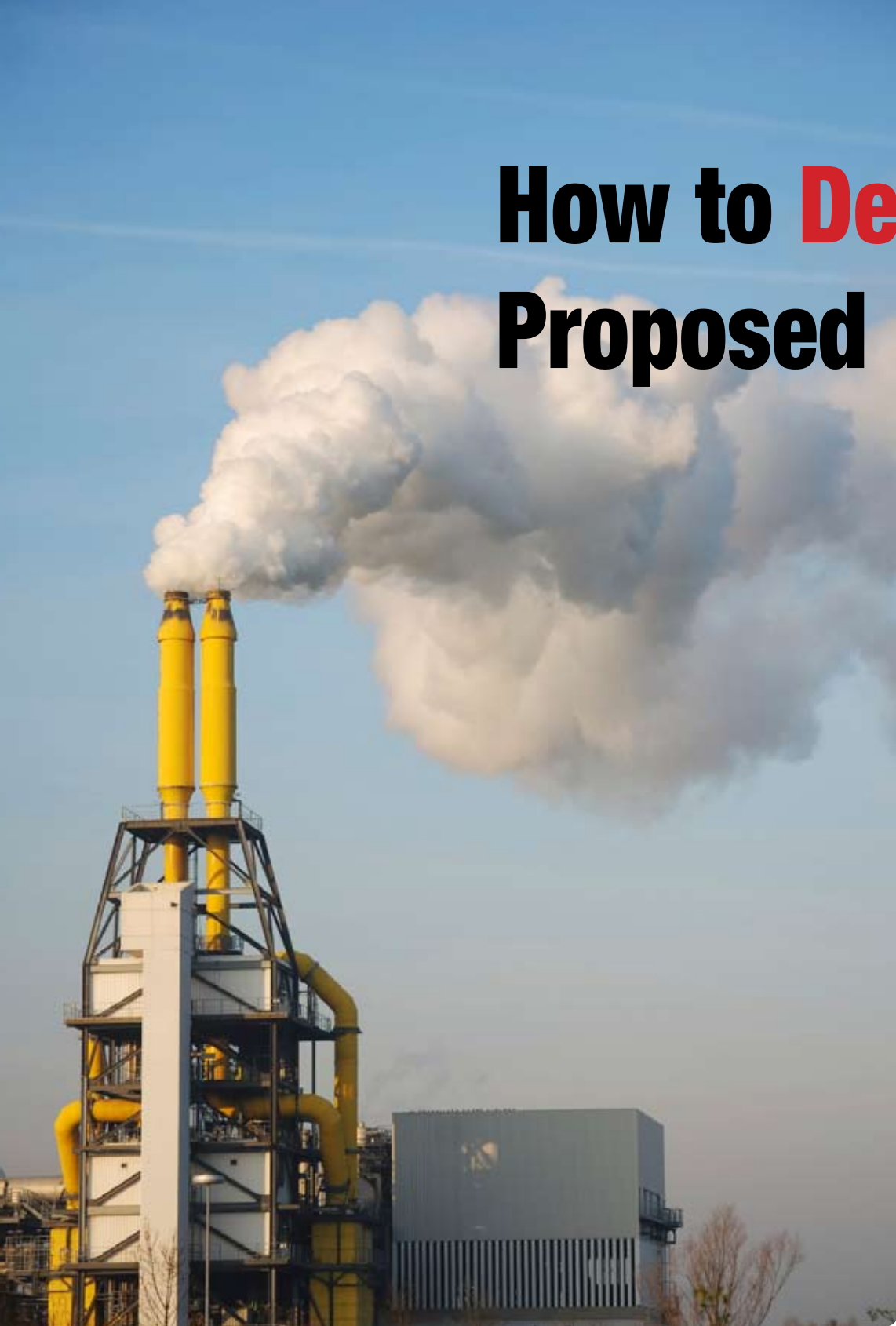


# How to Deal With a Proposed Facility



Center for Health, Environment & Justice  
P.O. Box 6806, Falls Church, VA 22040-6806  
703-237-2249 [chej@chej.org](mailto:chej@chej.org) [www.chej.org](http://www.chej.org)



# How to Deal With a Proposed Facility

Center for Health, Environment & Justice

Updated June 2009



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# Center for Health, Environment & Justice

P.O. Box 6806 • Falls Church, VA 22040 • Phone: 703.237.2249 • Fax: 703.237.8389 • [www.chej.org](http://www.chej.org)

## Mentoring a Movement

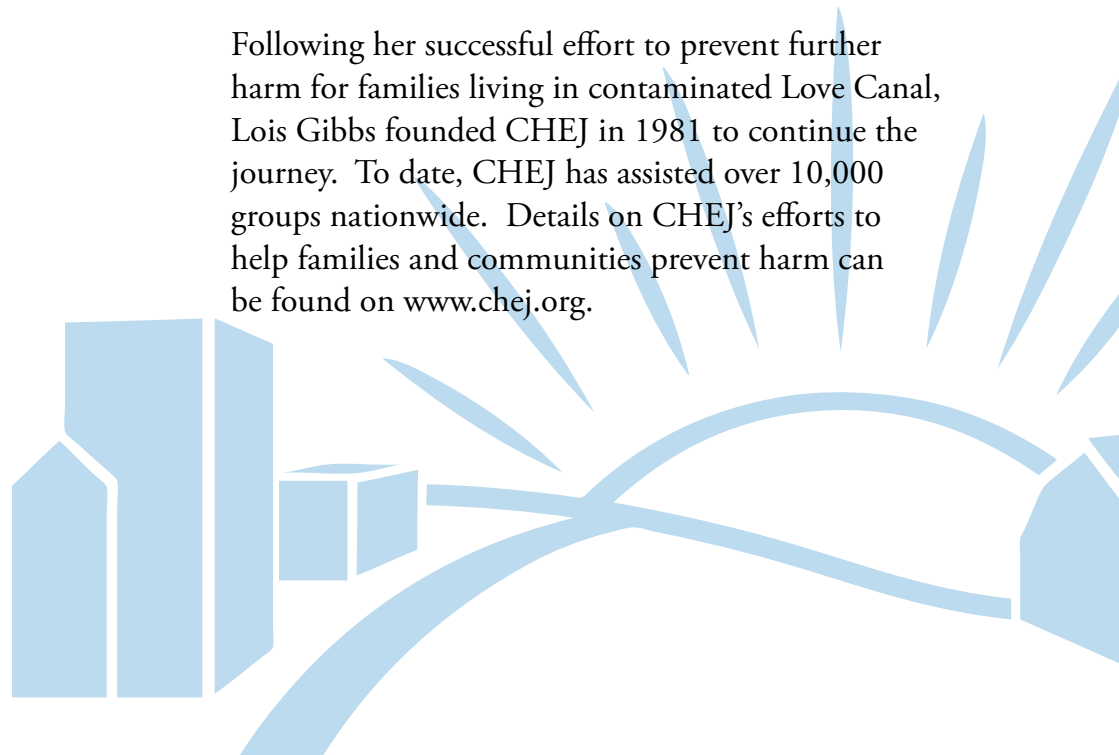
## Empowering People

## Preventing Harm

### **About the Center for Health, Environment & Justice**

CHEJ mentors the movement to build healthier communities by empowering people to prevent the harm caused by chemical and toxic threats. We accomplish our work by connecting local community groups to national initiatives and corporate campaigns. CHEJ works with communities to empower groups by providing the tools, strategic vision, and encouragement they need to advocate for human health and the prevention of harm.

Following her successful effort to prevent further harm for families living in contaminated Love Canal, Lois Gibbs founded CHEJ in 1981 to continue the journey. To date, CHEJ has assisted over 10,000 groups nationwide. Details on CHEJ's efforts to help families and communities prevent harm can be found on [www.chej.org](http://www.chej.org).



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# Chapter 1

## Introduction

This manual is for people who want to defend their communities. The purpose of this book is to distill the experiences of grassroots environmental justice groups served by the Center for Health, Environment and Justice since 1981. This guidebook is a step-by-step formula for how you can organize your neighbors to block proposed facilities, facilities that are called LULUs (“Locally Undesirable Land Use’s”) by government regulators.

Thousands of grassroots groups have used previous editions of this book. Over the past 28 years those groups who’ve followed its advice won more often than those who didn’t.


You may wonder, “if this book’s so great, how come everybody doesn’t follow it?” Some groups are uncomfortable with our position that facility-sitting decisions are mainly political and thus must be fought politically. As a consequence, they follow the “rules” defined for them by industry and the regulatory agencies. They are misled into believing they can only oppose proposed facilities by collecting scientific data to support their position and using the formal regulatory and legal process.

This guide takes a generic approach to all sorts of LULU’s. Groups have used prior editions to block proposed dumps, incinerators, quarries, nuclear plants, unsafe manufacturing facilities, lagoons for the storage of liquid pig manure, fish farms and truck stops, to name a few. Groups have also used this guidebook to block proposed expansions, license transfers, and re-permitting applications.

In short, any proposed change in your community can be addressed by using this guidebook. This book is about the process you use to stop bad things from happening to your community.

No matter what the facility is, at minimum, you and your neighbors have the right to expect the facility to behave like a “good neighbor.” This means your objective is to win clear, concrete, and enforceable safeguards to protect life, health, and property. That’s the least you have a right to expect.

Or, you might decide no amount of advance assurances will make the facility a positive addition to your community. Therefore, your goal is to keep it out. This guidebook should give you some helpful advice, no matter what your objective is.



## Chapter 2

# The Beginning

You find out it's coming. Usually through the media. You read, you listen, you look. You don't like what you hear.

You talk to other people about it. Often, within a day or two of a proposed facility announcement, there'll be a meeting of 5-6 people in someone's living room as folks compare notes and try to decide what to do.

- Do more research and investigation (a good idea).
- Hire a lawyer (usually a terrible idea; at this point).
- Contact local politicians (often a waste of time; sometimes o.k.; almost always necessary).
- Talk to some other group with more knowledge and experience (a great idea, especially if that group was successful).

Sometimes, the group “hits the ground running” at this first meeting and formally organizes right on the spot. They pick a name, elect officers, and draft up a petition and issue a news release. That's fine, even though sometimes, “haste does make waste.” Errors are committed early on that come back to haunt the

group later. Don't feel bad if you don't accomplish everything at your first meeting. This meeting is a success if it sets the stage for the next meeting or activity.

### Why You?

Very early on, somebody (probably you) is going to ask, “Why is it that they decided to bring this proposal here?” A good question! And there is an answer. For years, we had the same question about why it was that most communities with proposed facilities all seemed to look pretty much the same. Was there some sort of “Master Plan?”

In 1986, we discovered there IS a “Master Plan.” One of our California members called us to say she'd gotten a copy of this consultants' report on siting from a disgruntled state worker and would we like a copy? Sure, we replied.

What she sent us was the now infamous Cerrell Report. The report was written in 1984 by Cerrell Associates of Los Angeles, CA. The principal author was J. Stephen Powell. The report, entitled “*Political Difficulties Facing Waste-To-Energy Conversion Plan Siting*”, was conducted under a \$500,000 contract from

the quasi-government California Waste Management Board.

Even though the report was commissioned by a California state agency and was supposed to focus only on the problem of beating NIMBY (Not In My Backyard) opposition to garbage burners, its findings were generic in scope! Based on extensive monitoring of industry literature and behavior, we're convinced the Cerrell study or something like it has been generally circulated and shared throughout the waste disposal industry.

The report provides an analysis of which types of communities and types of people WILL resist LULUs and which ones won't.

