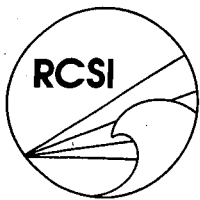




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CRWM Perspective:
Ontario County's Withdrawal From the
Western Finger Lakes Solid Waste Management Authority*

*By: Mary Bogin & Deborah Reynolds
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CRWM Perspective:

ONTARIO COUNTY'S WITHDRAWAL FROM
THE WESTERN FINGER LAKES SOLID WASTE MANAGEMENT AUTHORITY

by

Mary Bogin, Ph.D.¹ and Deborah Reynolds

SUMMARY

In 1986 at the urging of Ontario, Wayne, Seneca, and Yates Counties, the New York State Legislature formed the Western Finger Lakes Solid Waste Management Authority. The Authority was to regionally coordinate waste management in the four counties, with a primary goal to construct a waste-to-energy incinerator. A recycling program and recycling center also were planned.

Widespread public opposition to incineration, especially concern about possible health effects from air emissions and landfill leachate from the ash, caused Ontario County supervisors to withdraw from the Authority in February 1988. However, formal efforts to dissolve Ontario County's association with the Authority have been unsuccessful; bills put before the New York State Legislature in 1988 and 1990 failed, as did a 1989 lawsuit filed against the Authority by Ontario County in State

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Supreme Court. Ontario County eventually rejected a \$975,000 out-of-court buyout that was negotiated with the other three counties in December 1990. The Authority and the New York State Department of Environmental Conservation (DEC) oppose Ontario County's withdrawal on the assumption that a regional approach to solid waste management is best.

Since 1988 Ontario County and the Western Finger Lakes Solid Waste Management Authority have pursued independent solid waste management programs. Ontario County has implemented a successful program featuring extensive curbside recycling and 17 voluntary drop-off centers, a DEC permit to operate the Ontario County Landfill in Flint for the next 5 years, and an approved County Capital Plan allowing a \$1 million appropriation for a materials recovery facility (MRF). While recycling in the Authority-member counties has lagged behind that in Ontario County, the Authority's 14 voluntary drop-off sites (in three counties) have recently been supplemented by significant curbside recycling. A pilot curbside program for 7,000 households in Seneca County began November 1, 1990. In addition, three private trash companies that offer service in Yates County have agreed with the Authority to do curbside pick-up of recyclables for their paying customers. Early this year the Authority's intermediate processing center in Arcadia, Wayne County, was completed and county-wide curbside recycling for most private residences began in Wayne County. The Authority will submit a 10 year Comprehensive Solid Waste Management Plan to the DEC later this month. The draft of the Plan included plans for construction of new municipal solid waste and construction and debris landfills. The Authority presently has access to only one large private landfill in Seneca County.

The greater availability and success of Ontario County's programs compared to the Authority's has contributed to a decline in the Authority's popularity and further justification for Ontario County's divorce from the regional group. Although Ontario County officials remain open to regional cooperation that might enhance recycling efforts, they see an authority to be unnecessary and undesirable at this time. Ontario County has proven to be a more efficient and economical solid waste manager than the Authority.

EARLY HISTORY (1981-1986) (1)

In 1981 when Department of Environmental Conservation (DEC) officials tightened landfill regulations over concerns about leachate contamination of groundwater, Ontario County officials began discussing incineration as a possible solid waste management strategy. Several Ontario County officials saw incineration as the ideal method for

disposing large volumes of horse manure generated from the Finger Lakes Race Track. In 1982 the Ontario County Board of Supervisors hired RIT Research Corporation to do an incinerator feasibility study; the corporation recommended an electricity or steam-producing waste-to-energy incinerator. In late 1984 Ontario County approached the neighboring counties of Wayne, Seneca, and Yates, and by early 1985 the four counties had an intermunicipal agreement to regionally coordinate waste management.

The intercounty group's primary goal was to plan the construction of an incinerator to power steam or electricity production, a corn-ethanol plant, a soybean processing plant, or a chicken processing plant. The agreement specified that any county could withdraw from the Waste Committee at any time before it contracted with the Committee to commit its waste to the intermunicipal effort. By late 1985 the Western Finger Lakes Waste to Energy Committee, a loosely organized group comprised of members appointed from each county, was formed, and attorneys were hired to complete a Phase I Feasibility Study for an incinerator. The study, released in the spring of 1986, focused on an electricity-producing incinerator. The \$65 million incinerator would burn 550 tons of garbage per day (2). The size of the incinerator was geared to the projected population growth of the western Finger Lakes region over a 20 year period. Planners assumed that, in order to efficiently fuel the incinerator, additional garbage would have to be imported from outside the four counties during the first five to ten years of operation.

