

**ESTABLISHMENT OF LEAD AGENCY AND
POSITIVE DECLARATION OF
SIGNIFICANCE FOR THE ONTARIO COUNTY PHASE III STAGE VIII AND IX
LANDFILL EXPANSION**

WHEREAS, The County of Ontario owns a Part 360 Sanitary Landfill located in the Town of Seneca; and

WHEREAS, Resolution No. 464 – 2003 approved a contract with New England Waste Services of N.Y., Inc. (Casella Waste Management Systems, Inc.), hereinafter referred to as “CASELLA” to operate such landfill; and

WHEREAS, CASELLA has indicated its desire to expand the landfill by developing Stage VIII and Stage IX of Phase III, hereinafter referred to as ‘Ontario County Phase III Stage VIII and IX Landfill Expansion’; and

WHEREAS, Said Ontario County Phase III Stage VIII and IX Landfill Expansion requires approval from this Board of Supervisors and will require a Part 360 permit, coverage under State Pollution Discharge Elimination System permits, and a Title V air permit administered by the New York State Department of Environmental Conservation (hereinafter referred to as ‘DEC’); and

WHEREAS, The Ontario County Phase III Stage VIII and IX Landfill Expansion and related permit approvals constitute an "Action" to be reviewed under the State Environmental Quality Review Act and its implementing regulations found at 6NYCRR Part 617 (hereinafter collectively referred to as ‘SEQR’); and

WHEREAS, Resolution 287-2011 established this Board's desire to act as lead agency, initiating a 30 day period for receipt of comments on such designation; and

WHEREAS, A full Environmental Assessment Form (EAF) Part 1 regarding said Action has been circulated for review and comment to interested and involved agencies; and

WHEREAS, The Environmental Quality Committee has reviewed and recommended approval of Part 2 and Part 3 of the full EAF, a copy of which is on file with the Clerk of this Board; and

WHEREAS, This Board has reviewed the EAF and all the information contained therein, as well as the written and verbal comments received from the public and Involved and Interested Agencies, and such other documents as the Agency felt it necessary or appropriate to

examine to adequately review the proposed Action; and

WHEREAS, This Board has thoroughly analyzed the identified areas of environmental concern to determine if the Action may have the potential for a significant adverse impact on the environment; and

WHEREAS, This Board has reviewed the criteria of significance contained in 6 NYCRR § 617.7 in order to ascertain whether the Action may result in a significant environmental impact; and

WHEREAS, Correspondence recommending that DEC be established as Lead Agency has been received from several individuals and entities that are not ‘involved agencies’ as that term is defined in SEQR, copies of which are on file with the Clerk of this Board; and

WHEREAS, A letter received from the Zero Waste Coalition has raised the issue as to whether the existence of the contract between Casella and the County of Ontario that contemplates an expansion of the County landfill creates a conflict of interest for the Board of Supervisors serving as Lead Agency; and

WHEREAS, The Ontario County Board of Supervisors has, pursuant to said contract with Casella, the right to approve or deny any expansion of the County landfill proposed by Casella; and

WHEREAS, The firm of Underberg and Kessler LLP, as independent outside counsel to Ontario County, has provided a letter analyzing this issue and has found that no such conflict of interest exists, a copy of which is on file with the Clerk of this Board; and

WHEREAS, DEC, as an involved agency, has issued correspondence supporting the establishment of the Ontario County Board of Supervisors as Lead Agency; and

WHEREAS, The Environmental Quality Committee recommends adoption of this resolution; now, therefore, be it

RESOLVED, That the Ontario County Phase III Stage VIII and IX Landfill Expansion project is a type I action as defined in 6 NYCRR § 617 as it involves a physical alteration of more than ten acres; and further

RESOLVED, That the Ontario County Board of Supervisors is best suited to serve as Lead Agency for the environmental review of Ontario County Phase III Stage VIII and IX Landfill Expansion because the Board of Supervisors is principally responsible for undertaking the proposed action, and is the elected board directly responsible to the constituents most likely

to be adversely impacted by this regional facility; and further

RESOLVED, That this Board is hereby designated as lead agency for the environmental review of the Ontario County Phase III Stage VIII and IX Landfill Expansion project pursuant to SEQR; and further

RESOLVED, That Part 1 of the EAF, is hereby amended in response to comments received from interested and involved agencies and the public as follows:

1. The words “See Attachment” are added to the answers for questions 3.b. and 18 on part A, and question 19 on part B.
2. On question 25 on part B, added the following agencies as potentially involved: Seneca Town Board*, Town of Seneca Zoning Board of Appeals*, Town of Seneca Planning Board*, Ontario County Agricultural Enhancement Board*, New York State Department of Agriculture and Markets*.
3. Added the following to the answer to question 25 on part B: * See Attachment.
4. Checked the boxes for ‘Subdivision’, ‘Special Use Permit’, and ‘Site Plan’ on question 1 on Part C.
5. The attachment to the EAF part 1 has been modified to remove the existing explanation to question 3 on part A, and replace it with the following:
 - a. The project consists primarily of silt and sandy loam soils. The majority of soils within the proposed Stage VIII and Stage IX Expansion limits are at slopes of less than or equal to 10% (93%) and are all moderately well drained.
 - b. The construction and operation of the proposed landfill expansion may or may not require the use of a soil borrow area located off the landfill property. The specific location for the borrow site is unknown at this time, but the large percentage of agricultural land surrounding the site indicates that the proposed borrow area may be located within an agricultural district. Due to the lack of knowledge regarding the specific location of the borrow area, the classification of the soils to be affected by the operation are unknown at this time.
6. Added the following explanation of the answer to question 18 on part B to the attachment to the EAF part 1:

“18. Is the site located in an agricultural district certified pursuant to the Agriculture and Markets Law, Article 25-AA, Section 303 and 304?”

The construction and operation of the proposed landfill expansion may or may not require the use of a soil borrow area located off the landfill property. The specific location for the borrow site is unknown at this time, but the large percentage of agricultural land surrounding the site indicates that the proposed borrow area may be located within an agricultural district, but that is unknown at this time.”

7. The original explanation of the answer to question 19 on part B to the attachment to the EAF part 1 is deleted and replaced with the following

“Best management practices will be used to minimize odors and prevent odors from emanating off-site. At a minimum daily and intermediate cover soils will be applied to the waste mass in accordance with NYSDEC Part 360 regulations. The site also routinely utilizes masking agents to cover odors. The site also utilizes an active gas collection and control system to help reduce odors at the site and to provide landfill gas to the landfill gas to energy facility located on site. The existing system will be expanded into the proposed development areas throughout the life of proposed expansion in order to collect potential odor producing landfill gas and provide it to an expanded landfill gas to energy facility.

The proposed landfill expansion, as well as the landfill gas to energy facility will be included on a joint USEPA Title V permit for emissions.”

8. Added the following explanation of the answer to question 25 on part B to the attachment to the EAF part 1:

“25. Approvals Required

The construction and operation of the proposed landfill expansion may or may not require the use of a soil borrow area located off the landfill property. The specific location for the borrow site is unknown at this time, but the large percentage of agricultural land surrounding the site indicates that the proposed borrow area may be located within Ontario County Agricultural District Number 6 within the Town of Seneca. 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. If the site is located in another Town within

the County, a similar approval process would likely be required. If the property involved is located in a County Agricultural District, review by the Ontario County Agricultural Enhancement Board and the New York State Department of Agriculture and Markets would also be necessary.”

9. Added the following explanation of the answer to question 1 on part C to the attachment to the EAF part 1:

“See explanation for Part B, Item 25 above.”

; and further

RESOLVED, That Part 1 of said EAF as herein amended and on file with the Clerk of this Board is hereby approved; and further

RESOLVED, That the EAF, Part 2, 3, and the visual EAF addendum on file with the Clerk of this Board are hereby adopted and approved; and further

RESOLVED, That after due consideration this Board does hereby make a positive declaration of significance in regard to the Ontario County Phase III Stage VIII and IX Landfill Expansion finding the project has the potential for significant adverse environmental impact and that an Environmental Impact Statement shall be required to further review the project; and further

RESOLVED, That the Positive Declaration Form on file with the Clerk of this Board concerning the Ontario County Phase III Stage VIII and IX Landfill Expansion is hereby adopted and approved; and further

RESOLVED, That the County Administrator be and hereby is authorized and empowered to complete and sign said completed EAF on file with the Clerk of this Board in accordance with the intent of this resolution; and further

RESOLVED, That notice of this Positive Declaration be submitted for publication as required by 6 NYCRR § 617.12 by the Clerk of this Board; and further

RESOLVED, That copies of this resolution, the EAF, and Positive Declaration, be sent by the Clerk of this Board to all interested and involved agencies.