The "Least Resistant" characteristics are:

- Southern and Midwestern communities
- Rural communities and small towns (less than 25,000 population)
- People who live beyond the point where they can see or be bothered by the facility
- People who work for, or who are close to someone who works for the operator of the LULUs
- People who see significant economic benefits for themselves in the LULUs
- Communities where the LULU is simply a modification of an existing site
- Conservative communities with a strong "free market" orientation
- Elderly (above middle age)
- Low education level (high school or less)
- Republican
- Ranchers, farmers, business or technology related people and people in "nature exploitive" occupations
- Low Income
- Catholic

- Not concerned with social issues or involved in civic organizations; "Old time residents" (defined as having lived in communities for 20+ years)

Here's Cerrell's idea of the "Most Resistant" characteristics:

- Northeastern, Western and in particular, California
- Big city (25,000 + population)
- Urban
- Someone who lives near the proposed facility
- Someone who has no expectation of getting benefits from the LULU
- People fighting a brand new site
- Liberals
- Young and middle-aged people
- College-educated
- Democrats
- Professionals
- Upper and middle income
- Religions other than Catholic
- People with activist backgrounds
- People who've lived in the community between 5 and 20 years.

Look at these lists from two perspectives. How many of the "least resistant" qualities apply to your community? How many of the "most resistant" qualities apply to you, personally? Chances are very high that you'll see high scores for both.

Now, what do you do with this?

Put out the word that it's no accident that you've been chosen for the facility. In fact, according to the Cerrell study, you match the profile of an "Easy Victim!" In even the most passive community, people get angry when they hear somebody's making assumptions about them and taking advantage of them.



By publicizing the nature of the way sites for LULUs are selected, you take the first big step toward “de-bunking” the Big Lie that you were “selected because your location meets some carefully devised technical criteria.” A couple of other key points about site selection:

- Before a company makes the substantial commitment of resources to try to site a new facility, it carefully scopes out the “host” community. Industry trade journals stress the importance of quiet, advance “scouting” of locations to size up such factors as potential friends among local politicians, business, news media and even potential allies among established environmental groups. One engineering magazine even went so far as to prescribe a process of courting the “reasonable environmentalist,” convincing them of the need for and inevitability of the facility so that, in their words, “they can take on the NIMBYs for you.”
- A key part of many site selections is to try to find a location where the site touches on several different political jurisdictions. Check to see whether your proposed facility is sited on a town, county, or state line. Usually, a LULU site will be

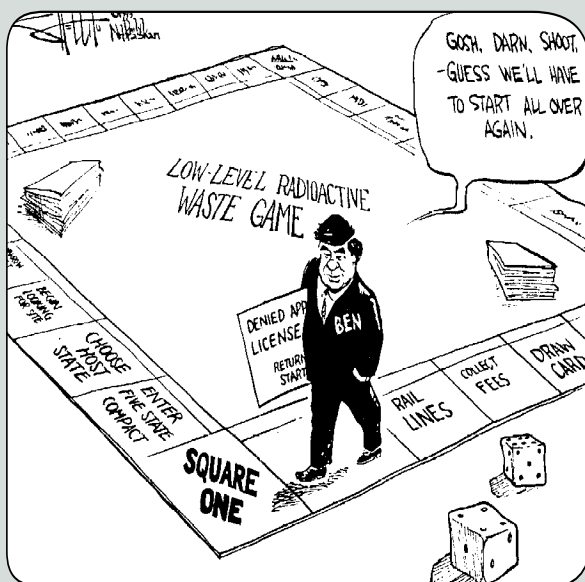
picked so that it’s as far away from, for example, the county seat or population center where it is located, so that the main people bothered by it are across the county (or state) line, but are relatively powerless to pressure elected officials in a “host” county to block it. Then there’s the neat trick called GUMBY (“Gotta Use Many Back Yards”). Here’s how GUMBY works: a facility operator needs a site. So he names half dozen or more “potentially suitable” site locations. Then Mr. Lulu Gumby leans back and watches how the different target communities react. He counts on the communities to point the finger at each other (“Don’t pick us — pick them!”) and how the limited number of resources and experts are divided among them and waits for the weakest community to emerge.

All of these tactics are described in detail in CHEJ’s, *Polluters’ Secret Plan and What You Can Do to Mess It Up!* The Polluters’ Secret Plan not only exposes industry’s cover, but also gives you detailed, practical advice on how to counter-act their plans. On the GUMBY tactic, for example, we suggest the best counter-measure is to call an early meeting of leaders, form a “non-aggression pact”, and hopefully unite on the principle of “Not in Anyone’s Backyard.”

### Actions Always Causes Reactions

From the moment you go public with your opposition or even voice concerns about the facility, your opposition will counterattack. Your opponents could include the local city or town officials (though there are plenty of cases where they’ve been on your side), Chambers of Commerce (though the Jaycees have been on the right side plenty of times), unemployed folks (thinking they’ll get jobs), your best friend (it happens), and even sometimes other “environmental” groups. Look at the personality types described as “least resistant” according to the Cerrell Report to forecast where you’re likely to get resistance.

**They Will Say 1:** “It’s got to go somewhere.” Drayton Pruitt, a white politician who controlled the majority Black county of Sumter, Alabama, told *60 Minutes*



this was why he sold land to George Wallace's son-in-law who then sold it to Waste Management, Inc., to build the world's largest hazardous waste landfill and why he served as attorney to Waste Management in defending the site.

The line, "it's got to go somewhere," has been the point over which grassroots environmental justice groups and traditional environmental groups have had the most trouble.

**Response 1:** As long as we accept the idea that "it's got to go somewhere," IT WILL. As long as we accept business as usual, the longer it will be before we can stop the madness of destroying the environment. The best answer to the argument that "it's got to go somewhere" is to use Nancy Reagan's immortal words and "Just Say No!"

However, if you feel you must address this point, consider these suggestions:

- The best place to dispose of waste is the place where it's generated. That's the safest way to do it and, as many businesses are discovering, the cheapest in the long run.
- Because of people like you, industry adopted our own language and says it believes in "Waste Reduction" i.e. cutting the amount of waste they produce. DO NOT accept any facility without requiring all parties (industry and regulators) to deal seriously with aggressive waste reduction, chemical substitutes and process changes. [See also, CHEJ's manual on waste reduction in the Resource List].

State and local governments should be challenged to help in the search for safe alternatives. These governments have the power to support such enterprises in waste reduction through creative financing in the form of "Industrial Revenue Bonds" to provide the company with low-cost loans.

On municipal waste, the answer isn't new dumps, or new incinerators. Incinerators including "Resource Recovery Centers" are very controversial. They do not solve the problem—in fact, they cause plenty of

new problems. For example, they discharge alarming amounts of dioxin, the deadliest chemical known, as well as toxic metals, such as lead, mercury and cadmium. Further, these incinerators leave behind tons of ash (anywhere from 1-10 tons for every 100 tons burned) filled with heavy metals, dioxin, and other toxic materials. [See CHEJ's materials on incineration in our Resource List].

Note: Don't use their terms for waste facilities. Call them what they are. "Resource Recovery Centers" are incinerators. "Sanitary Landfills" are dumps by another name. "Solid Waste Integrated Management" means an incinerator and a dump. "Confined Disposal Systems" are dumps. Don't play their game!

The by-products of an incinerator, or for that matter, any "waste processing facility" will go into a dump. When you're told that the proposed LULU will somehow eliminate the need for a dump, 9 out of 10 times, it's untrue. CHEJ technical staff can help you to become a discriminating reader of waste disposal plans.

One last point: municipal incinerators generally rule out real recycling. The contractors for these incinerators will make your town sign a contract (called a "put or pay" or "flow control" agreement) guaranteeing a certain tonnage of burnable material. This means programs to recycle paper (and probably other materials) will have to be scrapped to meet the terms of the contract. Your town may even have to bring in garbage from other towns to meet the terms of the contract.

In June, 1990, the joint New Hampshire-Vermont waste district served by Wheelabrator's incinerator in Claremont was told it would have to come up with \$400,000 to cover 4,000 "missing" tons of garbage from that District's "put or pay" contract with Wheelabrator. Well-meaning citizens who were recycling their waste diverted a large chunk of that "stolen" garbage. No good deed goes unpunished.

Is it possible to eliminate the need for ALL waste facilities? Good question. To achieve this every generator of hazardous waste would have to use

**Table 1 - Recycling Trends Over the Past 27 Years**

	1980	1990	2000	2005	2007
<b>Landfilling</b>	88.60%	69.30%	56.90%	55.70%	54.00%
<b>Incineration</b>	1.80%	14.50%	14.10%	12.60%	12.60%
<b>Recycling</b>	9.60%	16.20%	29.00%	31.70%	33.40%

Source: *Municipal Solid Waste in the United States: 2007 Facts and Figures*, USEPA Office of Solid Waste, EPA530-R-08-010, November 2008

every possible means to reduce its waste, to change its production process, to exchange its waste with another company that can use it as a raw material. Every community would have to adopt policies of promoting municipal waste reduction, ban unneeded wasteful products (such as styrofoam food packaging or PVC plastics made with chlorine); establish repair and reuse centers for things like broken appliances and require that partially used containers of household toxics (e.g. batteries, pesticides, cleaners, etc.) be returned to the manufactures.

Although, we can name no industry or community where these goals have been fully achieved, we believe these goals can and will be reached. After all, in 1981 when CHEJ started, we called for large-scale waste reduction and were told this was an impossible dream. But by the end of the decade, waste reduction was a standard part of industrial and regulatory policy.

Now 20 years later, grassroots activists across the country should feel proud of their efforts, to say NO to incineration and waste reduction and recycling – recycling that includes not just paper, glass and metal, but also batteries, plastics, composting of yard and organic waste, and the reuse and remanufacture of worn and unusable items. Grassroots activists should also feel vindicated by the national success of recycling, which has become a main player in America's waste management system and a routine part of American life.

This success is born out by recent statistics released by the U.S. EPA, who announced that the U.S. has increased its rate of recycling substantially

from roughly 10% in 1980 to over 33% in 2007 (see Table 1). This compares to the 54% of garbage that was dumped in landfills and the 12.6% of garbage that was burned in incinerators in 2007.

The success and acceptance of recycling into the mainstream of America's waste management system has surprised everyone from the expert consultants who said it could never be done to the waste hauler; from city managers to local environmentalists. This success is due in part to broad public support, favorable markets, and an industry that has adapted quickly and invested heavily in the equipment and resources needed to make recycling a main spoke in the waste management wheel.

Additionally, there have been very successful consumer campaigns, such as the McToxic's Campaign, consumer demands lead the largest fast food chained, McDonalds, to stop the use of styrofoam packaging. Likewise, the Intimate Brands Campaign against the Bed & Body Works Inc. persuaded them to stop putting their products in PVC bottles.

Despite these successes, industry and government will only do what they are forced to do. The Grassroots Movement forced industry and government to accept the practical inevitability of large-scale waste reduction only by denying them new and easy places to dump and by closing down old waste sites. To put it crudely, the Movement "stopped up the toilet" and forced industry and government to deal with the waste. We CAN achieve the goal of serious, safe management of waste, but only if we

accept nothing short of the best as acceptable.

What do you do with waste from other sites, such as Superfund hazardous waste sites? This waste doesn't need to be brought to your town. During the early 1980s, EPA routinely allowed and in some cases advocated what came to be known as the "Toxic Merry-Go-Round." This is where EPA dug up Superfund waste and dumped it into some other landfill, destined to become a future Superfund site. After a Congressional investigation by the Office of Technology Assessment, Congress directed EPA to permanently destroy or neutralize contamination at Superfund sites and not move the waste to another site. Unfortunately, this is a policy EPA rarely honored and in the early days of the George Bush, Sr. EPA started to go back to the old policy of "digging it up and taking it somewhere else," in order to boost its claim for the number of sites they've "cleaned." Nonetheless, you should insist on strict adherences to the sensible policy of cleaning up contaminated sites by permanent, on-site treatment, not making the solution to one site/community another community's problem.