THE WESTERN FINGER LAKES SOLID WASTE MANAGEMENT AUTHORITY

In 1986 the Western Finger Lakes Waste to Energy Committee proceeded with Phase II, which included the formation of the Western Finger Lakes Solid Waste Management Authority. At the urging of the four counties, the New York State Legislature formed the Authority in April 1986.

The Authority consisted of unpaid members appointed by the governments of the participating counties. Originally six members from Ontario, six from Wayne, three from Seneca, and two from Yates were appointed. Of the 17 member board, four were county planners and the rest elected county officials. The Authority was established as a public benefit corporation with an annual budget financed through money from each county, calculated according to population (1). Originally, Ontario County contributed \$400,000, Wayne \$370,000, and Seneca and Yates \$150,000 each annually (3). In late 1988 an office was opened in Canandaigua and Robert Schwarting was hired as executive director of the Authority. In mid-1989 the Authority moved its offices to Lyons in Wayne County.

The Authority has broad control over waste disposal in the four county region, including the legal right to import garbage from anywhere in the United States to fuel the incinerator. Flow control laws, passed in 1989, give the Authority the power to determine where all garbage generated in the region is ultimately taken; this gives the Authority considerable power over haulers. The Authority's activities are not regulated by the DEC or the state legislature (3).

Upon its formation, the Authority hired William F. Cosulich Associates to search for a site for an incinerator, recycling center, and ash landfill. Cosulich identified six suitable sites, all in Ontario County. The Authority began the process of environmental review mandated by the State Environmental Quality Review Act (SEQRA) and held scoping sessions in the fall of 1986. Many citizens gave public testimony expressing their concerns with the incinerator plan. The sites were described in the Draft Generic Environmental Impact Statement (DGEIS) published in the spring of 1987. A series of public hearings were held in each county to discuss citizen concerns about the proposed project. The Authority also appointed a Citizen's Advisory Committee. In mid-1987, the hamlet of Flint, five miles west of Geneva, was chosen as the site for a 550 ton per day incinerator, a 75 ton per day recycling center, and an ash landfill.

ROLE OF THE DEC AND THE SOLID WASTE MANAGEMENT PLAN

In 1980 the state legislature gave the DEC responsibility for forming a New York State Solid Waste Management Plan. The Plan, first completed in April 1986, and enacted into law by the state legislature in 1988, delineates solid waste management priorities for municipalities: 1) reduction of the waste stream, 2) reuse and recycling, 3) waste-to-energy incineration, and 4) landfilling. In addition, each municipality must submit a Comprehensive Solid Waste Management Plan to the DEC. The original completion date for this Plan was January 1, 1990, but the State Legislature moved the deadline to April 1, 1991. After the April deadline, the DEC will grant no permits to municipalities for solid waste management facilities until an acceptable Comprehensive Solid Waste Management Plan is in place (4, 5).

Thus, the responsibility for planning and implementing solid waste programs is given to municipalities, and, although the DEC oversees the Authority, it has no power to regulate it (2). Because it supports a regional approach to solid waste management, the DEC has supported the Authority throughout its four year history. Yet as early as 1986, the DEC began to stress recycling over incineration.

OPPOSITION TO THE INCINERATOR (1)

Opposition to incineration had been apparent for some time before the Western Finger Lakes Solid Waste Management Authority was formed. A group of environmentalists in Yates County had lobbied against the formation of an authority on the grounds that such a government structure would remove the waste disposal issue from the citizens and the workings of democracy. In April 1986 the Geneva League of Women Voters sponsored a debate between the director of an incinerator company and a New York State chemist who is a leading opponent of garbage incineration. New York Public Interest Research Group (NYPIRG) also had come out against incineration as a solid waste option.

Opponents to the Authority's plan, led by Mary Bogin and Kathy Weeden, two directors of the Geneva League of Women Voters, organized formally in October 1986 as the Citizens for Responsible Waste Management (CRWM). CRWM, which was comprised of a diverse and expansive membership based in all four counties, was able to effectively lobby local politicians. CRWM sent informational packets on the health hazards and economic drawbacks of incineration to all county supervisors and local physicians, farmers, and business leaders. They held "road shows" throughout the four county region in which experts on health, solid waste disposal options, and agriculture spoke about the potential impact of a 550 ton per day incinerator in the Finger Lakes region. The group spoke out at public hearings, at monthly meetings of the Authority, and before local service groups such as Rotary and Zonta. They contributed oral and written testimony at all public hearings held as part of the SEQRA process. CRWM held straw polls in the Town of Geneva and in Yates County on the incinerator question. They also sued each county's board of supervisors on the grounds that the supervisors did not independently review the environmental impact statement published by the Authority.

