

Dispute Over Jones-Carroll Landfill Expansion Resumes

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Over 10 years of litigation involving a contentious landfill purchase in the town of Carroll is seemingly not resolved.

Recently, the State Supreme Court in Mayville granted permission to Sealand Waste to intervene in the ongoing legal battle surrounding the Jones-Carroll Landfill.

Sealand Waste, part of Sealand Contractor Corps., near Rochester, has long sought to purchase and expand the now-closed landfill, located in the town's agricultural and zoning district on Dodge Road.

Consistently, however, the purchase has received tremendous pushback from a town bent on banning all solid waste facilities within its borders.

In 2015, the matter appeared closed when, after a prolonged legal back-and-forth over local laws, the New York State Court of Appeals finally ruled in favor of the town, insisting its 2007 Waste Disposal Law—which purported to ban solid waste facilities— could be enforced on the landfill.

James A. Daigler of Daigler Engineering, a firm hired by Sealand Waste, claims the recent decision by the state Supreme Court is proof the case isn't over.

“(Mike) Jones of Jones-Carroll simply couldn't pay his attorneys anymore so Sealand intervened,” he said. “On Dec. 5, (the state Supreme Court) granted Sealand's motion to intervene and essentially become a plaintiff in the lawsuit that Jones had started.”

Daigler said Sealand, in conjunction with the litigation, has been completing an environmental permit application from the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers.

Since the application process is “*virtually complete*,” Daigler said the next step will involve public information meetings in the spring, aimed at countering what he described as “*misleading and false information*” disseminated by town residents about the proposed expansion.

“We know there’s a group of about 50 people who have misled the public in order to influence and harass the Town Board,” he said. *“It’s time for Sealand to come out with factual information and to refute the misleading information that’s been put forth by the opposition group.”*

Indeed, much of the town’s fears surrounding the landfill involve environmental impacts, particularly to the town’s water supply.

In a press release, Daigler countered by suggesting the Frewsburg Water District’s problems with public water quality at Well No. 5— one of the main rationales for the Waste Disposal Law— stem from their decision to install this well in close proximity to the town’s inactive hazardous waste dump on Ivory Road.

“Contemporary landfills have evolved from these open dumps of the past where hazardous and non-hazardous wastes were placed in the ground without the barrier or collection controls that prevent harmful groundwater, soil, surface water and air contamination,” he said. *“Virtually every alarming claim of catastrophic environmental and human health impact reportedly caused by ‘landfills’ cite conditions at these historic uncontrolled hazardous waste ‘dumps.’”*

Daigler also described the numerous benefits that a state-of-the-art landfill facility could bring to the town, including a \$60 million investment in the town; between eight and 15 new full-time jobs; up to

30 or more onsite jobs during construction; road maintenance; and annual royalty payments to the town that could reduce taxes.

These benefits notwithstanding, Paul Webb, town of Carroll attorney, said relitigating this issue is a non-starter.

“The Waste Disposal Law is still in effect ... and (Sealand) is having a hard time accepting it,” Webb said. *“(The court) shouldn’t have allowed them to intervene. Daigler and Sealand Waste have been involved with this litigation over the years and if they thought they had any rights that needed to be protected, they should have intervened a long time ago. A motion to intervene has to be made timely. You can’t sit by the sidelines and then just think you can jump in and try to get a second bite of the apple.”*

Webb said the town has appealed the court’s decision.

The history of the Jones-Carroll Landfill stretches back to 1984, when Donald J. Jones and his wife, Carol, purchased 50 acres of land in the town’s agriculture and zoning district on Dodge Road.

In 1989, the town’s Zoning Board of Appeals granted Jones a variance to use the plot of land as a construction and demolition landfill. Afterward, the Department of Environmental Conservation granted Jones a permit to use less than two acres of the property as a construction and demolition landfill. The DEC would again grant a permit for further expansion of 1 acre in 1996.

Active opposition by the town’s citizens began when the town was informed Sealand Waste intended to purchase the landfill and had applied for a DEC grant to expand it to the entire 50-acre property.

In 2005, the Carroll Town Board, amidst growing public opposition to the landfill, unanimously passed an amendment to the town’s zoning laws that eliminated landfills from being operated with special-use permits, and prohibited further expansion of current landfills. Jones-Carroll’s attorneys petitioned the state Supreme Court, attempting to cancel the amendment on technical grounds.

In September 2005, the state Supreme Court ruled that portions of the town's law were invalid in regard to the landfill operated by Jones-Carroll Inc.

Webb made an appeal to the Appellate Division, Fourth Department, in early 2007.

The Appellate Division concluded that it previously erred and that the town had "*rationally exercised their police power in declaring that landfills (in the agricultural and residential zoning district) ... should be eliminated.*"

The Appellate Division also concluded that the town of Carroll had fully complied with all aspects of the Environmental Conservation Law. Jones-Carroll attorneys attempted to renew motions against a 2007 town law that prohibited the construction of any solid waste management facility in the town. The court sided with the town of Carroll again.

Last year, the Appellate Division unanimously sided with the town, ruling Jones-Carroll and Sealand Waste could not expand into a 50-acre, non-putrescible landfill because of zoning and public safety concerns.

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