**They Will Say 2:** *"It's very selfish to expect that you can enjoy all the benefits of our society's technology, and not be willing to accept the risks."* They'll call you a NIMBY—"Not in My Back Yard"—and they'll act like it's some sort of mental illness.

**Response 2:** The Movement's friend, Dr. Paul Connett, said it best when he said "NIMBY is industry's term for democracy." Is it immoral for you to have questions about whether it's fair that your community should have a facility, when you still have many reasonable doubts and reservations? Or is it fair that your community should pay host to some gigantic facility that will take waste from dozens of other places? We don't feel that you have anything to feel guilty about if you oppose such a facility.

Besides, you're not being any more cautious about this facility than the insurance industry, which, as a whole, refuses to issue insurance policies to any company dealing with chemicals or chemical waste. We have a term for this: NIMIC ("Not in My Insurance Company").

When an insurance company calls a site an "unacceptable risk," they are praised by their colleagues for making a prudent business decision. When you call that same project an "unacceptable risk," you get called unreasonable, selfish, anti-progress, communist or, if you're a woman, "hysterical." You are expected to assume risks that the insurance industry won't touch.

**They Will Say 3:** *"This is state-of-the-art technology."* This means that all of the industry's previous designs have failed, so they're going to try something new, with you as the guinea pigs.



**Response 3:** Despite all of the industry claims, their track record on dealing with the disposal of hazardous and solid wastes has been pitiful. You have a right to be skeptical of any new process from an industry that has yet to prove it is trustworthy. It's as though you were dealing with a builder of jet airplanes that always crashed. Now the manufacturer comes to you and says, "This new design is terrific—it'll never crash." Would you fly the plane? Most new technologies are touted as the state of the art.

The Titanic was state of the art. The Challenger was state of the art. The Hubble Telescope was state of the art. The Exxon Valdez was state of the art.

The term, state of the art, has gotten so discredited and worn out that industry has searched for a new term. They may have found one. In July 1990, a new waste facility proposal was unveiled in Pennsylvania by Concord Resources (a partnership of OHM Materials and Conrail). This new facility, according to Concord, will be the "Crown Jewel" of waste disposal sites. Don't bet your own crown jewels that it'll be any better than its predecessors.

**They Will Say 4:** *"This is the best site for this type of facility."*

**Response 4:** Cite the Cerrell Report. Site selection usually has nothing to do with scientific or technical merits, but rather with the perception by the operator and government policy makers that the political climate is right.

**They Will Say 5:** "This facility will bring jobs and prosperity." Jobs, new industry, and a bigger tax base.

**Response 5:** And if it rained ice cream, we could all have dessert. Look at these economic factors:

- Most sites offer very few new jobs (the world's biggest hazardous waste site only has about 100 workers). Most new jobs offered, that are not "based pay" or minimum wage, are technical positions filled from outside.
- There are public service costs including wear-and-tear on the roads, the need to train and equip emergency personnel to deal with the

inevitable disasters, and the lost property values in the community.

- There's no evidence a waste site will pull in new industry. In fact, you could argue that the existence of a site makes that community less attractive to the kind of industry your community wants.

Waste Management gave the "peace and prosperity, milk and honey line" to the majority black, majority poor residents of Sumter County, AL when they built the world's largest hazardous waste dump at Emelle. You'd expect the world's biggest dump to produce the world's largest number of great jobs, right? Wrong. According to data from the Alabama Department of Industrial Relations, here's what happened to the economy of Sumter County in the dump's first 8 years of operations - the unemployment rate increased from 5.8% to 21.1% (1978-1986).

That's a 264% jump in unemployment. Further, the State reports show a 20% drop in the total employment work force, meaning that over the years, 1 out of 5 Sumter County workers left the county. Kay Kiker of Alabamians for a Clean Environment blames this on a combination of discouragement and the departure of clean companies from the county.

The landfill generated \$35million in taxes for the state in 1991; in 1999, it generated less than \$1.5 million. During this time, there was an overall loss of 340 jobs in Emelle. But there is no way to replace the lost jobs because Emelle proper no longer has a single business. The City Hall building that was paid for with hazardous waste dumping fees — is locked and virtually empty. The general sentiment of the local people is that the decreased production of the facility has "killed" Emelle.

The number of jobs provided by waste facilities was examined as part of a report by the US Government Accounting Office (GAO) released in 2002. This report looked at the number of jobs provided by 15 new industrial facilities at 9 locations - 3 hazardous waste disposal facilities, 2 chemical plants, 9 non

hazardous waste related facilities, and 1 concrete plant. All were located in low-income Hispanic or African American communities. The GAO found that the number of jobs at these facilities ranged from 4 to 103 with 9 of the facilities having 25 jobs or less. Community organizations interviewed by the GAO reported that the “majority of the jobs filled by community residents were low paying.”

The GAO also found that the number of jobs projected (in some cases “promised”) before these facilities were built turned out to be greater than the actual number of jobs provided. For example, a construction and demolition landfill in Alsen, LA estimated it would provide between 15 and 49 jobs but provided only 6. The Safety-Kleen hazardous waste landfill in Buttonwillow, CA estimated that it would provide 50 jobs but provided only 22. A power station in Genesee, MI that burned wood waste to generate electricity estimated that it would provide 30 jobs, but provided 22. The Exxon Mobile manufacturing plant in Alsen, LA estimated that it would provide 50 jobs, but provided only 40.

The GAO also found that the number of jobs decreased over time. At the Chemical Waste Management landfill in Kettleman City, CA, the number of jobs decreased from 200 in 1990 when the landfill opened to 103 in 2002. Similarly, the number of jobs at Safety-Kleen landfill in Buttonwillow decreased from 110 in 1987 to 23 in 2002. According to officials at these facilities, the decrease in jobs was due to their taking in less waste than originally estimated. (See *Community Investment: Information on Selected Facilities that Received Environmental Permits*, GAO-02-479, May 2002 and CHEJ’s *Do Waste Sites Create Jobs?*)

One jobs issue often overlooked in the siting of new garbage facilities are lost public jobs. Since the late 1970’s the trend has been to “privatize” municipal waste systems. What used to be a public service (like sewers, roads and schools) now has become a business opportunity for the waste moguls. But every time BFI or Waste Management takes over a

system or builds a new dump, or when Ogden Martin builds an incinerator, public employees lose jobs. These workers, who are usually unionized, are replaced by low-wage, non-union labor hired by the private companies. The rationale has been to save money and improve efficiency, but that turned out to be a Big Lie, too. Public employee unions don’t like this trend and want to actively fight it. As such, they represent important potential allies in your fight. You both want to stop the facility, even though you have different reasons for doing so.

Property Values are another genuine concern. When the Mayor of Emelle, AL had his house appraised before Waste Management’s dump achieved its full notoriety, it was worth more than \$60,000. Six years later, he had a hard time even finding an appraiser. When he did, the appraiser told him that he’d be lucky to find anybody who would pay even \$15,000 for his house.

In Spencerville, OH, residents were shocked to discover that just the fact that they were targeted for a proposed garbage dump meant that there was a shadow over the equity in their home. Banks refused to give second mortgages and home equity loan applications. Agents were telling applicants “while this site is being considered, we can’t accurately determine your actual equity.”

Clay County, Florida, residents opposed to the expansion of the Green Cove Springs landfill pressured the City Council to take a stand against the expansion and send a resolution to the Board of County Commissioners stating the city’s opposition. Members of Stop the Superdump argued that an expanded landfill so close to the city would impact property values and limit the city’s ability to grow beyond its western boundaries.

A study published in the *Journal of Real Estate Research*, in 1992, *The Impact of Landfills on Residential Property Values*, evaluated the impact of five municipal landfills on residential property values in metropolitan Cleveland, Ohio. The study concluded that the landfills would likely have an adverse impact upon property values and cause

property values to decrease by 5.5%-7.3% of market value depending upon the actual distance from the landfill. For more detail, see CHEJ's Property Values.

**They Will Say 6:** "Government regulations are forcing us to create this facility." For hazardous waste facilities, the reason given is the so-called "Chafee Amendment" to the 1986 Superfund Amendments and Reauthorization Act (SARA) that required each state to develop a "Capacity Assurance Plan (CAP) that told EPA how that state planned to deal with hazardous waste generated within its borders. For radioactive waste, they cite Congressional mandates that each state develop some plan for dealing with "low-level" radioactive waste. For garbage, they cite EPA regulations that require more high-tech pollution controls at municipal dumps.

**Response 6:** NO government mandates put a gun to anyone's head and says; "Build a new waste site or else!" In fact, each of these sets of laws and regulations stresses the importance of using safe waste management methods, such as promoting waste reduction.

In fact, these new laws and regulations are really saying that the old "state of the art" ways of dealing with waste are bad and are no longer acceptable.

In short, no state or local government is obliged to build new waste sites for hazardous waste, municipal

waste, or radioactive waste. Nor are states obliged to join in any sort of multistate compact.

Waste plans that stress reduction; recycling as well as on-site treatment and disposal meet both the letter and spirit of the laws most commonly used as the excuse for new waste sites.

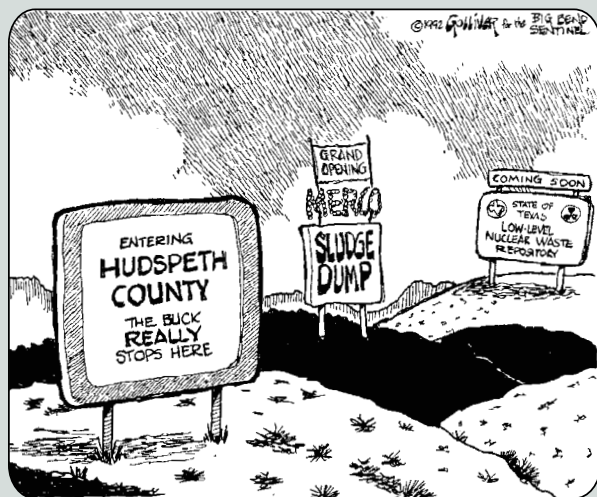
### Other Considerations

Consider also, when you're dealing with a big, regional waste disposal facility, that such facilities are running counter to some very important economic trends in American industry. For example:

- More waste is being processed onsite through various "waste reduction" methods because it's more economical.
- Moving waste to big, regional disposal centers runs the risk of transportation accidents and the liability involved in that. More than half of the country's trucks and trains are unsafe, according to surveys, posing big insurance problems.
- Responsible operators are finding that, contrary to the "American Way" of thinking, bigger is not better. In fact, smaller facilities, especially those on site, offer better quality control (the operator knows better what's being handled), and can be much safer and efficient than big facilities.

Right at the outset of a LULU fight, the supporters of the facility will try to strip you of your faith in your own common sense, intelligence and knowledge of the land and community. They operate on the theory that if enough Ph.D.'s say water flows up stream, even the most die-hard skeptic is bound to wonder. Further, you will be told that only calm, rational, technical arguments will be accepted. So you're told not to even bother to show up at hearings unless you bring a platoon of technical experts. Hysterical housewives need not appear, or so they say.

Often, they will try to strip you of your sense of hope. Typically, they'll announce a LULU proposal at a major media event where every major political and business big shot is lined up to sing its praises and assure the smiling operator that no delay will be





tolerated. Further, they'll try to give you the impression that the permitting process is on a fast track and that you'll never catch up with the juggernaut.

Right from the jump, that's what you're up against. So you should quit right now, sell the house and move, right?

Well, you can run but you can't hide. Besides, you can—and probably will—win, IF you work at it, follow your instincts and get good advice, which you follow after you filter it through your common sense.