CRWM's main concerns centered around: 1) fear of possible adverse health effects from air emissions (of organic compounds and metals) and landfill leachate (from incinerator ash); 2) belief that recycling programs should be in place before any other waste disposal option was considered; 3) demands that the Authority be accountable to the citizens of the four counties, (since formation of the Authority had removed waste disposal decisions from citizens and their elected officials); 4) belief that the construction of a large incinerator and a successful recycling program were incompatible. CRWM charged that when fuel was in short supply, recyclable garbage would be burned in order to provide efficient incinerator operation. Litigation pursued by CRWM ultimately was unsuccessful, but CRWM successfully challenged the DGEIS on the grounds that it contained inadequate information on

health concerns. Most importantly, they successfully influenced the 1987 election of Ontario County supervisors, gaining seats for several politicians who opposed incineration.

THE ENVIRONMENTAL IMPACT STATEMENT (1)

In spite of mounting obstacles, the Authority proceeded with the April 1987 release of the DGEIS, the public comment period (during which opponents were very active), and the release of the Final Generic Environmental Impact Statement (FGEIS) in the summer of 1987. By late 1987 all four counties had accepted the FGEIS, thus giving their approval to the site in Flint and to the Authority's integrated waste management plan. The plan called for recycling, incineration, and ash landfilling.

However, responding to citizen pressure, Ontario and Seneca County supervisors refused to give their annual appropriations (\$432,900 and \$166,500, respectively) to the Authority. At its December 1987 meeting, which was attended by 200 citizens, Ontario County supervisors placed a number of conditions on continued funding. They called for a stop to all work on incineration until 1) an independent third party reviewed all Authority work done to date concerning health risks, 2) a health effects assessment of incineration (including effects on agricultural products) in six upstate New York communities with existing incinerators was completed, and 3) recycling programs were firmly in place. If the Authority did not accept Ontario County's mandates "word for word," Ontario County would end its association with the Authority (6).

Seneca County supervisors eventually approved funding. However, after the Authority refused to accept Ontario County's demand for an independent health risk assessment, on February 25, 1988, County supervisors voted 17 to 3 to leave the Authority and to withdraw their approval of the FGEIS (2). Authority officials stated they would continue to move forward on planning and building an incinerator for the region. In April 1988, the Authority took a \$20,000 option on 50 acres in the Ontario County Town of Farmington for a recycling center and/or incinerator (2).

ONTARIO COUNTY'S ATTEMPTS TO LEAVE THE AUTHORITY

Since another act of the state legislature is necessary to sever ties, formally Ontario County is still a member of the Western Finger Lakes Solid Waste Management Authority, though it contributes no money and officially attends no meetings. Ontario County has its own waste management programs and is working on its own Comprehensive

Solid Waste Management Plan, but the County theoretically is included in all Authority programs and its Comprehensive Plan. Ontario County officials are anxious to leave the Authority and eliminate this ambiguity (2).

Since April 1988 Ontario County supervisors have unanimously passed home rule messages asking their state representatives to get them out of the Authority. The State Senate passed the bill in 1988, but it was revised in the Assembly's Environmental Conservation Committee and never reached the floor. In 1990 a slightly revised bill again passed in the Senate but never came up for a vote in the Assembly.

Ontario County also has attempted to leave the Authority by utilizing the courts. In November 1989 the County filed a lawsuit in State Supreme Court claiming that the Western Finger Lakes Solid Waste Management Authority was illegally formed and, therefore, had no power over the four counties. The suit also claimed that it was a conflict of interest for elected county officials to serve also as Authority members. The next month the lawsuit was dismissed by a State Supreme Court justice who said that the suit was filed too late and that, in addition to the Authority, Ontario County should have sued the DEC and each county individually (7).

Finally, in December 1990 Ontario County negotiated but then rejected an out-of-court settlement, where the County would pay Wayne, Seneca, and Yates Counties a total of \$975,000 in return for successful political support for Ontario County's withdrawal from the Authority. This buyout plan may be reconsidered.

THE ONGOING DISPUTE

More than two years after voting to leave the Western Finger Lakes Solid Waste Management Authority, Ontario County is still seeking waste management autonomy. County officials feel that the County has the right to be solely responsible for its own waste management, and that the Authority should have no right to place its incinerator or recycling center in a non-participating county.

