STATE ENVIRONMENTAL QUALITY REVIEW ACT
STATEMENT OF FINDINGS
March 26, 2009

Pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act – SEQRA), 6 NYCRR Part 617, the County of Franklin Solid Waste Management Authority (CFSWMA) as lead agency makes the following findings:

Name of Action

County of Franklin Solid Waste Management Authority (CFSWMA) Proposed Landfill Expansion

Description of Action

The CFSWMA proposes to expand the existing sanitary landfill facility in the Towns of Constable and Westville, Franklin County, New York. The existing CFSWMA landfill provides waste disposal services to Franklin County residents and businesses as well as to other customers. Wastes disposed of at the landfill include construction and demolition debris, sludge, and any residues from recycling, composting, incineration, or other waste processing technologies. This proposed landfill expansion does not include any changes in the types or quantities of waste permitted to be disposed of at the CFSWMA's landfill facility. The original municipal solid waste landfill footprint was designed with four (4) cells totaling an area of approximately 20 acres. The landfill's current maximum annual permitted disposal rate of municipal solid waste is 125,000 tons per year.

Fifteen (15) cells totaling approximately 142 acres are being proposed for the overall landfill expansion. The total capacity of the expansion area (Cells 5 through 15) is approximately 19,100,000 cubic yards. The total acreage of the proposed project, including properties proposed for acquisition but not development, is estimated at 586 acres. The proposed maximum build-out of the landfill footprint is estimated at 142 acres; with the total area of disturbance approximately 165 acres. The remaining 421 acres, located both north and south of County Route 20, will be used as buffer area and will be considered for potential wetland mitigation in the future. Approximately 320 acres of private property south of CR 20 and approximately 261 acres of private property north of CR 20 will be acquired from four (4) separate owners during the project's land acquisition phase. The CFSWMA currently owns approximately 378 acres of land, including the existing landfill site and surrounding parcels. A portion of the CFSWMA's current property, approximately five (5) acres, is included as part of the total 586 acres included as the proposed landfill expansion area. A preliminary design of the proposed maximum build-out is shown on the site map (Figure 1.3 from the DEIS) included as Attachment 1.

The landfill expansion will not be constructed all at once. Instead, the waste disposal areas, or cells, will be constructed every few years as needed to provide additional landfill capacity. The first stage of the development, Phase 1, is anticipated to be Cells 5, 6, and 7. The proposed

design of Phase 1 is shown on the site map (Figure 1.2 from the DEIS) included as Attachment 1. In addition to the construction of additional waste disposal areas, the proposed landfill expansion also includes the construction of ancillary and support facilities such as stormwater ponds, leachate storage and conveyance facilities, pump stations, perimeter and access roads, groundwater monitoring wells, equipment storage and maintenance facilities, a landfill gas collection and control system, and fencing. The proposed project also includes a site upgrade to three-phase power.

Waste disposal areas will be constructed with double-composite liner, leachate collection, pore water drainage and collection, and landfill gas collection systems in accordance with the New York State Department of Environmental Conservation's (NYSDEC) Part 360 solid waste management regulations. Closure of the landfill site will be advanced as landfill operations progress across the site. As with current operations, there will be sections of the landfill that are closed, and which have been closed for many years, while other sections of the landfill are still operating. After landfill closure, the landfill capping system and related landfill monitoring and necessary support facilities will be maintained in working order for the duration of the post-closure period (30 years minimum, unless otherwise approved by the NYSDEC). Any post-closure uses of the landfill site will be limited to those that do not compromise the integrity of the final cover system or the functions of the environmental monitoring/control systems.

Project Location

The CFSWMA landfill is located on approximately 378 acres of land owned by the CFSWMA. This site is located in a rural agricultural area to the south of County Route 20 and to the west of New Road in the Towns of Constable and Westville, in northern Franklin County, New York. The proposed landfill expansion footprint would be constructed immediately west of the existing footprint, as indicated on the site map provided as Attachment 1.

Agency Jurisdiction

Permits and approvals from various agencies will be required before construction of the proposed landfill expansion may begin, as listed below:

- New York State Department of Environmental Conservation permits include: Permit to Construct and Permit to Operate a Solid Waste Management Facility (6 NYCRR Part 360), update to the State Pollution Discharge Elimination System (SPDES) Permit for Stormwater Discharges from Industrial Activities (GP-0-06-002) (for landfill facilities, GP-0-06-002 also includes procedures for the management of stormwater discharges from Construction Activities), Section 401 Water Quality Certification (not required for Phase 1), and a Title V air permit for landfill gas emissions (6 NYCRR Parts 201/202, and 211; Subpart WWW of 40 CFR 60).
- A Section 404 Individual Permit from the U.S. Army Corps of Engineers (USACE) for impacts to federally jurisdictional wetlands. Phase 1 of the proposed landfill expansion will not impact wetlands under federal jurisdiction; therefore, wetland permitting will not be required until subsequent phases of the project are proposed.

SEQRA Status

Type I Action

SEQRA Public Scoping

Public scoping was completed during the initial stages of the SEQRA process for the proposed landfill expansion project. A Draft Scoping Document was approved on April 24, 2008. Written comments were accepted until May 30, 2008. A public scoping meeting was held on May 22, 2008 at the Franklin County Courthouse in Malone, New York. A Final Scoping Document was approved on June 26, 2008.

Draft Environmental Impact Statement (EIS) Acceptance Date

September 25, 2008

Draft EIS Public Hearing and Comment Period

The public hearing for the Draft EIS was held on Wednesday, November 5, 2008 at the Malone Middle School in Malone, New York. Written comments on the Draft EIS were accepted until December 1, 2008.

Final Environmental Impact Statement (EIS) Acceptance Date

February 26, 2009

Facts and Conclusions in the Environmental Impact Statement Relied Upon to Support the Decision

The Final EIS (which incorporates the Draft EIS by reference) describes the proposed project, the environmental setting, relevant environmental impacts (short and long term), and alternatives to the proposed landfill expansion. Findings from the EIS, summarized below, support the CFSWMA's decision that the action is one that avoids and/or minimizes adverse impacts and effectively balances these considerations with other essential social and economic considerations.

I. Project Purpose and Need

The purpose of the proposed landfill expansion is to continue to ensure that local residents and businesses will be provided with long-term, environmentally sound disposal capacity within Franklin County, and to guard against uncontrollable costs and potential costs and liabilities that would be associated with long-term reliance on long distance (out-of-county) waste transportation and disposal. Based on current usage projections and currently permitted tonnage levels, the landfill site's current disposal capacity will be

consumed by the year 2014. The CFSWMA landfill is the only active landfill in Franklin County that accepts municipal solid waste and one of the few active landfills in the northern section of New York State.

II. Public Information Provided and Opportunities for Public Input

A public notice and other information pertaining to the public scoping meeting and Draft Scoping Document were placed on the CFSWMA's page of the Franklin County website (www.franklincony.org/content/Generic/View/18) in April of 2008. A contact list of individuals interested in the project was started with those who attended the public scoping meeting on May 22, 2008. The verbal comments of those that attended were recorded in a stenographic transcript. All substantive verbal comments from the public scoping meeting and written comments received prior to the end of the comment period (May 30, 2008) were considered and incorporated into the Final Scoping Document.

Following completion of the public scoping process, the Draft EIS was prepared and was approved for public review and comment on September 25, 2008. A notice of the public hearing for the Draft EIS and availability of the Draft EIS was published in the Environmental Notice Bulletin (ENB), in the Malone Telegram and Press Republican, local newspapers, and in the Huntingdon Gleaner, a Canada newspaper. These notices and copies of all volumes of the Draft EIS were placed on CFSWMA's page of the Franklin County website. Hard copies of all volumes of the Draft EIS were placed in eight (8) libraries throughout Franklin County, New York and Canada for public review. All individuals who attended and signed in at the public scoping meeting and/or participated in the public scoping comment period were e-mailed or mailed (depending on personal information provided) a copy of the Draft EIS public hearing notice. The NYSDEC, the Towns of Westville, Constable, and Burke, Franklin County, and 17 Agencies and Municipal Governments from Canada received a hard copy of volume 1 of the Draft EIS for their review. The Draft EIS public hearing was held on November 5, 2008. The verbal comments of those that attended were recorded in a stenographic transcript. Written comments were accepted until December 1, 2008; one (1) late comment was also accepted. All substantive comments were responded to in the Final EIS document.