Perhaps the best way to deal with any selfdoubt or guilt you're feeling is to define, as a group and right at the start, your Statement of Principles. What do you stand for? As you examine your conscience, we hope you'll find that you really stand for some very good and positive things, in addition to being just plain scared about what this facility will do to your home, property and family.

As guidance, we offer CHEJ's "People's Bill of Rights" that tells you where we stand. We take the position it's wrong to assume that "waste has got to go somewhere" and many of the best experts in the country agree with us. They believe waste is best handled by "toxic use reduction" (substituting toxic

chemicals with less or non-toxic chemicals, and reducing or eliminating waste generated at the source), onsite destruction or neutralization, waste exchange or on-site, aboveground storage (a last resort if no technology is practical).

You can also develop what groups call a "Good Neighbor Policy." This approach works best when the proposed facility, a) has the potential for being useful or necessary and would be acceptable to your group if properly managed or, b) has such strong public appeal that, in your judgment, you simply can't keep it out. Examples of these types of facilities include manufacturing plants being proposed that will create lots of jobs in an economically depressed area, major recycling centers and wasted sites that deal with what's left after serious, aggressive recycling and waste reduction efforts.

If a LULU's coming to your community and people want it, for whatever reason, that facility should behave like a good neighbor and obey certain standards of safety and courtesy. Think about what you and your neighbors feel is important in a "good neighbor" and apply that to the companies you would allow into your community.

One last point about attitudes and values: it's OK to be angry and emotional. Remember: this decision is not about facts, logic, or science—it's about politics. Your opponents would love to see you put aside your anger, your fighting spirit, and play the game strictly by a code of etiquette that only seems to apply to you.

In the next sections, we'll look at: Organizational Structure, Recruitment of Members and Outreach into the Communities, Research, Media, Experts, Lawyers, Strategy and Tactics, Special Angles, and Alternatives.

Most of these subjects are covered in great detail in other CHEJ guidebooks that focus specifically on those subjects. In this guidebook, we're bringing key points together under one cover to deal with proposed sites.

To get more detail on specific topics, get the CHEJ guidebooks we refer to.



# Chapter 3

## Organizational Structure

How much structure do you need?

Enough. Enough to make decisions and to effectively involve your members so they feel needed and so you and other core group members don't do it all.

You don't have to incorporate! There are lots of reasons to remain an "unincorporated association" (if you haven't incorporated, that's what you are now). See CHEJ's *Should Your Group Incorporate?*

Most groups make decisions by setting up a pyramid structure that looks like the figure below.



This structure is very efficient for decision making, since the leaders at the very top mainly make them. Exception: Occasionally, leaders of a pyramid will take a decision to the general membership.

The general membership, unaccustomed to being asked, sits there quietly, confirming the top leadership's impressions that most members, aren't into it very much.

We talk to leaders who tell us that after six months of a fight, "only a handful of us are left to do the work, nobody's coming to meetings, and most people are apathetic." How long would you stay active in a group if your function is to warm a seat? These problems are the price to be paid for a topdown decision-making structure.

The opposite extreme is a freeform, leader-less structure (often called a "collective") where decisions are made by consensus. Very democratic. Everybody's equal.

The problem is decision-making becomes agony. Even though everyone feels like an important part of the group, there's paralysis that often leads to the destruction of the group as a

functioning organization.

Here's a model we've seen at work many times that attempts to strike a balance between the extremes:



When new members come into an organization, they're asked to join one of the committees. There, they get a specific task that matches what they know how to do and like to do. This is a great way to spread the work around and prevent burnout.

Think about ways you can set up your organization in a way that encourages people to join, get active and stay active. People tend to drop off if they feel useless. They also tend to quit if they're asked to do things that are either too much for them to handle or too vague or undirected (leaving that feeling that "I don't know what I'm doing").

For more ideas on structuring your organization, see CHEJ's *Fight To Win: A Leader's Handbook*.



## Chapter 4

# Recruitment

There are only two sources of power in this country: money and people. Chances are, you don't have money (at least compared to your opponents), and so you're left with having to build "people power."

Go and get them. By all means, start up a petition drive. Make your petition simple and straightforward. You don't have to do anything elaborate in writing up your petition. Remember, you have a Constitutional right under the First Amendment to do this.

Will a petition win your fight for you? Probably not. However, your petition is an excellent recruitment tool. Say that you send out teams of two members to go door-to-door collecting petition signatures. Those petitions on the clipboards are good props (having something in their hands will make them less nervous). They're also good "conversation starters." They make the purpose of the visit to that stranger's house more obvious. It's also an easy way to allow that stranger to take the first, simple step toward getting involved.

Another useful purpose for the petition is as a means of developing a list. Always include a slot for phone numbers or email addresses on your petitions.

NEVER give up your original petitions unless you've transcribed the name, addresses, phone numbers and email address onto a master list you can use later, either for mailings or for telephone campaigns.

Give your door-knocking teams some advance training, such as role-playing them through some conversations at the doorstep before they go out. Make sure they have some of your group's flyers to leave with people. Your flyers ought to have a "hook."


That is, the flyer should ask the reader to do something, like come to a meeting, write a letter, make a phone call, etc.

There are four basic statements recruiters should include in their short (30 seconds) "rap" at the door:

- "I am ... (name)"
- "We are ... (Organization and ultra short statement of purpose)"
- "This is ... (the specific reason for the visit)"
- "We want ... (this person to do some specific thing)"

There's more detail on how to do this in CHEJ's *Best of Organizing Tool Box I* and *Best of Organizing Toolbox 1994-2000*.

You can use other means to recruit people that don't involve personal contact, such as general media announcements, and passing around posters and flyers. However, face-to-face contact is how real organizing is done and you'll always get the best results by dealing with people directly. It may be slower, but the quality of the contacts and the "rate of return" are higher.



# Chapter 5

## Research

If you've developed a fact-finding committee, turn them loose in investigating the operator of the site and the major players in the company proposing the facility.

CHEJ's *Research Guide for Leaders* should be helpful.

- Where is this company headquartered? Where does it operate other facilities? Has it ever operated the kind of facility it is proposing for your community?
- Who are the key players in this company? Who have they worked for before? What's the track record of these other companies?
- Ask for references. Check them out. Check with groups in the other communities where they have facilities (CHEJ may be able to help with this). Check with the state attorney general's office and/or the Environment Protection Agency for other states where they're located.
- What is the financial condition of the company? What kind of insurance do they have? What kinds of litigation are they involved in elsewhere?

How do you get this information? Frankly, the

easiest way to get it is to demand it publicly from the operator. You win either way: if they comply, you've got what you asked for. If they refuse, you can go to the public and the media and ask, "What have they got to hide?"

You can check with people and groups. Most of the above questions can be answered through personal contacts you make through leads CHEJ and other groups can provide you. You can also find much of what you want in the public record. For instance, "public" corporations (i.e. those that sell stock on the stock exchange) must provide the Securities and Exchange Commission with a lot of very interesting information.

You also want to find out:

- Who stands to profit from this facility? What local people, companies or institutions are going to make money by (a) selling land, (b) making loans, (c) getting jobs or (d) selling services to the facility operator? You can check public records such as deeds and campaign contribution reports to get some of the answers.
- Where will the money come from to pay for

the development of this facility? Many new proposals have virtually no financing behind them. Starting in the late 1980s, we've seen lots of new "companies" with little substance behind them other than their Articles of Incorporation. We saw one proposal in eastern Kentucky that consisted of nothing more than some hand-written notes jotted on a single piece of paper.

The speculators behind these facilities are gambling that they can sneak a permit application through and then use that to get the financing.

Even more sinister are the new facilities being proposed that are nothing more than a front for a project desired by one of the waste giants (mostly BFI or Waste Management).

Check with your local government's economic development department to see if the facility is going to be supported through either "Industrial Revenue Bonds" or municipal bonds. Many are, especially if they can make the argument that they qualify as a "Pollution Control." For example, ALL

of Ogden Martin's garbage incinerators are proposed on the assumption that they will be financed by municipal bonds.

If government-backed bonds are indeed part of the financing picture, check the rules for your state regarding the procedure and eligibility criteria for issuing bonds for a proposed facility. The odds are high that either the rules weren't being followed or, if the bonds are yet to be issued, there were no plans to allow for genuine public input. Killing the public bonding for the project killed many LULUs in the 1980s and 1990's.

So how do you find out all this information? If you can't find out this stuff for yourselves, using the techniques in our Research Guide, just ask. Ask the facility operator. Ask your local government officials. Ask your state's attorney. Even if you find the answers on your own, ASK ANYWAY. You may be surprised by catching them in lie. It's "winwin" situation, either way.



## Chapter 6

# Media

This fight is going to be won (or lost) in the “court of public opinion.” Your main access to this “court” is through the media.

Don’t be surprised if your local newspaper, TV and radio station reporters are either (a) ignorant about the issue and its implications for the quality of life in the community or (b) openly hostile to you because of their ties to the big money interests who back the facility. This is very common, especially with small town media in rural communities. Further, it is part of the company’s plan to cultivate local media prior to announcing a planned facility.

No matter if your local media is hostile, neutral, or friendly to you, you only get coverage if you are “newsworthy.” News media cover action, personalities, controversy, and scandal, not necessarily in that order. If you want coverage, keep this in mind.

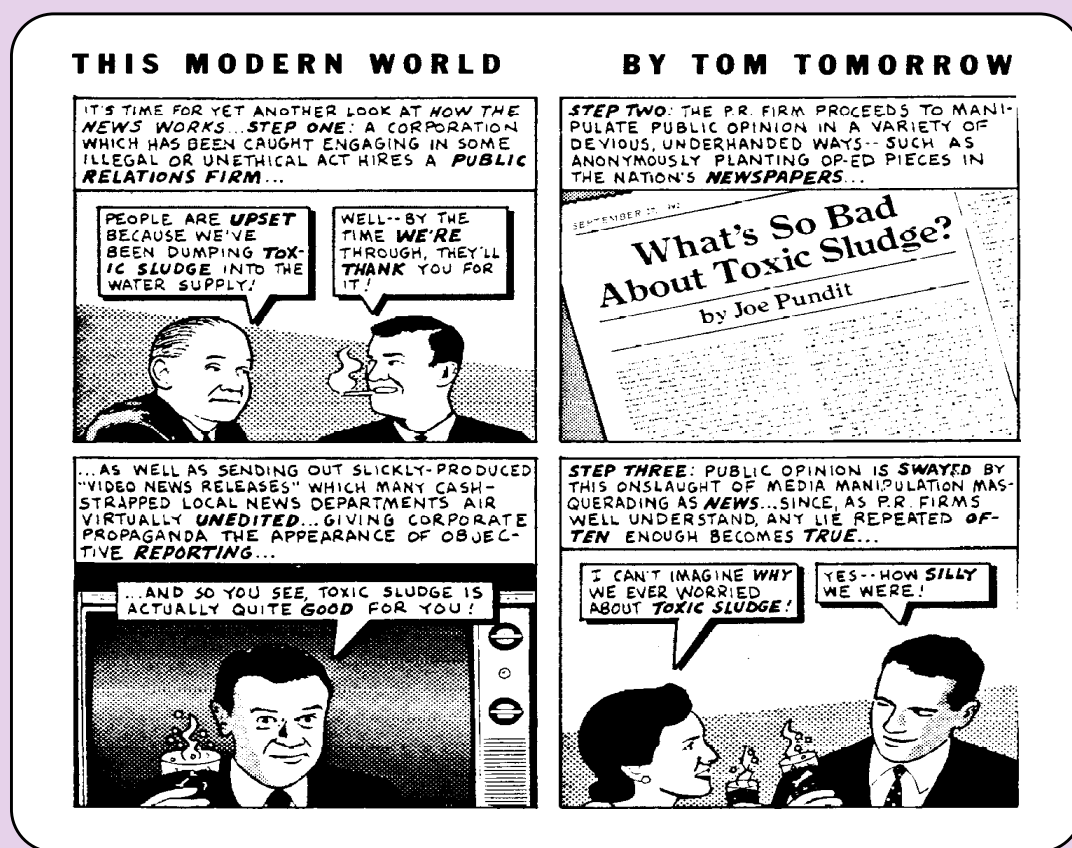
Do things that are different, lively, colorful and—for the electronic media— both visual and somewhat noisy. For example, groups fighting incinerators will often do “balloon launches” on a weekend, where they release hundreds of helium-filled balloons from

the site of the proposed facility to show how the emissions will travel.

