

WHERE WE STAND IN 2017

These are my personal thoughts at this point in time – December 2017.

KEY POINTS:

- 1) WE STAND BY OUR TOWN LAW that backs the wishes of the town taxpayers. The town has spent considerable time and energy in how we see our future and passed two town laws in order to protect that vision. Our town law allows us self-determination and is upheld by the Municipal Home Rule Law, and should be the basis for any court decision to be in the town's favor on this issue.

WHAT HOME RULE LAW IS:

Home rule in NY in the general sense refers to the power of a city, town or village (but not a county) to regulate land use more stringently than state law provides, unless the applicable state law specifically says it preempts or supersedes local law. For landfills, state law does not preempt or supersede local law, so a town can regulate landfills more stringently, including an outright ban on landfills, or a prohibition on landfills within a particular zone.

- 2) THERE IS NO NEED. We have a county landfill with plenty of room for construction/demolition materials (C&D). Building another landfill would essentially compete with what our county taxes already pay for.
- 3) WE ALREADY HAVE A SUPERFUND SITE HERE IN FREWSBURG. We do not need to contaminate our land further than we already have (Sealand's owner is part owner of Seneca Meadows which is a superfund site in NYS).
- 4) MONITORING THE SITE IS A MAJOR ISSUE. The DEC has limited people to deal with issues of monitoring. Most sites are 'self-monitored', meaning the owners are responsible for what comes in and is allowable. Sealand is already responsible for Superfund sites, so they have a proven record of not complying with regulations. It is much easier to PREVENT a problem than to fix it once it has occurred. However the DEC is responsible for prevention, and the EPA (federal) is responsible for cleanup. In addition, this material will be pulverized when it is trucked in, so identification will be challenging, at best. The original 2004 public scoping document for this project included '26% OTHER' that Sealand stated would automatically be accepted into the landfill. They finally admitted that some of this could be bio-medical waste, etc... **That '26% other' is not included in this 2011 public scoping document.** But as the material coming in will be pulverized, it will be practically impossible to tell exactly WHAT it will be comprised of.
- 5) HEALTH AND ENVIRONMENTAL CONCERNS. Mr. James Daigler, Sealand engineer, told us, back in 2004, that, **"All liners leak. The question is, how much do they leak."** So the idea that these contaminants will get into the groundwater and soil is a given. The question remains, what goes into the liner to start? Without monitoring, we have no clue. And remember, this is business – they want to make money. Does this mean that the more hazardous material they accept = the higher amount of money they are paid? I don't know. Regardless, it is OUR neighborhood, not Sealand's, that they are contaminating. The good news is that we don't have to accept ANY waste, and that is our goal.

The 2004 public scoping document was to include a double-liner to contain the '26% other', but since this is no longer part of the project, we are down to a single-liner now. . .IF the DEC allows Sealand to expand the landfill now, Sealand is hoping that they can reapply, later, for a more permissive permit to include the 'other' types of debris at that point in time.

- 6) SEALAND WILL GIVE MINIMAL CONTRIBUTION TO OUR COMMUNITY. The company is huge – with at least 4 divisions to it (Sealand Construction, Sealand Contractors, Sealand Restoration, and Sealand Waste) – so they have deep pockets to bribe small towns into giving up their precious land for their money-

making endeavors. Back in 2004, Sealand talked up the financial benefit to the town with this project. Back then, they said...

1. No more taxes. Have you heard of this *actually* happening before? ...me neither.
2. Pay town per ton. But they would expand roads (which only THEY need) so they would do that and only pay of ½ amount per ton while they do that. Roads will need continuous work (lucky that is the parent company's job, right?)
3. They would hire people from here. Maybe they will hire a few people (less than 10). But landfill should be full in 12 years. THEN what?
4. What happens to our taxes when they have filled the proposed landfill?

But things changed with the 2011 public scoping document. There has been no mention of 'no taxes'. They are not planning any amount of payment to the town per ton, even without road repairs. They will still hire people to work there, but still only 10, and only for the length of the project (estimated 15 years). If they close at that time, THEN what will we be left with?