County officials seek to form their own region with Ontario County as its own planning unit. Officials cite the success of Ontario County's current recycling program as evidence that membership in the Authority is not necessary and would actually impede County progress. Since October 1988, the County has offered county-wide services by operating 17 drop-off centers for recyclables. It has two county-owned recycling trucks that, since May 1989, have done weekly curbside pick-up for more than 17,000 households, which comprise half of the county. Limited office paper recycling and educational programs are also offered. Future plans in Ontario County include possible

expansion of curbside recycling to more or all of the county, extension of complete recycling services to schools and other institutions, sponsorship of a County Household Hazardous Waste Drop-Off Day, and study of composting feasibility (8,9). In 1989 Ontario County received its permit to operate the Ontario County Landfill in Flint for the next five years and to expand the landfill, which would give the County landfill space for at least the next 10 years. The supervisors have approved a 1991 County Capital Plan which allows a \$1 million appropriation for construction of a materials recovery facility (MRF) for recyclables. The MRF would increase recyclables' value by separating, baling, and loading them for market (8).

While recycling in the Authority-member counties has lagged behind Ontario County recycling, activity is picking up. The Authority has operated limited voluntary recycling programs in Seneca County since early 1988 and in Yates County since late 1988. There are now six drop-off sites for recyclables in Seneca County, five in Yates County, and four in Wayne County. A pilot curbside program for 7,000 households in Seneca County began November 1, 1990. Seneca County has hired its own recycling coordinator and depends on the Authority for assistance and some equipment. In addition, three private trash companies that offer service in Yates County have agreed with the Authority to provide curbside pick-up of recyclables for their paying customers. Customers may be charged an extra fee for pick-up of recyclables in the future. On February 25, 1991, the Authority launched a county-wide curbside recycling program in Wayne County. The program provides curbside service to most private residences (10). Plans to begin the program by early 1990 were postponed until early this year, when the Authority's intermediate processing center at the Arcadia Landfill in Wayne County was completed. The facility houses a recycling separation and storage facility (11) and serves as a 200 ton per day trash transfer station where haulers take household trash, which is then hauled by another contractor to the Seneca Meadows Landfill in Seneca Falls (12). In addition, the Authority is about to submit a 10 year Comprehensive Solid Waste Management Plan to the DEC.

Although fears about incinerator safety originally prompted Ontario County to leave the Authority, present criticisms focus on the Authority's lack of successful solid waste management programs. According to Ontario County officials, after spending \$4 million in four years (Ontario County contributed \$900,000), the Authority has been slow to start recycling and has not implemented a comprehensive waste management program. The Authority's \$950,000 per year recycling program was not widespread until early 1991, in contrast to Ontario County's \$300,000 per year program that has been operational since the fall of 1988 (13). Critics claim most of the Authority's money

has been spent on administrative costs, lawyers, and consultants (3). For example, by 1988 the budget had grown to \$1,110,000, with the lion's share of \$832,000 going to attorneys and technical consultants (14). In addition, many in Ontario County are irate over consideration of at least seven Ontario County sites for Authority projects (2). The most controversy centered around the 50 acre parcel in Farmington, but in the spring of 1990 after spending \$40,000 on options, the Authority decided to take a loss and to give up the parcel.

Criticism of the Authority has not been limited to Ontario County residents; anti-Authority sentiment has been apparent from time to time in both Seneca and Yates Counties. In April 1990 tired of waiting for the Authority to launch a successful recycling program, seven Seneca County towns and villages negotiated an agreement to pay Ontario County approximately \$15,000 annually to implement and manage a curbside recycling program (15). However, in the summer of 1990 Authority officials convinced Seneca County officials to give them another chance. Pro-Authority supervisors in Seneca County told the seven towns and villages that they would be doubly taxed for recycling if they signed the agreement with Ontario County. In other words, they would have to pay for the Authority-sponsored county recycling program in addition to fees paid to Ontario County. Negotiations with Ontario County were broken off as a result. Still, Ontario County supervisors are eager to cooperate with elected officials in the other three counties, as long as the counties withdraw from the Authority and return to a working arrangement under the original intermunicipal agreement. Though Yates considered and rejected working with Ontario County on curbside recycling, in the spring of 1990 the Yates County Legislature threatened to withhold its \$150,000 from the Authority unless the Authority could justify its expenditures and implement curbside recycling very soon. As mentioned above, some curbside recycling is now available in Yates.

Prior to February 1991, the most successful curbside program in the three counties was launched independently of the Authority. Wayne County Rubbishmen, Inc., a group of private garbage haulers in Wayne County, united in 1988 to provide curbside pick-up of recyclables for their paying customers (16). The program fell apart in the fall of 1989 when, after the haulers appealed to them for funds, both the Authority and the Wayne County supervisors refused to subsidize the curbside pick-up program. Again, as mentioned above, the most extensive Authority-sponsored curbside recycling program began in Wayne County on February 25, 1991.