Note: Balloon launches have come under increasing criticism by environmentalists concerned about ocean pollution and the preservation of marine life. They argue that when the deflated balloons come down they end up choking marine life to death. You could also draw some criticism for “littering.” These are legitimate concerns, though that same marine life will also be endangered by the 24-hours a day, 365-days a year toxic fallout from the facility you are protesting.

Other types of protests and demonstrations also get you coverage. Motorcades, prayer vigils, rallies and marches are high-visibility, and are relatively easy events to pull off.

Try to cultivate the media. It wouldn’t hurt to try to get a meeting with the editor and/or publisher. Agenda: “We want to explain to you who we are and what we stand for, since we’re going to be making news and you have a right to get some background on us.” Through this kind of meeting, you can scout them out for where they stand, at minimum, and, at best,



you might even be able to recruit them as an ally. You can go into such a meeting with a reasonable hope that, at least, they'll treat your side of the story fairly.

You can also begin cultivating local reporters. Feed them juicy stories, hand them interesting news leads, give them an "inside scoop." By cultivating a local reporter, you can even get them to do some of your research for you. For example, if you suspect there might be an organized crime connection at this facility, you could feed it to the reporter as an off-the-record rumor and let the reporter follow the lead! Be careful though. If the facility operator has compromised your local media, you could end up sued for libel or slander. Local leaders in Bunker, MO and Plaquemine's Parish, LA were sued for remarks in unpublished letters to the editor of compromised local newspapers.

See CHEJ's *How to Deal With Trouble and Polluter's Secret Plan* for how to avoid this type of danger.

If you can't get decent local media coverage, look at media sources outside your immediate area, but whose newspaper or radio/TV station reaches into your area. Lots of groups think they can get their story on *60 Minutes*, *Dateline*, or *20/20*. This sometimes happens, but don't pin your hopes on it—nearly every group has this dream. Unless there is something truly extraordinary about your situation, take a number and wait in line.

More tips on using the media are in CHEJ's *Media Means*.





## Chapter 7

# Experts

Your opponents and the operators of the proposed facility would love to engage you in an exercise we call “dueling experts.” That’s a situation where you feel compelled to spend every nickel you’ve got hiring experts to refute every technical point their experts bring up. This is usually an awful tactical mistake, but it’s a mistake groups make time after time.

Why is it a mistake? First of all, it’s naïve to think that the science or technical aspects of the question have any real bearing on the siting decision. The real reasons are mainly political and economic. Second, it’s a losing proposition for you: for every expert you can find and afford, they can bring in a dozen to say exactly the opposite. You’ll be like that character in the fable that was condemned to spend eternity rolling a boulder up a hill, only to have it roll back down, as it’s just about to reach the top.

Lastly, it’s boring. Imagine meetings where you listen to experts debate the issue using every obscure technical phrase they know. Remember that one of your opponent’s favorite tactics is to rob people of their faith in their own common sense. You’re really doing them a favor when you fall into the dueling experts trap.

So should you totally ignore the technical aspects of the proposed facility? NO!

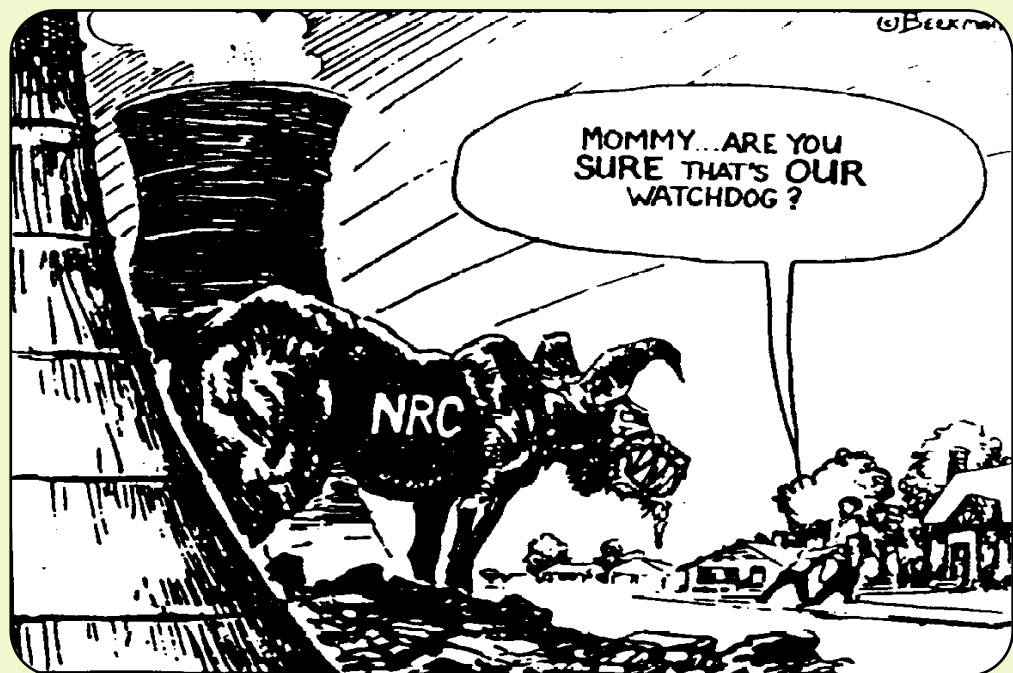
First, you will probably want to learn enough about the proposal so to know that you’re right to be concerned.


Second, you’ll want to learn enough about the proposal so you can talk to others about it and not feel like an idiot.

Third, if the logical path to victory entails getting a government agency to reject it, they will need some plausible reason to do so, if the rejection is to withstand the inevitable legal appeal by the operator. By introducing technical criticism in the proposal, you give the regulators a handle to deny the application when your political pressure motivates them to do so. Picture this: you hammer away at the Governor demanding this proposal be blocked. The Governor gets frustrated. He calls the head of the state agency and says, “That chemical dump proposal in Morbid County is giving me headaches— find some way to kill it!” The state agency head will then direct his staff to comb through the file for a basis for rejecting the

application. Use your technical experts to find a couple of such items for such use.

There are also good uses for experts such as getting them to advise you on the technical side of the issue so your folks can speak confidently for themselves. Sometimes, the strategic use of a letter, memo, or technical report unveiled at a public meeting can work wonders. We offer detailed advice on how to use (and how not to use) experts in CHEJ's *User's Guide to Experts*.





## Chapter 8

# Lawyers

Lawyers are usually more of a problem than an asset, especially when you're dealing with a proposed facility. New waste sites are not against the law. In some instances, government agencies may say that new sites are required by federal regulations as discussed earlier.

Over the years, we've seen literally thousands of fights against proposed facilities. Based on that experience, one consistent pattern emerge: The more money a group spends on lawyers, the more likely it will lose.

If you hire a lawyer to fight a proposed facility for you, you will almost certainly have to pay the lawyer's fees as you go. Generally, there are no "damages" involved in lawsuits over a proposed facility. This means that you probably would not be able to develop the kind of case a lawyer would take on a "contingency fee" basis where the lawyer takes a percentage and charges you nothing up front. We could tell you several sad stories about groups that went against our advice and fought the issue through the courts, lost and ended up having to pay the lawyers several hundred thousand dollars.

Despite this, there are two good uses for a lawyer

when fighting a proposed facility:

- To give you a "road map" as to what the decision-making process is for a siting decision.
- To get you a "temporary restraining order" and/or permanent injunction in the event that the siting decision is sprung on you so fast that you need to buy some time. For example, you find out that the construction for the site will begin in two weeks and you just don't have enough time to mobilize the community. It's a good use of a lawyer to have him/her get you more time.

When a lawyer gets actively involved in your fight, one of the first things that happens is that as many as 50-75% of your members go home. Why? Because many people believe that the lawyer will now "handle" the problem for you. It's human nature that your members will think that they can now relax since they've hired a lawyer to take the issue off their hands. It happens so consistently that we consider it a basic rule that membership will drop when you hire a lawyer. Further, some members will believe (with good reason) that you will come



to them to collect for their fair share of the lawyer's fees.

Another problem, as well as a common error some groups make, is to involve lawyers in political strategy. Some groups will ask their lawyer to tell them how to carry out—their protest tactics. Many lawyers will simply tell them not to protest, to let the problem be addressed in the court.

If the law equaled justice, this wouldn't be so terrible. But, the law does not equal justice in the real world we live in, so this is a big mistake.

Instead, we suggest that you limit your consultation with the lawyer to asking for advice on what is likely to happen if you do "X" (example: "If we march down Main Street, what will happen? Do we need a permit?").

Ask questions that your lawyer is qualified to answer. Your lawyer probably knows about as much (or less) about community organizing as you do, so it's unfair for you to expect the lawyer to have a qualified opinion about it.

You can get more detailed advice on how to deal with lawyers from CHEJ's *User's Guide to Lawyers*.



## Chapter 9

# Strategy and Tactics

Community meetings are essential. Everything your group decides to do should be measured against the principle that “if it doesn’t involve people actively, then it’s probably the wrong thing to do.” Set up meetings where you bring in a couple of carefully selected “targets” (i.e. people who have the power to give you what you want) and put your concerns and demands on front of them. Press them to give you a straight answer, even if that answer is “no.”

Even if these “target” don’t show up, you then have an angry crowd that feels insulted that these people didn’t have the courage or courtesy to come out and face the public.

You can then plan an action where you go to the absent “target” (at their office, for example) and put the questions in front of them there.

Marches, protests, prayer vigils, parades, motorcades, rallies and other forms of mass action are time-tested actions that work well. You have the Constitutional right under the First Amendment to do these kinds of things.

We mentioned balloon launches before. You can also do other kinds of demonstrations, such

as boat launches, display models and other ways to show how the site will work in such a way that the average person can understand what this site will mean to people in your community.

Yard signs and other visible protest symbols (yellow ribbons, bumper stickers, buttons, posters, etc.) are very effective. One community had so many of them and quite a few were of such high quality that they decided to hold a “Yard Sign Contest” to get even more signs displayed.

Many successful grassroots groups have invited young people in their community to play an active part, even to the extent of setting up “youth auxiliary” groups. For example, the Spencerville (OH) Dumpbusters encouraged their young people to form the Junior Dumpbusters. By the end of their successful fight against a Waste Management dump, the Junior Dumpbusters were so strong that they probably could have won the fight on their own.

More advice on strategy and tactics is included in CHEJ’s *Fight to Win Leader’s Handbook*. Remember, the best tactics are those that involve the largest number of people, which

carry the element of surprise and are fun to do. If a tactic isn't fun, there's probably something wrong with it.

Note: We're fighting for good, positive community values and, as such, we should take on the fight with joy and spirit.

When you're fighting a proposed facility, time is on your side. After all, you're fighting to keep something from happening. So, every day that passes is a victory.