The Final EIS was approved on February 26, 2009. A notice of the acceptance and availability of the Final EIS was published in the Environmental Notices Bulletin, in the Malone Telegram and Press Republican, local newspapers, and in the Huntingdon Gleaner, a Canada newspaper. This notice and copies of both volumes of the Final EIS were placed on CFSWMA's page of the Franklin County website. Hard copies of both volumes of the Final EIS were placed in eight (8) libraries throughout Franklin County, New York and Canada for public review. All individuals who attended and signed in at the public scoping meeting or the Draft EIS public hearing and/or submitted written comments during the comment period for either step were mailed or e-mailed a copy of the notice of the approval and availability of the Final EIS. The NYSDEC, the Towns of Westville, Constable, and Burke, Franklin County, and 18 Agencies and Municipal

Governments from Canada received a hard copy of volume 1 of the Final EIS for review. Written comments regarding the Final EIS were accepted until March 19, 2009. One written comment was received during this Final EIS comment period. The letter received and the CFSWMA's responses are included in Attachment 2 of this document.

The Final EIS includes written responses to all substantive comments that were submitted to the CFSWMA relative to the Draft EIS. Out of the 180 pages of the Final EIS that set forth such comments and responses, 75 of these pages were devoted to providing responses to comments that were submitted by residents and officials of Canada.

The following is a list of documents that were made available for public information and review on the CFSWMA's page of the Franklin County website and the dates that these documents were made available online:

- Proposed Expansion Area Site Map – April 2008
- Landfill Expansion Draft Scoping Document – April 2008
- Written Comments on Draft Scoping Document – June 2008
- Landfill Expansion Final Scoping Document – June 2008
- CFSWMA Public Scoping Hearing 5-22-08 Transcript – June 2008
- 2006 Solid Waste Management Plan – July 2008
- Frequently Asked Questions 7-10-08 – July 2008
- CFSWMA DEIS Documents – September 2008
- CFSWMA FEIS Appendix CC 2-26-09 – February 2009
- CFSWMA FEIS Main File 2-26-09 – February 2009

III. Host Community Benefit Agreement

Since fall 2008 a committee of the CFSWMA Board, including legal counsel, and representatives and legal counsel from the Towns of Westville and Constable had been negotiating a host community benefit agreement. As a facility that serves the entire County, the CFSWMA considers host community payments to the Towns of Westville and Constable to be principally a matter of fairness. A benefit agreement has recently been agreed upon by the Towns of Westville and Constable and was approved by the CFSWMA Board during their March 26, 2009 meeting.

IV. Alternatives to Landfill Expansion

A. No Action/Waste Exportation

The "no action" alternative and the waste exportation alternative are effectively the same, since taking "no action" will eventually result in waste exportation. If no action were taken, the existing CFSWMA landfill would reach capacity in the year 2014, depending on the actual waste densities and quantities received. At

that time, no additional waste could be accepted at the CFSWMA landfill site. The CFSWMA would be obligated to cap the landfill and to pay for post-closure monitoring and cap maintenance costs for at least a 30 year period. In addition, wastes generated within Franklin County would then need to be transported to an out-of-county landfill for disposal. Such waste exportation is projected to result in significantly higher transportation and disposal costs, which could increase further in the future if the costs of diesel fuel increase.

B. Alternative Waste Disposal Technologies

A series of alternative waste disposal technologies are available for consideration by the CFSWMA. Some of these were considered by Franklin County in its solid waste planning activities in the late 1980's and early 1990's. Technologies reviewed include: pyrolysis, biogasification, combustion waste-to-energy, and composting/co-composting. These technologies were concluded to be relatively unproven and/or not economically viable alternatives. The byproducts or end products of the majority of these alternative technologies would still require a landfill for disposal. At some point in the future, some type of alternative waste disposal technology could potentially be used as a component of the CFSWMA's solid waste management plan, and would help extend the useful life of the proposed landfill, but, in the short term, they are not practicable alternatives to landfilling.

C. Alternate Landfill Sites

The land immediately adjacent to the west side of the existing CFSWMA landfill site has been evaluated and determined to be suitable for landfill development. Developing an alternate site would necessitate a series of expensive and time intensive studies. Site suitability investigations, environmental assessments, impact analyses, geologic investigations, and engineering investigation would all be required to pursue the development of an alternative landfill site. A new landfill site could not be identified, evaluated, permitted, and built in time to meet Franklin County's need for a new disposal capacity, which is anticipated to be in the year 2014, depending on waste densities and waste quantities accepted.

D. Alternative Scale or Magnitude

The primary disadvantage of smaller footprint configurations is that they will ultimately not provide as much disposal capacity as a larger footprint, such as what is being proposed as part of the CFSWMA's landfill expansion project. This, in turn, means that the costs and environmental impacts associated with the development of a new landfill site, or with the long distance transportation of waste to an out-of-county disposal site, will occur sooner. The phased approach that is proposed for the future permitting and construction of the proposed landfill expansion will not only provide further assurances that all environmental

requirements will be met, but it will also mean that the amount of landfill disposal capacity built and made available at any point in time can be adjusted to match what the projected waste disposal needs are at that time.

E. Sale or Lease of the CFSWMA Landfill or Transfer Stations During Their Useful Life

The sale or lease of the CFSWMA landfill, and/or the sale or lease of the three (3) CFSWMA transfer stations in Tupper Lake, Lake Clear, and Malone, plus a fourth collection site in St. Regis Falls, are not currently contemplated or proposed by the CFSWMA. In the event that such sales or leases become a serious consideration, then the CFSWMA will undertake appropriate environmental reviews and analyses in accordance with SEQRA. However, public ownership and operation of the CFSWMA's landfill and transfer stations is expected to continue for the foreseeable future.

V. Potential Environmental Impacts and Proposed Mitigation Measures

The Final EIS, which incorporates the Draft EIS by reference, addresses in detail potential environmental impacts and proposed mitigation measures associated with the proposed landfill expansion project as a whole. These potential impacts were analyzed both for New York State and Québec, Canada. Impact analyses were not limited by geographic boundaries. A summary of the potential environmental impacts is presented below, along with a review of various mitigation measures that are included as part of the proposed landfill expansion project.

A. Topography and Subsurface Geologic Conditions

The topography of the project area will be changed by re-grading, excavation and the deposition and covering of waste. These topographic changes will occur over the approximate 95-year estimated useful life of the proposed maximum build-out landfill expansion, since construction will occur in stages. The topography of the closed landfill expansion will consist of a gently sloping hill with an elevated plateau at its highest point, which is estimated to occur at an elevation of 357 feet above mean sea level. Currently, the capped portion of the existing landfill, Cell 1, reaches a height of 340 feet above mean sea level.

The geologic units at the site are designated as glacial till and marine silt in the overburden unit and Ordovician age Ogdensburg Dolostone as the bedrock unit. Sufficient appropriate soil material exists on-site to construct, operate, and cap the proposed landfill expansion area. The subsurface geologic conditions at the proposed landfill expansion site are suitable for a sanitary landfill. A minimum separation distance of 10 feet will be provided between the top of the bedrock and the bottom of the double composite liner system. Potential impacts to subsurface geologic conditions will involve the disturbance of soils through the excavation,

filling, and stockpiling activities conducted during construction and operation of the landfill. The potential for instability of constructed slopes during construction of the landfill has also been analyzed for appropriate engineering design consideration. To prevent and/or minimize the potential for impacts related to these activities, a number of engineering design controls and mitigation measures will be implemented.

B. Groundwater Resources and Drinking Water Concerns

The CFSWMA's proposed landfill expansion will comply with important regulatory standards and construction design safeguards to ensure that nearby groundwater and drinking water supplies will not be impacted by the landfill. The Towns of Westville and Constable are not currently serviced by a public water supply system. Residents in the immediate vicinity of the landfill obtain their drinking water from individual private wells or purchase water.

In addition to the engineering methods discussed below, the network of groundwater monitoring wells at the landfill site will be expanded to adequately monitor the landfill expansion area in addition to the existing landfill areas. These wells will be regularly sampled (quarterly) to provide another means to identify whether landfill operations have impacted groundwater.

