions, please do not hesitate to contact me at kgallagher@chacompanies.com or at (973) 267-9029, extension 252.

Sincerely,



Kenneth G. Gallagher, AICP.
Project Manager

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