Sometimes, these fights can go very quickly. The latest speed record holder for blocking a proposed facility in the shortest length of time is STOP- SIN (Stop - Solidwaste Incineration Now) of Columbus, GA. Through a combination of lucky timing and good leadership, they blocked a proposed Waste Management incinerator in 23 hours and 30 minutes and spent less than \$13.00 (for the printing of a fact sheet). Their "angle" for blocking WMI was to confront their city council with the question, "Why are we doing business with criminals?" They raised up WMI's tawdry record of environmental violations and contract crime convictions.

Other times, it takes a long time to win. The record for the longest time period it took to win is held by SOS (Save Our Selves) of Ascension Parish, LA, which hung in for the 10 years it took to finally defeat a hazardous waste site proposal by the IT CORP.

It's hard to predict in advance how long it will take for you to win. Maybe you can make a run on the all-time speed record but almost certainly you won't have to go through the 10 long years it took SOS to win. But, we do believe you will win. It's mainly a matter of time.

Note: Sometimes it's hard to be sure you've won because your opponent won't admit defeat. This can be very irritating in messing up plans for putting together your final victory party. Other times, proposed facilities behave like zombies and just won't stay dead, meaning that on occasion, you

have to kill a proposal more than once. In those rare occasions when this has happened, grassroots groups usually find it's easier to kill the proposal the second time around.

To keep up the group's morale, you should plan for regular victory celebrations. No joke! If your folks don't feel a sense of accomplishment, they'll quit. So, even if your celebration is simply to commemorate another year of delaying the site, DO IT! The wintertime is usually the low point for people's morale. That's also the best time of year to plan social events and victory parties. Look at your fight as a series of steps and stages. Some groups never celebrate because the only victory they acknowledge is the one where they finally and decisively kick the LULU out of their community. If the fight turns out to be one of those long ones, you could go a long time between celebrations and set yourself up for emotional burnout.



# Chapter 10

## Special Angles

### Insurance

Insurance companies do not want to write policies on companies dealing with waste. Three events in the mid 1980s triggered this long-standing insurance boycott of the industry. One was Union Carbide's (now Dow Chemical) disastrous toxic gas release in Bhopal, India, which killed thousands and injured hundreds of thousands. Second was a court settlement where Occidental Petroleum's insurance companies paid \$20 million to victims of Love Canal. Third was a court judgment against Jackson Township, N.J., where the town's insurers had to pay a large settlement to toxic exposure victims of that town's dump. Insurers added these three events up, looked at the rest of the industry and decided these types of facilities were not an "acceptable risk" from an underwriter's standpoint.

YOU are being asked to accept a risk that Lloyd's of London won't touch! You can't get a mortgage or register a car without insurance, but you're expected to allow a LULU to come into your community.

Regulations for waste sites require an operator to certify the financial capacity to cover costs from

sudden accidents and long-term, nonsudden contamination.

Since they can't get insurance, these operators try to get by through offering "financial assurances" that are based on the assets of the company. What this boils down to is the company says, "Trust me, I'm good for whatever it's going to cost."

Companies proposing LULUs use other creative ways to provide the required "financial responsibility." The 3-M Company has insurance, all right, except that it's a policy written by a company 3-M owns. Some Companies use "Letters of Credit," which are assurances by a bank or investment firm that the company is entitled to borrow a specified sum of money if needed. Allied Waste satisfies financial assurances requirements by providing performance bonds, letters of credit, insurance policies, trust deposits or financial guarantee bonds for self-insurance.

Under pressure from the Securities and Exchange Commission, companies are now beginning to disclose the number of Superfund sites where EPA has notified them that they are considered to be

“Potentially Responsible Parties” (PRPs, pronounced “perps”). The average cost for “clean up” at a Superfund site runs between \$15-20 million. In its annual report to the SEC for 2001, Waste Management reported they had been notified that they are potentially responsible parties in connection with 79 locations listed on the NPL. Allied Waste’s (formerly BFI) 2001 annual report admits being perps to “many” sites under the CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980).

Although Allied Waste didn’t report the actual number of sites they did report they operate 167 active landfills and are responsible for 107 closed landfills no longer accepting waste. They also determined that their recorded liability for “environmental matters” as of December 31, 2001 and 2000 was approximately \$395.4 million and \$432.5 million respectively. Cash actually paid out for “environmental matters” during 2001 was only \$36.4 million.

When you do the basic arithmetic, you begin to see where the costs for cleaning up their past mistakes could exceed their companies’ total worth. But “not to worry,” the LULU they want to build in your community poses “no cause for alarm” and, if anything goes wrong, they’ve got that covered, too. If you believe that, we should discuss a bridge we’d like to sell you.

Then consider the outrageous examples of the Dow Corning Corporation and WorldCom, two of America’s largest corporations. Both have hidden behind bankruptcy laws to avoid their liability for damages caused to people using their products, while still continuing to operate very profitable businesses.

One way to respond to the insurance problem is to demand that the operator set up an “Environmental Trust Fund.” This is a sum of money, in cash, that is set aside in the name of your community to cover accidents or longterm damage. It could be an account in your town or county’s name that can be drawn upon only in the event of an eligible expense. The trust fund should be designed in such a way that it

can’t be touched if the company goes bankrupt, liquidates, or is merged with another company.

How much should such a fund be? Well, the South Carolina Department of Health staff (the state’s environmental enforcement agency) looked at a license transfer for the state’s only toxic dump and put the figure at \$100 million! Bear in mind that more than that amount has been spent at Love Canal and at the Stringfellow Acid Pits in California and neither site has been cleaned up yet.

### Organized Crime

If you have any questions about whether organized crime is involved in the waste business go to your library and get *Poisoning for Profit* by Alan Block and Frank Scarpitti (William Morrow Press, 1984). This book includes some chilling stories about the involvement of organized crime in the waste disposal business. Is it likely to happen at your site?

Hard to tell and even harder to prove.

Should you raise it as a concern? Yes, but with great care. For example, there is plenty of documentation of organized crime involvement in the waste business in the Mid-Atlantic, especially in NJ, PA and NY.

As enforcement increases, illegal disposal operations look for other sites to do illegal dumping. If you’re dealing with a proposed facility, such as a municipal dumpsite and it’s in a place that would be convenient to the logical transportation routes from known area’s where organized crime has operated, this could be an issue.

Can you say that the operator of the facility is connected to organized crime? Sure, you can say that—but get a lawyer, because the operator can and probably will sue you for slander! Local group leaders have been sued for making such direct charges against operators and we strongly advise against doing this. You generally can’t get away with accusing somebody of being involved with organized crime without paying the price. However, it is perfectly OK to raise concerns about site security that includes concerns about preventing illegal dumping.



A more fruitful and less dangerous way to deal with the issue of corporate crime is to fight for the passage of a local or site “Bad Boy” law. A Bad Boy law or ordinance prohibits any company with a bad record of either environmental violations or “contract crime” from getting a government contract.

“Contract Crime” covers a broad category of offenses: bribery, fraud, and anti-trust violations such as price-fixing, bid-rigging, territory allocation and unfair competition.

It’s a lot easier and less risky to attack corporate crime by sticking with the public record of contract crime violations or environmental violations than it is to make charges of involvement in organized crime.

### Deny Access to the Site

Sometimes you don’t have to beat the site on the merits. For example, create conditions that make it impossible for the facility to exist and you have effectively defeated the site. Here are some specific ways to do this:

**Method 1:** Get your state, county or city to pass a law or get your governor to issue an order restricting the type of waste brought to the facility. MEMO (Mississippi Environmental Management Organization) used this tactic to win their fight. They got the state to establish rules that no waste may be dumped unless the operator can prove every available, practical technology was used to “source reduce” the material. This forced Waste Management, Inc., to withdraw its hazardous waste dump applications.

Or, set restrictions about proximity to ground water and other environmentally sensitive factors. New York and Florida enacted these provisions and these too had the effect of stopping new land disposal facilities from being built. North Carolina used the Clean Water Act to set allowable toxic discharge standards from hazardous waste sites that were stricter than the US EPA standards. When this law passed, Laidlaw Environmental Services (now Allied Waste) protested that it couldn’t run a financially viable waste site and meet this tougher standard.

The EPA’s Administrative Law Judge upheld the state’s right.

**Method 2:** Make it impossible to get the hazardous waste to the proposed site. This is how the Community Affairs Group of Chickasaw, AL won their fight. They reasoned that they would get nowhere with Alabama enforcement officials, and the Regional EPA office in Atlanta was no better, so they used local police powers to regulate traffic (since such powers can’t generally be overruled) and got their city to enact an ordinance with the following provisions:

- The waste hauler must notify the Chickasaw police chief in advance of the route and time of any trucks hauling waste through the town. When they do arrive at the edge of town, they must go to a police-designated “staging area” and only move under police escort. While waiting for the escort, police and the trucker must inspect the vehicle for leaks and defects. If any are found, the trucker can’t proceed unless the trucking company posts a \$10 million bond to cover any potential damage.
- When traveling through Chickasaw, trucks must keep 150 feet away from the nearest vehicle, with the exception of their police escort.
- Trucks must keep their headlights on, two-way radio going, and be marked according to DOT and RCRA rules, and drivers must give police their RCRA manifests.
- Truck speed limits: 40 mph (Interstate), 30 mph (state highway), 20 mph (city street) and travel only between the hours of 9:30 a.m. and 3:30 p.m.
- Only two streets lead into the Port of Chickasaw and trucks are banned from one of them. On the other, Viaduct St., there’s a “gross vehicle weight limit” of 30,000 lbs., enforced by new weight stations at either end of a rickety bridge. This limit was lower than the average waste truck and when WMI complained, they were told to get smaller trucks. The AL Highway Dept. recently

recommended the limit be further lowered.

- Waste trucks can't travel through the area when it's raining, has rained, or is forecast. The same for freezing conditions, hurricane or tornado warnings or watches and wind conditions of 50 mph or more.
- The Mobile City Commission totally banned hazardous waste shipments from the city limits. Chickasaw is 6 miles north of Mobile.

WMI knew that it couldn't operate under this ordinance. After losing its court challenge to the ordinance, WMI withdrew their application. They tried again in Theodore, AL, across Mobile Bay, but the Chickasaw folks talked to their neighbors there, got them to enact a similar ordinance and forced WMI to withdraw the entire Alabama coast line from consideration for their proposed hazardous waste tank farm.

The Hands Across the River Coalition in New Bedford, Massachusetts used similar tactics to stop a mobile incinerator from being built. The local community group waged and won a significant battle against the U.S. EPA who planned to use incineration to burn PCBs dredged from the New Bedford Harbor.

The group initially petitioned the local government to let residents vote on the incinerator project by making it a ballot initiative. Their strategy was to:

- Win the vote in favor of stopping the incinerator project.
- Educate and make the public aware of the dangers of the project.
- Create an opportunity for residents to express themselves through the voting process.

The ballot initiative passed with two thirds of the votes in favor of stopping the incinerator project. Now Hands Across the River had the clout to make city and county officials take action to stop the incinerator project.

However, EPA did not care about the results of the

ballot and soon afterwards rumors began spreading that the incinerator was en route to New Bedford despite the successful initiative. Just when it appeared time was running out, the New Bedford City Council took three very important steps that brought an end to the project.

- The council passed an ordinance that prohibited incineration inside city limits.
- They passed a second ordinance that placed weight restrictions on transported items within city limits (the incinerator exceeded the weight limit).
- They refused to issue water or electricity to the permits incinerator site.

Together, New Bedford residents and local officials created impenetrable barriers. EPA was outraged and threatened to air drop the incinerator, generator, and tanks of water on the site. It also threatened to fine the city \$25,000 a day for delaying the project. These threats, however, were never carried out. Congressional representatives, having been made aware of the project earlier through the group's letter writing campaign, came forward and demanded that EPA respect the democratic process and the local government's authority.

For more information on local ordinances see CHEJ's guidebook *Local Ordinances*.