B.1 Double Composite Liner System

Municipal solid waste will be deposited on top of a double composite liner system at the proposed landfill expansion site. This liner system is currently in place and performing effectively at the existing landfill site, Cells 1-4. The top portion of the liner system (i.e. the primary liner system) will be designed to collect virtually all of the leachate (water which comes into contact with solid waste). Collected leachate will be piped to the CFSWMA's leachate storage tank and then hauled to the Village of Malone Wastewater Treatment Plant for treatment. In the event that a backup leachate treatment facility is needed, due to the temporary unavailability of the CFSWMA's primary leachate treatment arrangement, then leachate will be hauled to the City of Plattsburgh Wastewater Treatment Plant.

The bottom portion of the liner system (i.e. the secondary liner system) collects any leachate that passes through the primary liner system. The amount of leachate collected in the secondary system is monitored daily to measure the performance of the primary liner system. With the primary liner system functioning as designed, minimal amounts of leachate flow to the secondary collection system. In the event that such daily monitoring activities identify concerns regarding the primary liner system's performance, a series of steps would be initiated to investigate and to take

appropriate corrective action. Based on 2007 data, 99.8% of all leachate generated at the Authority's existing landfill was collected by the primary liner system and the remaining 0.2% of the landfill's leachate was collected by the secondary liner system.

B.2 Pore Water Collection and Drainage System

The pore water collection and drainage system would be constructed directly above the low-permeability foundation subgrade soils and below the landfill liners. The pore water collection and drainage system will consist of a high permeability drainage layer that will collect groundwater seeping inward toward the landfill. This groundwater will be pumped to the surface by side riser pump stations located along the perimeter road around the landfill. In the unlikely event that leachate migrates through both landfill liner systems, the groundwater suppression system would serve as another active collection system for the removal of leachate. Water quality within the pore water collection and drainage system would be monitored as an additional measure in the event of any such liner system leakage. The pore water collection and drainage system, therefore, would act as a tertiary layer in addition to the leachate collection and detection systems for detection of any release from the landfill. In addition, the underlying glacial till foundation soils, which range in thickness (post-construction) from 15 to 30 feet, would function as a natural low permeability liner system to prevent further leachate migration.

Pumping of the pore water collection and drainage system during landfill operations will lower the water table, create an inward hydraulic gradient in the immediate vicinity of the landfill, and induce groundwater to flow towards the landfill area rather than away from the landfill. Groundwater recharge within the footprint area will also be eliminated as water is removed from storage by the pore water collection and drainage system, as the infiltration of precipitation through the waste is removed by the leachate collection system and as surface water runoff is directed to the detention basins. Although this lowering is unavoidable, most of the local area is already impacted by the existing pore water collection and drainage system for the active landfill. There would be minimal lowering of the groundwater table outside of the project area and there will be no noticeable affects to residential water supply wells.

C. Surface Waters and Stormwater Management

The majority of the proposed project area drains south into Briggs Creek (NYSDEC Water Index No. SLC-28). The existing landfill site and the eastern extent of the proposed expansion area drain east, flowing into an unnamed tributary of the St. Lawrence River (NYSDEC Water Index No. SLC-26). Briggs Creek and Tributary 26 of the St. Lawrence River are classified as Class D waters with D Standards according to the New York State Department of Environmental Conservation (6 NYCRR Part 910). Class D waters are not included in the definition of a protected stream according to 6 NYCRR Part 608 Use and Protection of Waters. According to the NYSDEC, the best usage of Class D waters is fishing.

Construction and operation of the proposed landfill expansion would include a number of mitigative measures to prevent and/or minimize the potential for impacts to surface water resources. All stormwater that comes in to contact with waste will be collected as leachate by the landfill liner system. Other stormwater runoff from the landfill footprint area will be directed to on-site sedimentation basins. The proposed maximum build-out expansion will require the construction of four (4) new stormwater basins to offset the increased stormwater quantity from the additional cell construction. This system will allow sediment to settle out prior to discharge. Other measures to reduce the potential for siltation of surface waters include: the use of vegetated buffer zones, the used of hay bales and silt fences as filters, the construction of riprap lined ditches to direct stormwater runoff and minimize erosion, and the re-vegetation of disturbed soil areas.

As described in the preceding section on groundwater resources, the double composite liner system, pore water collection and drainage system, and groundwater monitoring activities will prevent leachate from contaminating nearby creeks and wetland areas.

D. Air Quality

The decomposition of solid waste in the landfill will produce different gases including methane, carbon dioxide, and non-methane organic compounds. The landfill's design includes a landfill gas management system to collect the gas. The gas will then either be combusted in flares or used as an energy source once sufficient volumes of landfill gas are produced. A landfill gas monitoring program will also be implemented during operations to ensure compliance with all applicable requirements.

Landfill gas migration to off-site areas will be controlled by using various preventative measures. These include removal of daily and intermediate cover from the compacted waste before the next lift of waste is placed. This procedure

will remove a potential barrier to vertical gas migration and encourage upward movement of the gas until it is intercepted by the gas collection system. Emissions from the construction equipment, the landfill's operation equipment, and waste hauling vehicles are not anticipated to have a significant impact on local air quality due to the emission controls installed on such equipment. In addition, waste hauling activities are not expected to increase from existing operations; therefore, average vehicle related emissions are not expected to increase with the addition of the proposed landfill expansion.

Fugitive dust caused by construction and operation will be mitigated through various methods. Limiting the working face and borrow area size, re-vegetation of exposed areas, and watering down haul roads will minimize the amount of dust. This dust will be confined to the proposed development area and will be temporary in nature.

E. Ecological Resources

Information regarding the ecological resources of the proposed landfill expansion site was gathered through site visit, aerial photography, review of prior studies, and correspondence with various agencies. Based on these sources and field surveys conducted on-site, no endangered or threatened species or unique ecological resources have been identified within the proposed landfill expansion area. Critical Environmental Areas are specific geographic areas that have an exceptional or unique character with respect to their ecological, social, cultural, and/or historic values or qualities. There are no Critical Environmental Areas recognized within Franklin County.

All of the cover types and vegetative species observed on the existing landfill site and within the proposed expansion area are not ecologically sensitive or important areas and are abundant throughout Franklin County. Many of the existing cover types are associated with, or have been directly influenced by, current and previous agricultural land uses. These areas have been used as pasturelands for cattle, croplands, and hay fields.

F. Wetland Resources

A field delineation by Barton & Loguidice, P.C. confirmed the presence of wetlands on the proposed landfill expansion site. The field delineation was conducted in accordance with the 1987 US Army Corps of Engineers Wetland Delineation Manual. Nine (9) wetland areas and associated drainages were delineated as a result of this field effort, totaling 19.51 acres. The proposed maximum build-out scenario of the CFSWMA landfill expansion will impact approximately 11.78 acres of wetland. None of the delineated wetland areas are under state jurisdiction by the NYSDEC. No jurisdictional wetlands will be impacted during the construction of the proposed Phase 1 footprint; however,

jurisdictional wetlands will be impacted during subsequent stages of construction of the proposed expansion area. These impacts would be appropriately mitigated through the use of approved compensatory mitigation procedures, as outlined and required by the US Army Corps of Engineers. Compensatory mitigation will be carried out through one or more of the following methods: the restoration of a previously-existing wetland or other aquatic site, the enhancement of an existing aquatic site's functions, the creation of a new site, or the preservation of an existing aquatic site.

G. Local Land Use and Zoning

Current land uses on the proposed expansion area include agricultural and vacant land. Local land cover includes: agricultural fields, brushland, pastureland, forestland, open space, and meadow. Land uses within the vicinity of the landfill site are consistent with those land uses observed throughout Franklin County.

Even if it is assumed that all 581 acres proposed to be purchased for the landfill expansion would be converted from agricultural uses, this would result in the loss of only 0.4% of Franklin County's farmland and only 4.5% of farmland in the Towns of Constable and Westville combined. Therefore, on a County-wide and Town-wide level, the proposed landfill expansion will not significantly affect the agricultural community as a whole or the agricultural productivity of the area. The vegetative cover types and land uses currently observed within the proposed maximum build-out landfill footprint include meadow, open space, agriculture (alfalfa), brushland, forestland, pastureland, and agriculture (corn).

