

# Town meeting votes, lawsuits and the growth of a landfill

## A timeline

**July 1976:** The Bethlehem Zoning Board of Adjustment approves a variance for Harold Brown to operate a dump. Two months later Brown gets state approval for a 3.82-acre unlined landfill on his property, which encompasses 87 acres.

**December 1977:** Brown gets state approval to expand the dump by one acre.

**April 1983:** Brown obtains permission from the planning board to create a 10-acre subdivision for use as a landfill and sells the 10 acres to Sanco, Inc.

**March 1985:** Brown obtains planning board permission to create a second subdivision covering 41 acres to be used as a landfill and sells it to Sanco.

**November 1985:** The zoning board of adjustment approves a special exception for Sanco to expand its landfill onto the 41-acre subdivision subject to conditions.

**January 1986:** The zoning board imposes a list of 23 conditions for landfill expansion.

**March 1987:** At town meeting, Bethlehem's zoning ordinance is amended to prohibit the existence of any privately owned solid waste disposal facility. The prohibition includes incinerators. At the same time Sanco seeks permission from the state to expand the landfill in four stages.

**June 1987:** State regulators issue a solid waste permit to Sanco for operation of Stage I, which covers 18 acres.

**April 1989:** State regulators issue a permit to Sanco for Stage II, which covers 7.5 acres. As a condition, Sanco agrees to move material from the original unlined landfill into the lined Stage I landfill.

**May 1989:** State permits for the landfill are transferred to Consumat Sanco Inc.

**December 1991:** The company begins to move material from the original unlined landfill to the lined landfill, a process that takes nearly two years.

**March 1992:** Bethlehem again amends its zoning ordinance at Town Meeting to prevent expansion of any existing landfills.

**April 1994:** Consumat Sanco, Inc. is purchased by North Country Environmental Services, Inc., which assumes the state permits. North Country is a Virginia corporation and a subsidiary of Casella Waste Systems, Inc. of Rutland, Vt.

**September 1998:** North Country receives state approval to begin the second phase of Stage II expansion.

**October 1998:** North Country files suit against Bethlehem in Grafton County Superior Court, seeking a declaration that it was entitled to expand its landfill throughout its 87-acre property. Ten days later, the town sues North Country, asking the court to stop the company from proceeding with the second phase of its Stage II expansion. The two lawsuits were later consolidated.

**April 1999:** Judge Edward J. Fitzgerald III rules in the dueling court actions that North Country can expand its landfill through the 10-acre and 41-acre parcels of the original 87-acre property pursuant to the 1976 landfill variance and the 1985 special exception. However, the judge says the variance does not apply to property outside the 51 acres. Both parties appeal the decision to the state Supreme Court.

**October 1999:** North Country applies to state regulators for Stage III.

**March 2000:** At Town Meeting Bethlehem voters approve a zoning ordinance setting 95 feet as the maximum height of a landfill.

**April 2000:** Commonwealth Bethlehem Energy LLC applies to state regulators to build a "landfill gas utilization facility" at the North Country landfill. Both companies refer to it as an evaporator, but others call the proposed unit an incinerator. It uses gas from decomposing

landfill trash as a fuel to burn landfill leachate.

**July 2000:** State regulators issue a permit to North Country for Stage III, covering about 6.5 acres.

**November 2000:** State regulators issue a permit to Commonwealth Bethlehem for the "landfill gas utilization facility."

**March 2001:** The landfill height ordinance is amended at Town Meeting to say that height is measured from the natural and undisturbed contour of the land.

**April 2001:** The "landfill gas utilization facility" begins operation.

**May 2001:** The Supreme Court affirms Fitzgerald's Superior Court decision.

**September 2001:** North Country files a lawsuit against Bethlehem, accusing town officials of engaging in a scheme to deprive the company of its property rights and asking the court for a ruling that would allow North Country to develop the landfill without further interference from the town.

**December 2001:** Depending on the North Country lawsuit, Bethlehem officials file a counterclaim, accusing the company of failing to obtain local review of its site plans for Stage III. The town also seeks the right to enforce the 23 conditions and



Stanley Harrison of Bethlehem sets up his camera in Grafton County Superior Court last week to record the latest legal chapter in the history of the landfill. He captured the entire trial on video.

a declaration that its local ordinances apply to landfill expansion outside the 51 acres.

**March 2002:** North Country applies to the state Department of Environmental Services for a local tax exemption on the landfill, saying it is a pollution control facility.

**April 2002:** North Country seeks permission from state regulators for Stage IV, which covers 11 acres and would extend beyond the 51-acre limit in Fitzgerald's decision.

**May 2002:** Bethlehem's reassessment of the landfill

property comes in at \$11.3 million. The previous 1998 assessment was \$237,000.

**October 2002:** State regulators conduct a hearing at Bethlehem Elementary School on the Stage IV application, and town officials file a motion to stop consideration of the application until after the pending lawsuit is decided at a trial scheduled in December.

**November 2002:** Senior Assistant Attorney General Maureen D. Smith responds to Bethlehem's motion with a letter, saying state regulators are "not authorized" to stop consideration of the North Country Stage IV application.

**December 2002:** Judge Jean K. Burling presides at the four-day trial of the North Country lawsuit, which involves over 100 documents totaling more than 1,000 pages. Seven witnesses are heard during four days of testimony. The judge is not expected to rule for several months.

## THE COURIER

### Letters

#### Trial effort deserves thanks in Bethlehem

I would like to say a public thank you to all the select board and planning board members and other residents of the town of Bethlehem who have spent so many long hours in the past few weeks preparing for the current trial and this week defending the town in court.

They are all volunteers and many have missed work and other obligations to do their part for all of us in town. Thank you, also, to the town hall staff, who on several occasions have come in to work from home to help with research.

Pat Bonardi  
Bethlehem