**Method 3:** The Chickasaw battle (above) is a real classic example, in that the traffic angle wasn't the only approach used to win. They also had a FOOD PLAIN angle as well. It's a complicated angle but it can work. What follows are notes given to CHEJ by John "Bubba" Jones, who was the Mobile City Planner during the fight. Bubba used that role to get the Federal Emergency Management Agency to change the flood plain designation of the property. In Bubba's words, here how it was done:

- In 1982 the buildings permit application by Chemical Waste Management, Inc. to construct 2-800,000 gallon aboveground storage tanks for hazardous wastes was denied by myself and Tom

Peavey, Director of Public Works because of violations of the City of Mobile's Flood Plain Management Ordinance. The federal regulation prohibits this type of usage in high velocity zones and floodways.

- Based on a recommendation from the F.E.M.A. office in Atlanta, the City of Mobile at my request amended its flood ordinance to prohibit the construction of these type of usage within the 500-year floodplain. This amendment literally stopped any construction of hazardous uses within the port of Chickasaw and throughout the city of Mobile.
- I also submitted a proposed change to the zoning ordinance of the city of Mobile that requires a special use exception in industrial zoning (I-II) for hazardous uses. This amendment requires Planning Commission and Board of Adjustment approval and allows citizens participation in two public hearings prior to denial or approval of the request. This has the effect of controlling hazardous uses outside of the 500-year floodplain. This amendment was sponsored by Board of Commissioners and unanimously approved by the Planning Commission.
- In June 1984 the Board of Commissioners approved my request to attend an EPA meeting in Washington, DC on the development of the new proposed ocean incineration regulations. During this meeting the following recommendations were made that are now part of the regulations.

1. No existing on-shore facilities for the storage and processing of hazardous wastes be grand fathered in unless they were in compliance with the new Coast Guard regulations.
2. FEMA, the federal agency responsible for regulation of all uses within the regulatory floodplain is included in the list of federal agencies that must approve all applications for on-shore facilities within the regulatory

floodgate. This places Chemical Waste Management, Inc. of being unable to use the existing on-shore facilities at the port of Chickasaw and at other locations without compliance with the new Coast Guard regulations and FEMA's approval.

- The policy of the Inspection Services Department of the City of Mobile is to research ownerships of property prior to the issuance of a building permit. This research revealed that the Teamster Union Pension Fund were the owners of the property, where the Chemical Waste Management, Inc. facility was located. I quietly leaked this information to the local news media. This resulted in the Teamster Union Pension Fund Legal Department becoming involved in the fight against Chemical Waste Management, Inc.

**Method 4:** As the 1990s ended, there was a raging rebellion in America's Heartland where the "dumpee" states have risen to say no to out-of-state waste by the "dumper" states.

The first major blows were struck in Virginia and Rhode Island where those states' governors issued straightforward Executive Orders banning out-of-state garbage imports. Other states followed suit. South Carolina, Alabama, and New York placed restrictions on out-of-state imports of hazardous waste.

These bans did not hold up, however, where the bans were simple, blanket bans, the courts have over-ruled them. Under Article I of the US Constitution, only the federal government has the authority to regulate "interstate commerce."

In Virginia, residents protested Waste Management's attempt to make Virginia their private landfill and for years state officials ignored them, until a public speech by then New York Mayor Rudolph Giuliani suggesting that states such as Virginia are obligated to take the city's garbage.

Then Virginia Governor James Gilmore III (R) sent a letter to New York City Mayor Rudolph Giuliani saying, "The home state of Washington, Jefferson and

Madison has no intention of becoming New York's dumping grounds." Virginia passed laws banning garbage shipments by barge and capping the capacity at the state's seven giant private landfills at 1998 levels. This put an end to plans by Waste Management Inc. for shipping 2,500 tons of garbage a day from New York to Virginia by barge. Predictably, Waste Management was not happy and filed suit and won.

District Judge James Spencer used Gilmore's letter against the state when he said "Virginia acted to staunch the importation of [garbage] in a knee-jerk response to reports that increased levels of out-of-state [garbage] would soon be flowing into the Commonwealth, which - while perhaps advantageous politically or commendable socially - is impermissible constitutionally,"

Spencer threw out Virginia's laws restricting the importation of garbage, although an appeal was promised. The judge's decision followed the same pattern as many previous state garbage fights, when he ruled that only Congress can change the Commerce Clause of the Constitution, under which this fight falls. Virginia is not only seeking to overturn the decision by appeal, but also they are looking for a fundamental change in how garbage is regulated. Some state representatives are now lobbying Congress to give states explicit power to regulate how garbage is disposed of in their state.

The court rulings on the blanket import bans said that the Interstate Commerce Clause didn't apply to sites that are publicly owned and operated, saying that a facility paid for by one community's taxpayers need not provide any benefits to taxpayers of another community.

The state of Maine took this court position and wrote a solid waste law that provided that no new waste sites will be allowed unless they are publicly owned and operated. When you support publicly ownership of any waste sites, you support an old and forgotten principle that waste services ought to be public service, like sewers, roads and schools and not a get-rich quick opportunity for private operators in the waste industry. You also open the door for

alliances with public employee unions that have an interest in fighting privatization, such as AFSCME (American Federation of State, County and Municipal International Union).

Some states have worked out ways to address the issue and still stay within the limits of the "Interstate Commerce Clause." In Pennsylvania, the Governor ordered that no more than 30% of waste dumped in commercial sites in PA might come from out of state.

In 1993 waste haulers Valero Terrestrial Corp. and Lackawanna Transport challenged the West Virginia's attempt to limit how much waste they could bring into landfills, claiming the regulations violated interstate commerce laws. A federal judge agreed and in 1997 ruled that West Virginia's solid waste laws were unconstitutional. The WVA Legislature promptly rewrote the laws, approving new landfill regulations in 1998. According to the Attorney for the WVA DEP, Armando Benincasa, "We took out any references to the origins and local preferences on waste. But the general idea of tonnage restriction and landfill classification was left intact."

The federal Court found significant changes in the law and ruled that the company's lawsuit was no longer relevant. The appeals court also affirmed a lower court ruling that classifies the \$3.50 per ton charge on garbage dumped in the state as tax, and therefore not in the federal courts jurisdiction.

Rules such as those in Alabama, South Carolina, and New York that say that no waste will be taken from states that haven't taken measures to deal with their own waste within their own borders have, to date, withstood court challenges. So have laws levying reasonable fees and taxes on waste imports.

- **Zone the facility out of business**

Waste corporations intentionally look for communities with little or no zoning to cite new facilities. Some communities fought this tactic by passing tough ordinances and zoning laws. In Lawrence County, KY, Concerned Citizens got the county to pass a zoning ordinance that zoned a proposed site out of business after the US

Supreme Court upheld this right in a similar case in Fairmont, WV.

Other communities change their structure to give themselves more control over zoning decisions. This happened in Marion County, KS when BFI submitted an application to expand an existing landfill. The county established a planning commission that had the authority to decide whether the proposed use is an “appropriate use of land.” This is different than most other counties where planning commissions have rules that require them to endorse proposals if they comply with all state and local zoning and with relevant environmental restrictions. In Marion County, even if a proposal meets all regulations, the planning commission can still recommend against it.

A novel control approach to zoning was used in Tinicum Township, PA where the municipality used procedural information requirements in the zoning request application. The zoning ordinance requested complex and complicated information such as transportation impact studies, environmental impact assessments, detail mapping of environmentally sensitive areas, maps and photos depicting the vegetation characteristics of the site, and type of wildlife habitats impacts. The ordinance requires a narrative describing adverse impacts and irreversible environmental changes, which would occur due to the proposed project. The idea is to impose detailed information requirements that are so burdensome and expensive that it causes a huge barrier.

- **Tie up the Land**

Another option is for your local government to condemn, purchase and seize property needed for a public purpose under the concept of eminent domain. For example, if there’s a proposal to build a new highway through your property, the local government serves you a condemnation notice to that effect and takes your property.

The courts have upheld their right to do this. You have some due process rights guaranteed under the Constitution against illegal search and seizure but what it comes down to is you have a right to negotiate the price. The same principle can be applied to proposed toxic sites. If an operator wants to use a piece of land for an undesirable purpose, your local government, in theory, could simply act to seize the property for a public purpose. In Westford, MA, just the threat of doing this was enough to make a dumper back off.

And in Palestine, TX, a community stopped a proposed facility by condemning the property right out from under the dumper. StopTox and the local government worked together to block Texstore from building a hazardous waste injection site in an old, deteriorating salt dome. Local government served an eminent domain condemnation notice on the landowner. The dumper was outraged but it didn’t matter. The whole town caught the spirit. There was even a contest to give the park planned for the site a name! The dumper wanted to be paid the “improved” or “potential” value of the site (i.e. how much it would be worth when “developed” into a toxic waste site). However, the Texas Constitution provides for adequate compensation for property taken for public use, says Palestine attorney Jim Parsons, but “this is too hard to define.” The Texas Supreme Court ruled in the 1969 case BRUNSON v. STATE that market value at the time of the taking of the land is considered adequate compensation. Thus Texstore’s lost its last legal challenge and the town of Palestine celebrated a well-earned victory.

- **Cloud the Title**

In Taylor County, GA and in Grandville County, NC, groups came up with two similar strategies to stop the state from taking property it wanted for new hazardous waste sites. In both counties, the groups knew where the targeted land was and had the cooperation of the landowners. In Taylor

County, GA, the tactic was to carve out one foot-squares in a scattered, checkerboard pattern throughout the targeted land and give deeds for those 1-foot squares to, for instance, the captain of the Greenpeace vessel that cruises the South Pacific. In order for the state to take the land under eminent domain, they would have to find and serve a condemnation notice on each absentee 1-foot square landowner scattered across the globe.

In Granville County, NC residents came up with a variation on this theme. They turned the targeted land into a cooperative and issued 70,000 ownership “shares” at \$5 each. In about one month’s time, they sold 10,000 shares to new “owners” who lived as far away as Taiwan, Chile, the USSR, United Kingdom, and Mexico. Under state rules these owners must be notified before state surveyors can be allowed on the land. It’s also a nifty fundraiser for the group.

#### • **Blockades**

Groups like NoDice (No Dumps in Clean Environments) in Gloucester County, NJ and some chapters within Don’t Waste New York met the challenge head on in the 1980s by physically blockading proposed sites to prevent state technicians from entering the property being considered for condemnation (and eventually the home of a waste treatment or disposal facility). In both instances, there were arrests on minor charges, but these determined blockades sent the message that people in these communities weren’t to be messed with and they won. These blockades succeeded unlike earlier blockades, such as those done by the Clamshell Alliance of New Hampshire in the 1970s, because people perceived them as “solid citizens” (i.e. mothers, grandmother, school teachers, blue collar workers), rather than people tagged as “counter culture” types. The government expected “Hippie-types” to act up, but was shocked when pillars of the community engaged in civil disobedience.

On the matter of civil disobedience, there will

come a time when you and others in your group will have to reflect on how much your families, homes, land, environment and community are worth to you. At that point, you can discuss whether non-violent civil disobedience is an option for you. It has been a time-honored tradition within all of America’s great movements for social justice.

Note: We do not recommend or condone acts of violence or destruction. The Grassroots Movement is about positive values of life and community and there is no place for violence within that code. But that doesn’t mean you have to be meek, passive and polite. Fight to win, but with respect for the highest standards of morality.

#### • **Tax the site to death**

Another idea is to get state or local government to impose high fees on the operator, demanding money up front, operating fees or both in such a combination that it takes away the proposed site’s financial feasibility.