On September 10, 1986, the Town of Westville adopted "Local Law No. 1 of the Town of Westville – Establishing Zoning Regulations for the Town of Westville, New York." This Local Law allows the Town to develop a sanitary landfill within the Town limits, but it purports to prohibit anyone else from doing so. However, the CFSWMA and the proposed landfill expansion are not subject to this Westville Local Law due to provisions of the CFSWMA's statute that supersede the Local Law. An evaluation of the "balancing of public interests" test, presented in Appendix K of the Draft EIS, also demonstrates that the CFSWMA's proposed landfill expansion project is not subject to this Westville Local Law. The Town of Constable does not have a zoning ordinance or other zoning-type regulations in effect.

H. Noise

The results of noise impact analyses completed for this project indicate that noise from landfill operations will be below applicable noise standards (57 dBA) at the proposed expansion area site boundaries. Landfill operations, specifically the waste acceptance rate, are not expected to increase significantly with the addition of the proposed expansion. As such, it was assumed that future truck traffic levels

and working face equipment operations would remain similar to existing conditions, and noise readings from current landfill working face operations provided a reasonable estimate of future noise levels. Based on the data collected, the distance required to reduce noise levels created by landfill working face operational noise to 57 dBA equivalent steady rate (Leq) was estimated to be 285 feet. The minimum distance between the landfill expansion's proposed limits of waste and the proposed property limits is approximately 300 feet.

Noise levels generated during landfill construction will be temporary and limited to the duration of construction activities. Noise generated during landfill construction will be mitigated by ensuring that all equipment used is properly mufflered in accordance with state regulations. Noise levels during landfill construction will be further reduced by preventing any unnecessary operation of equipment near property lines, ensuring proper maintenance of equipment, and limiting potential noisy construction operations to normal daytime operating hours.

I. Visibility

The final height of the proposed landfill expansion will be approximately 20 feet higher than the maximum permitted elevation of the capped and closed Cell 1. A viewshed analysis was conducted for the proposed landfill expansion project. This analysis indicates that the visibility impact and view reaction to the proposed expansion will vary based on landscape and geographical setting, extent of screening and structural obstructions, viewer sensitivity, and distance of the respective viewer from the proposed project site. The project's overall impact on the visual character of the area could be considered to be very low to moderate, depending on the distance of the viewer to the proposed landfill site. The greatest visual impacts of the proposed landfill expansion project are located immediately adjacent to the landfill site along County Route 20.

Screening mechanisms such as earthen berms, fences, or planted vegetation will be utilized to decrease visual impacts, when appropriate. The natural colors of the landfill were demonstrated by the visual simulation to generally minimize contrast with the sky and background under most conditions. The landscape surrounding this project will retain its open space character and overall spatial organization, even at the time in which the landfill expansion has been fully constructed.

J. Odors

Once wastes are received at the landfill, best management practices will be used to minimize odors and prevent them from emanating off-site. Waste loads having particularly strong odors will be covered immediately after being emptied from the delivery vehicles. On those days when atmospheric conditions are optimal for odor generation, wastes will be covered more frequently throughout the day,

rather than just at the end of each day. The CFSWMA's active landfill gas collection and control system will help to reduce odors generated at the facility. The existing system will be expanded throughout the life of the landfill expansion in order to collect landfill gas from developed landfill areas. The gas collection and control system will significantly reduce odors through the destruction of odor causing components of landfill gas.

K. Historic and Archeological Resources

A preliminary review of the State Historic Preservation Office's (SHPO) website was conducted to determine if any sites listed on the State or National Historic Registers were located within or adjacent to the proposed expansion limits. This query reported no known historic sites within the referenced search area. There were also no archeologically sensitive areas depicted within the proposed landfill property or surrounding areas.

Based on written correspondence with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP), the abandoned farmstead, located on existing CFSWMA property along County Route 20, appears to meet the criteria for inclusion in the State and National Registers of Historic Places. This determination of eligibility was made based on the historic significance of the farmstead in the areas of architecture and agriculture. As a result of this determination, the farmhouse, barns, and majority of the agricultural setting will be avoided. The proposed expansion footprint was designed to leave the farmstead and adjacent barn intact. The area of the agricultural setting that is located within the proposed landfill footprint has previously been disturbed. The OPRHP agreed that the proposed expansion design, which provides a 350 to 400 foot buffer around the brick farmhouse and associated barn, is an "acceptable compromise" that may allow for future preservation and use of the property. No other locations of historic significance were determined to be located within the proposed landfill expansion area.

L. Seismic Impacts

Based on the United States Geologic Survey (USGS) Seismic Hazard Map, the CFSWMA landfill expansion area is located within a moderate seismic area compared to other parts of the United States. Current CFSWMA landfill designs have been subject to seismic impact analysis requirements of NYSDEC Part 360 and have shown that the minimum factor of safety of 1.0 can be achieved for the maximum horizontal acceleration for the site. Based on preliminary design parameters and stability analyses, the landfill design for the landfill expansion also demonstrates that a minimum factor of safety of 1.0 can be achieved. Further seismic impact analyses will be completed during the NYSDEC Part 360 permit process.

Excavation of soils and construction of the landfill subgrade and other landfill slopes will be performed in a manner that will create stable conditions. In general, the glacial tills in the area of the landfill have proven to provide a stable foundation for landfill construction. Any weaker veins of clay encountered will be removed during subgrade excavation to ensure the landfill is constructed on sound soils. The subgrade soils will be tested extensively prior to landfill construction to ensure a sound foundation. Engineered slopes would be constructed no steeper than 3 horizontal: 1 vertical. The landfill bottom grades will have a minimum grade of 2% to prevent ponding of leachate. The pore water drainage system will reduce hydrostatic pressure on the landfill liner system and subgrade soils by draining any groundwater before it contacts the liner system. The top of the landfill will have a minimum grade of 4% to promote drainage and prevent stormwater infiltration.

M. Transportation Facilities and Traffic

The landfill's truck traffic utilizes New York State and County routes to access the CFSWMA landfill from all directions. New Road was upgraded to a County Route when the landfill site was initially constructed. NYS Route 37 and County Route 20 are used to access the landfill from the west and NYS Route 30 and County Route 20 from the east. All these roads are adequate truck routes, which minimize environmental and traffic impacts. In addition, there are currently only two residential access points/driveways on New Road, resulting in minimal impacts to residential populations along that County Route.

Waste is currently transported to the landfill directly by private individuals or haulers, or they are transported from one of the Authority's transfer stations. The CFSWMA Landfill's current tonnage is permitted at 125,000 tons per year (TPY). The CFSWMA obtained a permit modification from the NYSDEC in May of 2006 to allow for the acceptance of up to 125,000 tons per year of waste at the landfill. As part of the environmental analysis undertaken for this 2006 permit modification, a traffic analysis was performed to determine the impact of the proposed tonnage increase on County Route 20. A potential 34 percent (%) increase in truck traffic was associated with the tonnage increase and was used in the level of service (LOS) analysis. The amount of waste being disposed of at the landfill would not increase as part of this proposed expansion project, which in turn would not increase potential truck traffic accessing the CFSWMA Landfill beyond the levels previously analyzed as part of the 2006 permit modification. The existing County Route 20 entrance would remain the only access point to the landfill site. The current permitted hours and days of operation would also not change as part of this expansion project.

In addition to the 2006 traffic analysis, a level of service study was completed in 2008 to determine the current and future use and capacity of the transportation system adjacent to the landfill site. The level of service calculation for the future

condition included the development of the proposed landfill expansion. Level of service is a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience. Letters designate each level of service, from A to F, with a LOS A representing the best operating conditions and a LOS F the worst. Each level of service represents a range of operating conditions and the driver's perception of those conditions. Traffic data collected during July 2008 and landfill scale data from July 2007 to July 2008 was used to determine a peak hour unsignalized LOS for each of four intersections adjacent to the landfill: NYS Route 37/County Route 20, County Route 40/Country Route 20, New Road/County Route 20, and NYS Route 30/County Route 20. All calculated intersection turning movements for the above intersections resulted in a LOS of A or B, indicating acceptable levels of service for this transportation system with minimal delays.

N. Litter

Litter control will include manually picking up windblown items and bringing them to the working face of the landfill. Permanent and/or portable fences will be used where necessary to prevent litter from blowing away from the working face of the landfill. The need for litter control will be reduced by selecting lower levels of the landfill for daily waste placement during extremely windy conditions, when practicable. Litter will also be controlled by requiring all waste loads delivered to the landfill to be completely covered.