I don't believe this time spans. Landfills make their money by accepting waste. What money will they make after 15 years? None. They will only have to pay to monitor their post-closure. Why would they fight so hard to come to an area for such a short period of time to make money? It doesn't make sense. What I believe they WANT to do is run people out of the area, buy up their land (at reduced values) and expand the business exponentially. Look at Seneca Meadows

Landfill <http://www.senecameadows.com/Landfill.html> There are several landfills already taking up miles of land here in WNY -- we don't need one here. Don't allow yourself to be lulled into a small temporary reward for a huge permanent problem. **THEY see the value of our land... why don't WE????!!**

7) MARTZ-KOHL OBSERVATORY.

Speaking of GRANDFATHERED! We, as a town, should defend their interests because they bring about positive growth here and add to the value of the town without infringing on their neighbors.

- 8) QUALITY OF LIFE. Most of us chose to settle in the Town of Carroll because it is a quiet, clean town. Whether you are in the center of town, or on the outskirts, this is a peaceful place to live. Those of us on the Dodge Road, and vicinity, appreciate the natural environment, over the convenience of town living. There are very few vehicles that pass by down here, more walkers, usually. You are more likely to hear the water in the creek than a neighbor. So imagine the excitement of buying or building your home out here in this landscape only to end up having it threatened with up to 200 trucks a day, coming in from all directions. The exhaust fumes alone would be a problem, not to mention danger to walkers/cyclists on the road. The noise would be horrendous – as trucks would be idling waiting for the landfill to open in the morning, on the roads all day, and machinery working all night at the site. Dust from pulverized material would drift off the trucks, float forever and land in the area.. never making it to that questionable double-liner. The view shed would be ruined by a mountain of junk 230 feet high, for a full 50 acres. Not quite the picturesque country setting that people imagine. The teaming wildlife here would diminish or become sickly. What would happen to the health of the farm animals here? Would they drink contaminated water? Would Jim Daigler and Daniel Bree (Sealand engineer and owner) want to stop by my house (down stream) for a drink of water from my well? Would they want their kids/grandkids to play in my yard? We know the liner will leak, and we know where it will leak. **The question is, how much should we charge a company for poisoning its citizens? How much is our health worth? “Only when the last tree has died, the last river has been poisoned and the last fish has been caught will we realize we cannot eat money.” – Cree saying**

WHAT YOU NEED TO REMEMBER WHILE WRITING YOUR LETTER

- 1) **The DEC is not the enemy.** They are merely trying to find out our concerns about this proposed landfill expansion. There is no need to be confrontational in your letter to them.
- 2) **Keep your letters on task** (your concerns regarding this landfill). This can cover any number of issues (listed below and any others you can think of). Please try to keep your thoughts organized in paragraph form so they are easily identified by the DEC.
- 3) **Try to find out facts to support your concern.** The CCC website <http://carrollconcerned.org> may have some information that you may find useful. Also, go to the Carroll Town Hall or the Myers Memorial Library to browse through a copy of the new FEBRUARY 2011 Scoping Document that Sealand Waste, LLC has created -- which outlines the proposed project.
- 4) **We need your critical eyes!** Everyone has different life experiences, and if we pool them together we have a wealth of knowledge to draw upon. When you are looking over the Scoping Document, see if everything looks accurate. Be skeptical, you may see something that catches your eye that others have missed, based on your understanding of things. If we all do this, we might be able to poke enough holes in the plan to stop it.

Our Town Board represents us, however we can't expect them to catch everything on that document and argue why it is wrong. And our town can't afford to hire professionals who might catch it all -- so anything we can provide from our own experiences will be appreciated, especially if we can provide some background understanding.

5) **The more specific we can get with our concerns and questions, the better.** If it is something from the scoping document, write down the page number you are questioning. If something should be more specifically clarified, please explain it. If something has been forgotten, please write it down and ask about it.