CONCLUSION

The antagonism between Ontario County and the Authority over the past two and a half years has fueled the competition between the two entities. Although each side claims to have the superior recycling program, Ontario County has clearly taken the lead. Its extensive weekly curbside recycling program (since 1989) and many drop-off centers (since 1988), its DEC-permitted landfill, and its plan to appropriate \$1 million for a materials recovery facility clearly put it ahead of solid waste efforts made by the Authority. Comparatively, the three active Authority-member counties offer 1) limited private curbside services in Yates (since early fall 1990), 2) a pilot curbside program for the population centers in Seneca (since November 1990), and 3) widespread curbside recycling in Wayne (since February 25, 1991). There are more drop-off centers in Ontario County than in the three Authority counties combined. The DEC has closed all public landfills in Wayne and Yates Counties; the Authority only has access to the large private landfill at Seneca Meadows, where it must negotiate new tipping fees and agreements each year. However, the Authority's draft Comprehensive Solid Waste Management Plan includes plans for a new \$30 million municipal solid waste landfill and a \$10.2 million construction and debris landfill (17).

Two recent polls show the Authority's declining popularity. A CRWM poll in Seneca County in early August 1990 had 252 respondents. Respondents mailed in a questionnaire that had been published in the July 31, 1990 Seneca Pennysaver. Eighty-eight per cent of the respondents gave the Authority an F for performance to date, 5% a D, 5% a C, and 2% a B. The poll also found that 85% opposed an incinerator in Seneca County, and 82% opposed incineration in general. Respondents were well-distributed across age, occupation, and geographical areas (18). A professional random telephone survey conducted by Gordon Black Associates in the spring of 1990 for the Authority generally upholds CRWM's negative assessment of the Authority's performance. When asked how they would rate the Authority on its performance so far, 51% of the 400 respondents in the Black survey said they were unfamiliar with the Authority (though it had been in existence for over four years); 49% said they were familiar with the Authority and overall gave the Authority a C+ on its efforts in solid waste management (19).

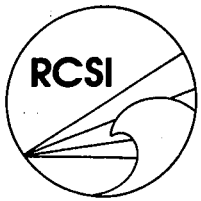
Regional cooperation among the four counties would enhance the recycling program. Most recycling vendors seek recyclables from a large geographic area to ensure a steady stream of commodities for processing and marketing and, thus, greater profits. However, the Authority is burdened with a cumbersome bureaucracy and retention of an outside law firm and technical consultants, resulting in great time

and expense for solid waste decisions. Ontario County accomplishes the same tasks more quickly and cheaply with in-house lawyers and technical expertise. Without the bureaucracy of an authority, Ontario County has a more efficient governmental structure to make decisions, appropriate funds, and manage solid waste operations. County officials see the Authority structure as inefficient, expensive to maintain, and unnecessary at this time. At the same time, Ontario County officials remain open to cooperation with Wayne, Seneca, and Yates Counties on the condition that they leave the Authority and return to an intermunicipal cooperative agreement.

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NOTES TO READERS:

1. Update on Bulletin #310, "CRWM Perspective: Ontario County's Withdrawal from the Western Finger Lakes Solid Waste Management Authority" (attached). At the time of printing, Ontario County Supervisors were debating several new developments pertinent to this bulletin.

First, Ontario County had not filed a Comprehensive Solid Waste Management Plan to the DEC in accordance with the April 1, 1991, deadline. At the April 4, 1991, meeting of the Ontario County Solid Waste Management Committee, Geoff Astles, Manager of the Ontario County Division of Planning and Research, said that it would be difficult for Ontario County to get DEC approval for its own Solid Waste Management Plan when the DEC will acknowledge only the Authority's 10 year Plan (20). However, it is CRWM's position that Ontario County should file its own Solid Waste Management Plan and act as its own planning unit. The DEC is a regulatory not an enforcing agency.

Second, Ontario County supervisors are considering rejoining the Western Finger Lakes Solid Waste Management Authority. According to County Supervisor William Eddinger, Jr., supervisors are talking over conditions under which the County would rejoin the Authority. The Board of Supervisors is expected to make a decision on this issue at the May 9, 1991, meeting.

2. New Bulletin. Mr. Robert Schwarting, Executive Director of the Western Finger Lakes Solid Waste Management Authority, has agreed to write an additional bulletin on various aspects of integrated waste management. RCSI looks forward to publishing this bulletin in the near future.