O. Pest Control

Proper operation and maintenance of the landfill is the key to controlling pests. Measures which will be used to control pests include adequately compacting wastes, keeping the size of the landfill's working face to the smallest practicable area, covering the working face with a minimum of six inches of daily cover soil, and properly applying intermediate cover soil to inactive areas of the landfill. Any materials used as alternative daily cover (ADC) would be demonstrated to be as effective as cover soil in controlling vectors, as part of the NYSDEC's ADC approval procedures.

P. Fire Control

The primary risk of fires at the site would arise from small amounts of smoking or smoldering waste which is mixed with other wastes shipped to the landfill. This risk will be reduced by properly training CFSWMA staff to inspect waste loads at the transfer stations prior to delivery to the landfill as well as at the landfill working face.

In the event that smoking or smoldering waste is delivered to the landfill, it would be pushed aside and covered with soil to extinguish any fires. The waste would not be placed in the landfill until it is cool. If such waste is delivered to the landfill in trucks other than CFSWMA-owned vehicles, the responsible hauler would be notified to review and implement, as necessary, corrective procedures. If these wastes are delivered to the landfill in CFSWMA-owned vehicles, transfer station supervisors would be notified and corrective procedures would be implemented. Small fires will be handled by landfill personnel with on-site equipment. Small fires may also be fought with on-site fire extinguishers and, when appropriate, the water wagon. A fire prevention and control plan will be maintained at the landfill as part of the Operations and Maintenance Manual. Fires in any of the structures or other fires requiring assistance would be immediately called into the Franklin County 911 system.

Q. Property Values

It is impossible to determine with certainty whether the operation of the current landfill has affected the value of any particular parcel of land. However, the statistics kept by the Franklin County Real Property Office indicate that there have not been any negative town-wide impacts on real property values in Constable or Westville during the period from 1993, before the landfill was opened, to 2007, the last year for which figures are available, when compared to other Towns in northern Franklin County. The average increase in real property values during that time period in northern Franklin County was 86.27 percent (%). Constable, where the current landfill cells are located, saw an increase in value of 94.29 percent (%) during that period, exceeding the average. Westville saw an increase of 77.44 percent (%), which approached the average. In comparison, nearby Fort Covington saw an increase in value of only 48.80 percent (%) during that same time period. Based on historic data, it is not anticipated that the expansion of the landfill facility will greatly impact the property values for the Towns of Westville and Constable. The host community benefit agreement, which was recently negotiated between CFSWMA and the Towns of Westville and Constable, provides monetary support to the host Towns to help offset the loss of taxable property within each Town.

R. Cumulative Impacts

Although initial construction and operation of the proposed landfill expansion will only directly impact a portion of the total acreage that would be acquired by CFSWMA, the environmental analyses presented in this document address the cumulative impacts associated with the initial cell construction and subsequent development efforts, over an estimated 95 year operating life.

S. Growth Inducing Impacts

The proposed landfill expansion is not expected to directly induce population growth within the Towns of Westville and Constable, or within Franklin County. However, the development of the proposed landfill expansion area will continue to ensure the availability of environmentally and economically sound long-term waste disposal capacity within Franklin County. The proposed expansion will thus help to extend the economic benefits derived from the CFSWMA Landfill and provide additional short-term economic benefits associated with the future construction activities.

T. Energy Use and Conservation

The development of the proposed expansion of the existing CFSWMA Landfill would not result in a change in the permitted waste acceptance rate. Accordingly, with no change in the permitted tonnage limit there would not be any significant changes in daily activities permitted at the landfill; there would be no significant change in the maximum amount of fuel consumed by trucks delivering waste to the landfill or the maximum amount of fuel consumed by operating equipment. Also, the development of the proposed landfill expansion will continue to provide a local waste disposal facility for Franklin County. When considering alternatives such as exporting wastes to another landfill out of the County, it is apparent that the proposed expansion would result in less fuel consumption.

VI. Relevant Environmental Impacts Weighed and Balanced with Social, Economic, and Other Considerations

A. Public Need and Benefits

As summarized in Section V of this Findings Statement, the CFSWMA's development of the proposed landfill expansion will be undertaken in an environmentally sound manner. The implementation and mitigation measures that are included as part of the proposed landfill expansion will minimize potential environmental impacts to the maximum extent practicable. The public need and benefits associated with development of the proposed landfill are substantial. These needs and benefits for the landfill expansion can be described by the following environmental and economic factors:

- *Economic Viability* – Expansion of the CFSWMA landfill would ensure that economically secure long-term disposal capacity would be available to the residents, businesses, and industries of Franklin County.

- *Environmental Security* – Expansion of the CFSWMA landfill would provide the County with the highest level of long-term security because of

the certainty and control over the design, construction, and operation of the expansion's environmental protection system.

- *Economic Security* - Prices in the solid waste disposal marketplace can fluctuate significantly. Expansion of the CFSWMA landfill would continue to ensure that Franklin County has a local disposal facility that is cost-based rather than market driven. This would help to insulate local disposal prices from market influences such as industry consolidation, reduction in available disposal capacity outside of the County, and changes in laws governing the interstate transport of solid waste.

- *Local Economic Benefits* – Exporting waste from Franklin County would result in less money in the local economy. Tipping fees would be paid to disposal facilities located outside the County, meaning that money as well as waste would be exported out of the County. Development of the landfill expansion would also involve economic spin-offs from the local expenditure of construction money and annual landfill operating money, substantial portions of which would stay in the local economy. By exporting waste, the CFSWMA would not receive tipping fees and the local economy would not benefit from construction revenue. Waste exportation would result in the payment of fees to an out-of-county facility which is neither a local employer nor a local taxpayer. The CFSWMA is also a local employer, currently providing numerous local citizens with fulltime employment.

- *Local Environmental Infrastructure* - Development of the proposed landfill expansion would help protect the region from market-driven price increases associated with exporting waste, and would provide a long-term economic, environmentally sound disposal facility that could be relied upon by local residents and businesses as an integral component of the County's environmental infrastructure.

VII. Rationale for the CFSWMA's Decision

The CFSWMA believes it is important to proceed with the next stage of the landfill expansion process (i.e., the submittal of permit application to the NYSDEC and other regulatory agencies with jurisdiction). For the reasons described in Section VI of this Findings Statement, Franklin County will benefit from the long-term security resulting from the proposed landfill expansion.

Development of the proposed landfill expansion will continue to provide a local, environmentally sound disposal facility that is cost-based rather than market-driven. The CFSWMA's primary directive is to provide a long-term economical and environmentally sound disposal service to local residents and businesses. Development of the proposed landfill expansion will achieve that objective and will also continue to support local job

creation and economic development activities, in addition to providing economic benefits directly associated with construction and operation of the landfill facility.

VIII. Certification of Findings to Approve/Fund/Undertake

Having considered the Draft and Final EIS, and having considered the preceding portions of this Findings Statement relied upon to meet the decision-making and findings requirements of 6 NYCRR 617, this Statement of Findings certifies that:

- The requirements of 6 NYCRR Part 617 have been met;
- Consistent with the social, economic, and other essential considerations from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects and impacts to the maximum extent practicable; including the effects and impacts disclosed in the Environmental Impact Statement; and
- Consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects and impacts revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