6) **Plan accordingly so your letter arrives at the DEC no later than January 12, 2018.**

7) **Address your letter to the following person at the DEC:**

Mr. Charles Cranston
NYSDEC
Deputy Regional Permit Administrator
182 East Union – Suite 3
Allegany, New York 14706-1328

8) **Suggested topics to write about:**

- *Quality of Life* (lifestyle, health, leisure, historical, etc...)
- *Environment*: water/air/soil/light/gas/wildlife/noise/traffic/structural/visual
- *Economic* (property values, tax issues, road repair, cleanup, commercialism, etc...)
- *Social* (could be part of quality of life)
- *Monitoring*

- *Competition with existing Chautauqua County Landfill (taxpayer funded)*
 - *Negative impact on other local establishments or future growth of the area*
 - *Concerns regarding other C & D landfill issues or past practices of Sealand Waste, LLC*
 - *Impact on Amish community*
- any other topics you can think of*

9) Write your contact information on the letter and ask to be kept informed on the situation -- this will let them know you are serious about your concerns.

Legal issues and the DEC permitting process

Since 2004, when the town was first introduced to Sealand Waste, the town has created 2 local town laws (Law #1 of 2005 and 2007 respectively). The land owner (Don Jones) brought the town to court to fight the validity of the town laws, in order to expand the landfill.

While the landowner and town have been in court, the permitting process has been on-going. The DEC’s permitting process stands outside of the court’s verdict. Regardless of how the court rules, the DEC permit process continues. The difference is, the DEC permits cannot be effective until the court approves.

As long as the court backs the town’s laws, then the DEC can ‘approve’ a permit, but it will never be go into effect because it would violate the town’s own law. The Army Corp of Engineers would then deny the permit ‘without prejudice’ – also based on the town’s own law. This concept of a town passing laws to protect the rights/wishes of its people is called Municipal Home Rule Law.

If the court rules against the town’s law, then the permits could be approved and put into effect by both the DEC and the Army Corp of Engineers – based on the law no longer protecting the town’s wishes. The town would then most likely appeal the case – and again the project could be in limbo.

DEC process

This permitting process from the DEC is lengthy. It began with the public scoping document in 2004, then a public comment period in 2005, (time passes for many court cases), the permit application goes through many changes, and reemerges in the 2011 public scoping document. There was a public comment period for that document back in 2011, and more changes came about. This is the NEW 2011 public scoping document, and we now have (what is left of) 30 days to respond to the DEC with our written concerns based on its information.

Sealand has been working on finalizing this permit – based on the 2011 Public Scoping Document. To my understanding, Sealand has never STOPPED the permitting process with the DEC. It has taken a long time to get through to this process, and now they have completed the application.

So now This starts the timer on a 30 day public comment period –ending January 12th, 2018. At this point in time, comments to be considered must be submitted in writing.

Once the public comment period has ended, there may be a hearing (this is up to the DEC), and then Sealand Waste would submit their final environmental impact statement.

Where we are now regarding the courts

In June of 2015, the NYS court voted unanimously in favor of the town. That effectively ended the court battle over this landfill expansion. At that point in time, the estate of Mr. Jones was against the town.

This year (2017) has brought about a development. Instead of Mr. Jones’s estate bringing a case against the town, Sealand Waste has stepped up as having a vested interest and is serving as the plaintiff of a court case against the town. This is a common strategy to pressure the town into allowing the business to enter. We can anticipate more of these types of moves from Sealand. But our town law stands.

The case of Sealand vs. Town of Carroll was heard in court on October 24th, 2017. No verdict has been returned as of Dec. 27th.

WE ARE NOT ALONE:

Many other WNY towns have gone through this because they were not prepared to be preyed upon by these types of corporations. We have their support and their past experiences to draw from.

EPA is involved because of Storehouse Creek which runs from Town of Carroll into PA.

It is a reproducing brown trout stream

Neighboring WNY and PA towns are watching what we are doing and taking our cue about how to prevent these issues in their own towns.

HOW TO GET INVOLVED AND STAY INFORMED:

Check out the website:

<http://carrollconcerned.org>

Join the facebook group page:

<https://m.facebook.com/groups/130361223661520>

Join the email list to receive updates – *sign up on the website*

Carroll Concerned Citizens TRULY appreciates your continued support.

Sincerely,

Polly Hanson

CCC Member

Proud Dodge Road resident

"Never underestimate the power of a small group of committed people to change the world. In fact, it is the only thing that ever has."

Margaret Mead