Think big, because if you think small, this tactic could backfire on you. For example, Waste Management, Inc. pays Sumter County, AL several million a year in “tipping fees” to operate the Sumter County “Cadillac of Landfills.” This is big money to the primarily African-American rural, low-income community, but it’s only spare change to WMI. The money that does come in is, according to one community leader, “Like being on dope—we can’t live with the poisons they’ve sticking in here, but we can’t live without the money they pay.”

If you don’t demand a sufficiently large sum of money, the facility operator may simply say, “Sure, we’ll pay you that,” and then you’re really stuck!

But, even given this, demanding large fees for waste that will be brought in to the proposed site is still a good approach. You can use this issue, as a way to focus debate on the true costs the community will have to bear to support the

facility. For example, who's going to pay to hire, train, equip and maintain the emergency personnel to deal with accidents and other inevitable problems? Who's going to be responsible should the operator walk away from the site?

After the State of Ohio passed a pitifully weak tax bill charging out-of-state dumpers only \$8 a ton to dump toxic waste in the state, the City Council of Oregon, OH passed its own "permit fee" and reporting requirement ordinance to try to bring the Fondessy Landfill (OH's only consistently operating toxic dump) under control. Their ordinance was fairly modest but was instantly challenged by Fondessy's owner, Envirosource. The City lost in lower court but the OH Supreme Court ruled in favor of the local tax. The Ohio Supreme Court later ruled the city's ordinance was a proper exercise of the city's police power to protect public health and safety. They were not therefore subject to "pre-emption" by either state or federal law.

As long as you focus on public health and safety, and challenge your local government officials to think in terms of what they have the right and duty to do, you're probably on solid ground in pushing for restrictive ordinances.

#### • **Choke off the financing**

If you can find out where the operator plans on getting the money to build the facility, you may be able to figure out a way to get the financial backers of the site to withdraw their loans. Let's face it; nobody builds any major facility in this country on his or her own money. Everybody borrows.

The question you should ask publicly (as part of the discussion of the operator's financial integrity) is "Where's the development money coming from?" In Yazoo City, MS, local leaders asked this question in their battle with Waste Management, and discovered that the county had violated just about every rule of procedure in issuing the bond. Result: WMI withdrew its

application.

If you can pinpoint a local bank or two that's planning to put up the money, we suggest you go after them to re-think the loan at least until the operator demonstrates compliance with a "Good Neighbor Policy."

Banks that support LULUs are easy-to-hit targets. Nobody likes banks, except for other bankers. Further, the Savings and Loan scandal of the 1990's heightened scrutiny and criticism of bank investment practices. Here are some ways to go after banks:

1. Use the Community Reinvestment Act. This is a law that was passed in the 1970s to respond to criticisms from inner city groups that banks took their deposit money but didn't put back a fair share of loans into the community. Under CRA, you're supposed to be able to walk through the doors of any bank and demand to see their CRA accounts and the banks are supposed to let you do that. In the real world, most banks don't comply with CRA, especially in non-inner city communities such as a "Cerrell Community." There are penalties for banks that don't comply.
2. Boycotts. Farmers in a community outside of Evansville, IN were angry at local banks for agreeing to finance a hazardous waste site being proposed by Ensco. When the banks wouldn't budge, these farmers put together a big and widespread enough mass deposit withdrawal to get the banks to change their minds.
3. One step further. A legal (but on the edge) version of the bank boycott is a "Deposit-Withdrawal" action. You could go to the target bank with a large number of people, let's say, at lunch hour on a payday. You could line up your members at each teller's window, each member could go to one window and open one account,

and them go to the next window close it. This is not a nice thing to do, but it will certainly get the bank's attention.

4. A real “stinker” of a tactic. CHEJ was sharply criticized by a Nebraska newspaper for telling folks from Save Boyd County this story. At the risk of more criticism, we'll tell it again:

When the Mon Valley Unemployed Council wanted the Mellon Bank of Pittsburgh to change its investment practices to promote more local job development, Mellon said No. The group got the bank's attention by bringing in “ringers” (friends from outside) who rented safe deposit boxes. Into those boxes, they would deposit large sized fish wrapped with paper bearing the groups demands. After a fairly short amount of time, the bank would notice something “fishy” down in its vault. But, not knowing where the problem box was, the bank had to get a court order to open up all of the safe deposit boxes. This is a tactic that is definitively on, if not over, the edge. This is true story, which CHEJ does not endorse in spite of its effectiveness.

### **Demand the Right to Vote**

At least in theory, we still live in a democracy. A LULU will have a profound effect on the quality of life in your community. Further, many LULUs get, or seek to get, public financing. These are a couple of good reasons for why the issue can rightfully go before the voters.

Generally, any approach that, for all practical proposes, puts the fate of your battle entirely on the result of a one-day, up-or-down vote is risky. But, on the other hand, citizens' groups have consistently won such votes at the polls. For that reason, dumpers and their government allies usually resist allowing the question to go before the voters. For example, the Spokane, Washington, City Council filed suit against, in the terms of the

suit, “the people of Spokane, the voters of Spokane and the ratepayers of Spokane” to deny the people the right to vote on the municipal bonds to support a Wheelabrator incinerator.

Some groups have won the right to vote by getting their legislatures to enact that right into law. Tennessee was the first state to grant the right of county residents to vote on any hazardous waste site proposed in their county.

Unfortunately, that law was repealed when EPA threatened the state with specific sanctions involved in the North Carolina “Reillygate Scandal.” Kentucky and Oklahoma passed similar laws and resisted EPA (and industry) pressure to repeal them. The federal courts upheld the state of West Virginia's practice of requiring a binding referendum in counties where construction of a large landfill – one that accepts 10,000 tons or more per month - was proposed. State officials hailed the ruling as an affirmation of their efforts to control how much waste gets landfilled in West Virginia. So far only, two counties have held referendums since 1994, one county approved the landfill and one county rejected one.

Many states have laws allowing for citizens to get questions put onto the ballot by petition. There are also pretty solid grounds for forcing a vote on a matter that involves issuing government bonds.

Here's a low-risk tactic you can use whether or not you have an explicit, legal right to vote. At the next election or primary day, hold a “People's Poll.” It's simple. Set up a card table at as many polling places as possible. Set up at the point where “electioneering” is permitted. Drape the table in red-white-and-blue bunting. Put a flag or two behind the table and post a sign that entices people to come over and “vote” (e.g. “Come Vote on a Matter of life and death” or “Come Vote on the Question Chemical Industries Doesn't Want You to See”). You should get a pretty good result, in fact, probably better than you would get if it were a formal, on-the-ballot question. And it's a lot easier and less risky.



## Recall Petitions

A petition demanding the removal of an elective officer is known as a recall petition. This strategy can be an intimidating way to put pressure on your local officials. Just the suggestion of a recall can quickly get your mayor or councilman's attention. But a Recall Petition is work and it needs to be something the group decides on doing. Not only are there regulator procedures and timelines there's an awful lot of doorknocking. CHEJ has seen where a recall election has worked in small rule towns.

BFI wanted to site a mega landfill in Eureka, Kansas. The Greenwood County Landfill Watch Committee stopped this proposed landfill by filing for a Recall Election, which ousted two County Commissioners and elected their own candidates as councilmen. The Landfill Watch collected the required signatures of registered voters needed to start the process, as required by law. The petition stated that the Commissioners "willfully violated" the Kansas Opening Meetings Act by participating in a prearranged meeting with BFI officials. This meeting was not disclosed to the public, not open to the public, and official notice was not provided to those who had request it."

## Liability

All across the country, local governments are losing their liability insurance coverage or are having to pay 4-5 times as much money for half the coverage because of claims and settlements resulting from pollution. If your local government is in any way involved in the proposed facility planning, you ought to remind them of the dim view insurance companies take towards such facilities. It's gotten so bad for local governments that they have trouble getting insurance for anything! Even school sports! They don't need the aggravation of having irate citizens raising issues that will flag attention of the insurance companies.

The courts have also held that any party who invests in a site—banks, investors, shareholder, future owners who acquire the business—could held liable for clean up costs at a LULU. You can pick off these LULU backers and choke a site to death by rubbing their noses in these harsh realities.



# Chapter 11

## Alternatives


When you are pushed to come up with “alternatives,” consider the built in contradiction. According to the LULU supporters, you’re not qualified to judge the proposal on its merits. But on the other hand, they expect you to be qualified to come up with a better alternative. Which is it? The truth is they figure you won’t come up with an alternative and figure they can get you to waste time, energy, and resources trying to do their job for them.

But you are qualified to apply your own good common sense to decide whether a facility makes sense. You can leave it at that. It’s perfectly moral and good sense to simply say, “I don’t LIKE that and I don’t WANT it” and not take the bait of trying to cook up an alternative.

Some of you may not feel comfortable with that. Or, some of you may have important group members who insist that you must come up with alternatives. If it is the judgment of the group leadership that it’s in the group’s interests to work up alternatives, you should look over CHEJ resources on the subject. Many have been mentioned in this guidebook. Among the best are: *Reduction of Hazardous Waste, Recycling, and Advanced Treatment*

*Technologies.* There’s also sound advice on alternatives for dealing with garbage in our Solid Waste Action Guidebook. As a set of general principles, we advise grassroots groups to stand firm for the following principles:

- No new wastes site should be considered until there is a detailed, comprehensive plan that shows a sincere effort to use all positive waste management methods to reduce, recycle and compost waste and to deal with any remaining waste where it is produced.
- “Public Participation” may be industry and government’s favorite slogan, but the real issue is community control. No waste sites should be allowed unless they are under complete community control.
- Think local and think small. As a matter of principle, CHEJ and all others who generate waste must take direct, personal responsibility for the consequences of that waste. Whenever a waste generator can export its waste to some mega-LULU somewhere else that takes away the incentive to do the right thing.



# Chapter 12

## Conclusion

This concludes the latest edition of CHEJ's *How To Deal With Proposed Facility*. The advice we've given you in this volume is almost identical to the advice we gave in the first edition more than twenty years ago.

What has changed is the sheer size of the Grassroots Movement for Environmental Justice and the many new and wonderful ideas they've developed for dealing with the problem of unsafe and unwarranted

facility. Further, there's now over 20 years of solid, consistent success behind the concepts you have just read. It should give you a good start in your community to protect it against your LULU. We hope you will come up with your own new approaches (and will share them with us so we can include them in the next edition!).

But, now it's time to stop reading and get out there and start talking to people!

### Related CHEJ Guidebooks and Factpacks

- *Fight to Win: A Leaders Manual*
- *User's Guide To Lawyers: How to get them to work for you so you're not working for them*
- *Should Your Group Incorporate?*
- *Reprints: Legal Corner from Everyone's Backyard*
- *How to Deal With a Proposed Facility*
- *Research Guide for Leaders*
- *Best of Organizing Tool Box I and Best of Organizing Toolbox 1994-2000.*
- *How To Deal With Trouble, A Practical Guide for Grassroots Leaders Who Want To Be The Ones Making Trouble, But Don't Want Trouble To "UnMake" Them*
- *Polluter's Secret Plan*
- *Reduction of Hazardous Waste*
- *Recycling*
- *Advanced Treatment Technologies*
- *Solid Waste Action Guidebook*
- *Local Ordinances*



“CHEJ is the strongest environmental organization today – the one that is making the greatest impact on changing the way our society does business.”

*Ralph Nader*

“CHEJ has been a pioneer nationally in alerting parents to the environmental hazards that can affect the health of their children.”

*New York, New York*

“Again, thank you for all that you do for us out here. I would have given up a long time ago if I had not connected with CHEJ!”

*Claremont, New Hampshire*



**Center for Health, Environment & Justice**  
P.O. Box 6806, Falls Church, VA 22040-6806  
703-237-2249 [chej@chej.org](mailto:chej@chej.org) [www.chej.org](http://www.chej.org)