County of Franklin Solid Waste Management Authority
Name of Agency

Signature

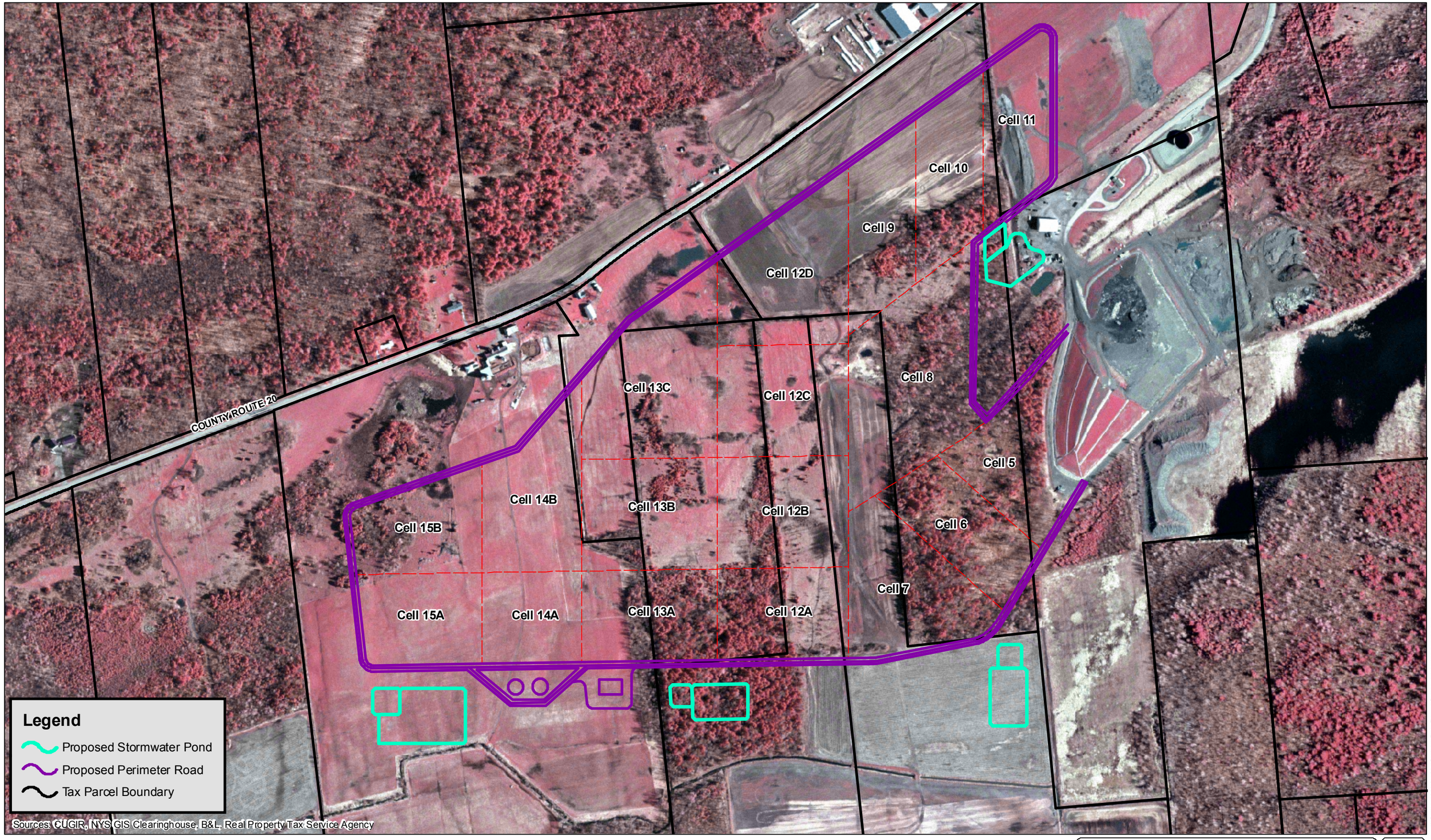
George Eades
Name

Executive Director
Title

March 26, 2009
Date

828 County Route 20, Constable, New York 12926
Address of Agency

Attachment 1



Barton & Loguidice, P.C.
Engineers • Environmental Scientists • Planners • Landscape Architects

0 300 600 Feet

CFSWMA Proposed Landfill Expansion
Finding Statement

Proposed Maximum Build-out Site Map

Franklin County 03/26/09 New York

Attachment 1 Finding Statement

K:\Projects\800\8140\05\Projects\Final Figures\finding_statement_attach1.mxd

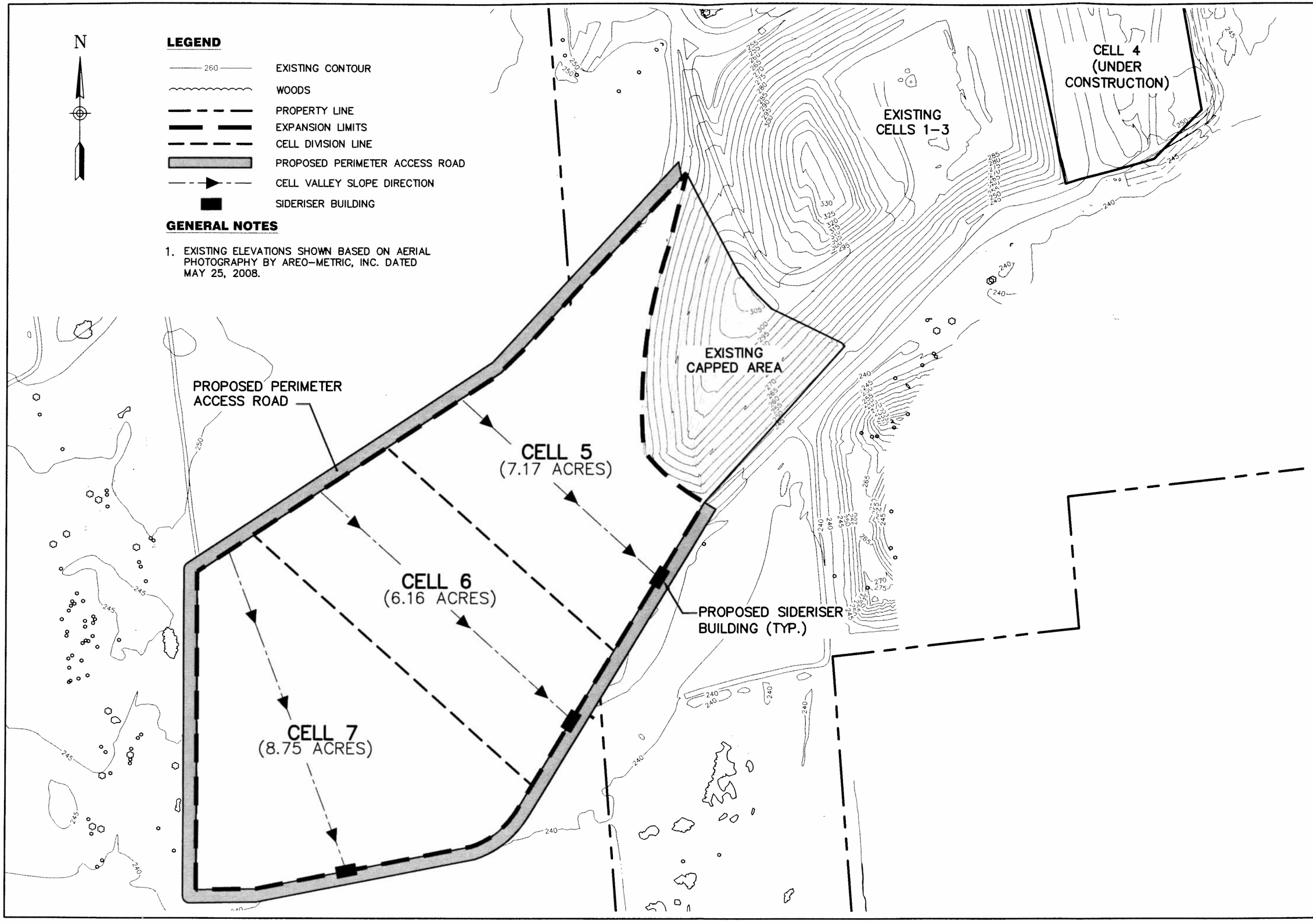
N

LEGEND

- 260 — EXISTING CONTOUR
- WOODS
- PROPERTY LINE
- EXPANSION LIMITS
- CELL DIVISION LINE
- PROPOSED PERIMETER ACCESS ROAD
- CELL VALLEY SLOPE DIRECTION
- SIDERISER BUILDING

GENERAL NOTES

1. EXISTING ELEVATIONS SHOWN BASED ON AERIAL PHOTOGRAPHY BY AREO-METRIC, INC. DATED MAY 25, 2008.



PHASE I EXPANSION

CFSWMA PROPOSED LANDFILL EXPANSION
FINDING STATEMENT

TOWNS OF CONSTABLE/WESTVILLE FRANKLIN COUNTY, NEW YORK

Barton & Loguidice, P.C.

Date
MARCH, 2009

Scale
1"=200'

Attachment
1

Project Number
814.005

Plotted: Mar 30, 2009 - 8:23AM SYR By: mj
I:\Shared\800\814005\EXPANSION\814005_SW_FIG 2_FS.dwg

Attachment 2

CHAMBRE DES COMMUNES

Claude DeBellefeuille
Députée de Beauharnois – Salaberry
Whip adjointe du Bloc Québécois

Claude DeBellefeuille
Députée de
Beauharnois – Salaberry

Ottawa
Pièce 635-S
Édifice du Centre
Ottawa (Ontario)
K1A 0A6
Tél.: (613) 946-0644
Téléc.: (613) 941-3300
debelc@parl.gc.ca

Circonscription
38, rue Saint Louis
Bureau 1
Salaberry-de-Valleyfield
(Québec) J6T 3X4
Tél.: (450) 371-0644
Téléc.: (450) 371-3330
debelc1@parl.gc.ca

1700, rue Principale
Saint-Michel (Québec)
J0J 1J0
Tél: 1-866-561-0644
Courriel: debelc1a@parl.gc.ca

Site Internet:
www.claudedebellefeuille.ca

Salaberry-de-Valleyfield, march 19th 2009

Country of Franklin Solid Waste Management Authority
828, County route 28
Constable, New York 12926

Object: Questions and comments for the CFSWMA: FEIS review period Westville landfill site

Mr,
Ms,

Please find enclosed the questions and comments that i wish to submit in regards to the review period for the FEIS concerning the Westville landfill site.

1) Contingency plan

You state that 6 NYCRR Part 360 provides for the preparation of a contingency plan to address in particular the possibility of contamination of groundwater and surface water, including possible effects on drinking water.

Does the contingency plan have to be submitted to the NYCRR at the same time as the environmental studies in order to obtain a permit? Could the CFSWMA receive its expansion permit without submitting a contingency plan?

How much time does the CFSWMA have to submit the contingency plan to the NYCRR?

Is there a public consultation process concerning that submission to the NYCRR?

Is the contingency plan required to include agreements with Quebec and Canadian authorities in view of the landfill site's proximity to the Canadian border? In other words, can the CFSWMA submit a contingency plan under 6 NYCRR Part 360 without officially consulting and obtaining the cooperation and consent of Quebec and Canadian authorities?

What are the CFSWMA's duties and obligations regarding review of the contingency plan?

Will the public and Quebec and Canadian authorities be informed of the reviews? Will those authorities be consulted and involved in the review process?

The requirement to have a contingency plan clearly indicates that there is indeed a risk of contamination, even though you maintain that the risk is small and the event unlikely. Who can predict what will happen in 20 or 30 years? Who can guarantee that the landfill site will be managed professionally by competent, diligent managers who comply with environmental requirements? One mistake or instance of negligence would be lethal for our groundwater and surface water. When I visited the current landfill site on November 14, 2008, the site manager told me that his arrival as manager had been welcomed because the previous administration had not been meticulous in its management of the site.

In our opinion, the contingency plan must be prepared in conjunction with Quebec and Canadian authorities, and the roles and responsibilities of both parties must be set out in memoranda of understanding, which must be approved by the authorities concerned.

2) Financial and technical remedies

You state that in the unlikely event of external contamination caused by the landfill site, the CFSWMA would be required to remediate the contamination and offer compensation appropriate to the specific circumstances. According to the CFSWMA, its liability insurance against environmental damage will apply regardless of the location and circumstances in which the CFSWMA's facilities might be deemed responsible for damaging the environment, in both the United States and Canada.

With the NYCRR permit or permits that the CFSWMA currently has, does it hold liability insurance to compensate individuals, municipalities, businesses and other entities that might be affected by contamination caused by the operation of the landfill site?

Is such liability insurance compulsory in order to obtain the NYCRR permit or permits required to expand the landfill site?

What standards are required for such liability insurance? What financial coverage is offered?

Should operation of the landfill site cause contamination in Canada, what authority would be responsible for assessing the landfill site's liability for the contamination? If the damage occurs in Canada, is it up to Canada to prove the landfill site's liability?

You state that on the date of the final version of the EIS, the CFSWMA still had not established a specific trust fund to deal with future legal action.

Does the NYCRR require you to establish such a trust fund to deal with future legal action? Is the establishment of the trust fund conditional on obtaining the permit or permits necessary to expand the landfill site?

When does the CFSWMA intend to establish the trust fund?

What financial objectives must the CFSWMA achieve each year in order to establish a trust fund to deal with future legal action?

If the CFSWMA is not required to establish such a trust fund, who can assure us that the trust fund will be established to deal with future legal action?

I remain concerned about the expansion of the Westville landfill site, and my concerns are heightened when I realize from reading your response to comments E.12.1 and E.12.5 that the agreements between Quebec, Canada and New York State do not seem to clearly indicate that such a project to expand a landfill site near the border should be dealt with jointly. I understand that such political representations cannot be addressed to the CFSWMA.

In conclusion, could you provide me with information about the next steps in the process of applying for NYCRR permits? In addition, will we receive answers to the questions and comments we have raised in connection with the FEIS review period ?

I look forward to your early response.

Yours sincerely,

Claude DeBellefeuille
Member of parliament
for Beauharnois-Salaberry riding
House of commons, Canada

County of Franklin
Solid Waste Management Authority

828 County Route 20 • Constable, New York 12926
cfswma@westelcom.com

Telephone: (518) 483-8270
Fax: (518) 483-4880

March 26, 2009

Claude DeBellefeuille
Députée de Beauharnois-Salaberry
38, rue Saint Louis, Bureau 1
Salaberry-de-Valleyfield, Québec J6T 3X4

Subj: Response to Final EIS Comments

Re: Proposed CFSWMA Landfill Expansion, SEQRA Process

Dear Madame DeBellefeuille:

The comments you submitted to the County of Franklin Solid Waste Management Authority by letter dated March 19, 2009 during the review period for the Final Environmental Impact Statement (EIS) have been received. This letter is being sent to personally respond to the comments and questions you raised in that letter regarding the County of Franklin Solid Waste Management Authority's (CFSWMA) proposed landfill expansion project in Franklin County, New York. Your letter, and the CFSWMA's responses to the comments in your letter, has also been included as Attachment 2 to the State Environmental Quality Review Act (SEQRA) Statement of Findings for this project. Please find below the responses to your comments in the order in which they were included in your letter. *Your comments are shown below in italics.*

Contingency Plan

Does the contingency plan have to be submitted to the NYCRR at the same time as the environmental studies in order to obtain a permit? Could the CFSWMA receive its expansion permit without submitting a contingency plan?

Yes, a contingency plan is required to be submitted to the New York State Department of Environmental Conservation (NYSDEC) as part of CFSWMA's Part 360 permit application for the proposed landfill expansion.

No, the CFSWMA could not receive a Part 360 permit from the NYSDEC without submitting a contingency plan. A contingency plan needs to be reviewed and approved by the NYSDEC as part of the permit review process for the proposed landfill expansion.

How much time does the CFSWMA have to submit the contingency plan to the NYCRR?

The CFSWMA has to submit a contingency plan to NYSDEC as part of their Part 360 permit application. There is no timeframe or deadline for submitting a contingency plan (or permit application) to the NYSDEC.

Is there a public consultation process concerning that submission to the NYCRR?

There is a public review and comment period associated with the NYSDEC's Part 360 permit application process. As stated in the Public Participation Plan (Appendix J of the Draft EIS), "Additional public comment opportunities will be provided during the NYSDEC's permit application review process for the proposed landfill expansion project."

Is the contingency plan required to include agreements with Quebec and Canadian authorities in view of the landfill site's proximity to the Canadian border? In other words, can the CFSWMA submit a contingency plan under 6 NYCRR Part 360 without officially consulting and obtaining the cooperation and consent of Quebec and Canadian authorities?

No, the contingency plan for this project is not required to include agreements with Quebec and Canadian authorities.
Yes, the contingency plan can be submitted in accordance with 6 NYCRR Part 360 without officially consulting with and obtaining the cooperation or consent of Quebec and Canadian authorities.

To our knowledge, there is no requirement in the NYSDEC Part 360 regulations that would require the consent of or consultation with Canadian authorities relative to this proposed landfill expansion project.

What are the CFSWMA's duties and obligations regarding review of the contingency plan?

The CFSWMA will assemble the contingency plan as part of their Part 360 permit application. This permit application will be submitted to the NYSDEC for their review and approval.

The contingency plan, along with the rest of the permit application documents, will be available for review and comment by the public during the NYSDEC's permit application and review process.

Will the public and Quebec and Canadian authorities be informed of the reviews? Will those authorities be consulted and involved in the review process?

When the CFSWMA's Part 360 permit application is deemed complete by the NYSDEC, a public notice stating that the application is complete will be issued. At that point in time, the NYSDEC will publish and distribute public notices in accordance with its regulations and as it deems appropriate.

It is our understanding that the NYSDEC has communicated with the Quebec Ministry of Environment on more than one occasion with regard to this proposed landfill expansion project, and with regard to other environmental matters of mutual interest to Quebec and New York State (to our knowledge, they meet at least once per year regarding matters of mutual interest). It is our expectation that the NYSDEC will continue to communicate with Quebec and Canadian authorities as they deem appropriate during the permit application review process. The level of involvement in the review process by Quebec and Canadian authorities, in response to notices and other communications that they may receive from the NYSDEC and others with regard to the proposed landfill expansion project, will largely be a matter for those Canadian agencies and authorities to decide.

The requirement to have a contingency plan clearly indicates that there is indeed a risk of contamination, even though you maintain that the risk is small and the event unlikely. Who can predict what will happen in 20 or 30 years? Who can guarantee that the landfill site will be managed professionally by competent, diligent managers who comply with environmental requirements? One mistake or instance of negligence would be lethal for our groundwater and surface water. When I visited the current landfill site on November 14, 2008, the site manager told me that his arrival as manager had been welcomed because the previous administration had not been meticulous in its management of the site.

While the CFSWMA maintains primary responsibility for ensuring that the landfill is operated in a manner that is fully protective of public health and the environment, and for ensuring that the site is managed by suitably trained and competent landfill staff now and in the future, the NYSDEC also has regulatory oversight responsibilities with regard to operation of the CFSWMA's landfill.

Environmental monitoring data is collected by or on behalf of CFSWMA staff, recorded, and reported periodically to the NYSDEC. The NYSDEC also conducts site inspections at the landfill to further ensure compliance with applicable environmental requirements. The NYSDEC requires that a contingency plan be prepared so that an action plan is in place and can be initiated immediately in case an emergency or other contingency event should occur at the site.

Please refer to page III-137 of the Final EIS dated February 26, 2009 for a response to Comment E.7.5 regarding landfill design safeguards and monitoring programs that will provide ample protection of groundwater resources.

In our opinion, the contingency plan must be prepared in conjunction with Quebec and Canadian authorities, and the roles and responsibilities of both parties must be set out in memoranda of understanding, which must be approved by the authorities concerned.

The contingency plan for the proposed CFSWMA landfill expansion project will be prepared in accordance with NYSDEC regulations (6 NYCRR Part 360). Input and/or approval from Quebec and Canadian authorities is not required.

Financial and technical remedies

With the NYCRR permit or permits that the CFSWMA currently has, does it hold liability insurance to compensate individuals, municipalities, businesses and other entities that might be affected by contamination caused by the operation of the landfill site?

The CFSWMA currently holds pollution liability insurance; however, historically this insurance has been voluntarily obtained and retained by the CFSWMA and is not a requirement of the current permits that the CFSWMA landfill facility currently holds nor is it a requirement set forth by the NYSDEC. It has been past practice for the CFSWMA to obtain such insurance in the amount of $2,000,000. The host community benefit agreement between the CFSWMA and the Towns of Constable and Westville, which has been approved by all parties, requires the CFSWMA to continue to carry pollution liability insurance for the landfill.

Is such liability insurance compulsory in order to obtain the NYCRR permit or permits required to expand the landfill site?

The CFSWMA is not required by the NYSDEC regulations to obtain liability insurance in order to operate or manage their landfill site or to obtain permits for the proposed landfill expansion.

What standards are required for such liability insurance? What financial coverage is offered?

The NYSDEC regulations do not include any standards for liability insurance at solid waste facilities. Historically, the CFSWMA has voluntarily acquired and retained $2,000,000 in pollution liability insurance coverage. Through their approval of the recently negotiated host community benefit agreement, the CFSWMA is required to continue to retain pollution liability insurance at a minimum amount of $2,000,000.

Should operation of the landfill site cause contamination in Canada, what authority would be responsible for assessing the landfill site's liability for the contamination? If the damage occurs in Canada, is it up to Canada to prove the landfill site's liability?

In the unlikely event that the landfill causes contamination in Canada, it will have first caused contamination in New York State. The NYSDEC currently monitors the landfill's numerous testing wells and will also monitor the testing well information for any expansion of the landfill facility. The CFSWMA is required to report any contamination to the NYSDEC. The NYSDEC has the authority and responsibility for ensuring compliance with New York State and U.S. federal environmental requirements.

In the event that a private person desires to sue for damages claimed to be caused by the landfill, the CFSWMA is subject to the laws of the U.S. federal government and New York State. The CFSWMA is subject to the jurisdiction of New York courts on issues of New York and U.S. federal law. In some cases, the CFSWMA may be subject to the jurisdiction of U.S. federal courts, depending upon the type of issue involved, the amount of damages claimed, and the residence of the parties involved. To the extent that the question seeks detailed legal advice on issues of a particular court's jurisdiction or on the general issue of the burden of proof, such advice is beyond the scope of this environmental document. The CFSWMA is not permitted to give legal advice. In particular, the CFSWMA is unable to attempt to answer questions concerning matters of Canadian law.

To the extent that the question is intended to solicit information concerning the evidence that will be available to the public in the event of some kind of leakage or contamination, the CFSWMA answers as follows: Records from the environmental monitoring programs that are described in the Final EIS, dated February 26, 2009, (see the response to Comment E.7.5 starting on page III-137 of the Final EIS) are available for public review and inspection at the offices of the CFSWMA and at the offices of the NYSDEC. A review of those records would help determine whether the landfill could be a possible source of any alleged off-site contamination. But it should also be emphasized that those environmental monitoring programs – which include groundwater monitoring wells located around the landfill footprint within approximately 50 feet of the limits of waste – are designed to detect any

contamination from the landfill on-site and at the earliest possible moment, to provide ample time for the CFSWMA to implement corrective measures that will prevent any such contamination from migrating off the landfill site. Furthermore, if those environmental monitoring programs reveal potential contamination from the landfill then the CFSWMA is required to notify the NYSDEC of the specifics of the situation. The NYSDEC would then be involved in reviewing and approving the CFSWMA's environmental investigation plan and any corrective measures that may be necessary to remediate the site.

Does the NYCRR require you to establish a trust fund to deal with future legal action? Is the establishment of the trust fund conditional on obtaining the permit or permits necessary to expand the landfill site?

The NYSDEC's solid waste regulations do not require the establishment of a trust fund to deal with future legal action. The establishment of such a fund is not required by the NYSDEC regulations in order to obtain permits from the NYSDEC for expansion of the current landfill facility.

When does the CFSWMA intend to establish the trust fund?

There currently is no intent to establish such a trust fund.

What financial objectives must the CFSWMA achieve each year in order to establish a trust fund to deal with future legal action?

No such analysis has been undertaken by the CFSWMA. The establishment of a trust fund is not currently planned by the CFSWMA.

If the CFSWMA is not required to establish such a trust fund, who can assure us that the trust fund will be established to deal with future legal action?

The CFSWMA does not see the need for the establishment of such a trust fund. The CFSWMA retains an attorney to assist them with any legal matters.

In conclusion, could you provide me with information about the next steps in the process of applying for NYCRR permits?

The CFSWMA will next prepare engineering plans and documents for submittal to the NYSDEC as part of the Part 360 permit application package for the landfill expansion. This permit application will only be for the proposed Phase 1 expansion of the landfill facility (Cells 5, 6, and 7).

The NYSDEC will review these submittals to determine if they contain all the information required for such a permit application. Once the NYSDEC determines the submitted materials to be complete, they will issue a public notice identifying where the permit materials are available for review and will outline the procedures to be followed to make public comment.

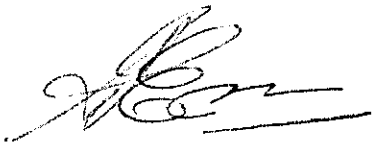
All comments submitted during the public review process will be submitted to the NYSDEC. The NYSDEC will evaluate all the comments and will consider them in its review of the permit application. The extent of public comment opportunities provided regarding the NYSDEC permit application submittals will be determined by the NYSDEC.

In addition, will we receive answers to the questions and comments we have raised in connection with the FEIS review period?

Reponses to these comments will be provided to the commenter in writing.

Thank you for your comments.

Sincerely,



George Eades
Executive Director
County of Franklin Solid Waste Management Authority