

# Ava, NY Landfill Timeline

**1934-1944:** Beginning of purchases and creation of Oneida County Reforestation under the leadership of Superintendent Wallace Brown; 798 acres of farm land straddling both sides of what is now State Route 294 in the Town of Ava, between Boonville and West Leyden, New York

**1950:** Theodore Woolslager, a forester and World War I veteran, involved with the creation of the Oneida County Reforestation, promotes the idea of creating a Veterans' Memorial Forest in Ava, NY

**1951:** Two Boonville veterans' posts, Harland J. Hennessey Post No. 5538 V.F.W. and Charles J. Love D.S.C. American Legion Post No. 406, petition the Oneida County Board of Supervisors to designate the reforestation area as a "Veterans' Memorial Forest"

**1952:** Local organizations and businesses from the towns of Boonville and West Leyden donate materials and labor to create the Veterans' Memorial Forest

**May 30, 1953:** Dedication of the Veterans' Memorial Forest takes place with Dr. Foster Brown, President of Oswego College, and son of Wallace Brown, giving the main address. A bronze marker is dedicated in memory of all veterans who have served their country.

**Summer 1953:** North County Life publishes article by T.P. Wooschlager entitled, "Oneida County's Veterans' Memorial Forest" *A living memorial – nearly 800 acres of waving green trees near Boonville in Oneida County – was dedicated last spring to the veterans who have fought and won our wars so that freedom and democracy might live ... Oneida County is justly proud of this living memorial, one of the finest Veterans' Memorials in New York State, or perhaps the whole Northeast.*

**1952-1960's:** Byron Trainor of West Leyden makes sure the flag is raised and lowered every day while keeping up the appearance of the area surrounding the marker.

**1987:** Oneida-Herkimer County landfill effort was initiated

**1988:** Oneida-Herkimer Solid Waste Authority (OHSWA) was created and approved by Governor Mario Cuomo and issued \$50 million in bonds for "start-up costs"

**1988-1990:** Potential landfill sites were identified (Trenton, Newport, Deerfield) and later eliminated *See OHSWA Draft Environmental Impact Statement* for more information

**July 10, 1989:** OHSWA executive director Hans Arnold acknowledges county owned reforestation cannot be used for a landfill in a letter to Joseph Dziedzic, Secretary, Herkimer County Conservation Alliance

**July 16, 1991:** OHSWA writes letter to Assemblyman Dave Townsend with regard to using public lands for a landfill. Townsend responds by stating Oneida County Law 219 prohibits use of reforestation land for anything but reforestation.

**January 1992:** OHSWA selected as lead agency for purpose of siting and constructing a long-term full service landfill for Oneida-Herkimer counties

# Ava, NY Landfill Timeline

**March 1992:** *OHSWA Draft Environmental Impact Statement* eliminates the use of public lands (Veterans' Memorial Forest) as a potential landfill site

**1992:** OHSWA asks Oneida county executive Ray Meier if the Veterans' Memorial Forest can be used for the landfill contrary to previous OHSWA communications and statements acknowledging County Law 219

**March 1992:** OHSWA places advertisement in *Utica Observer-Dispatch* and *Herkimer Evening Telegram* newspapers to solicit willing sellers from Oneida and Herkimer counties

**March 18, 1992:** *Utica Observer-Dispatch* article, "Secret Waste Meeting May be Illegal"

**April 14, 1992:** Letter from New York State Department of Environmental Conservation director of solid waste John Kenna to Steven Wood - to protect Frankfort, Newport, Norway from being identified as potential landfill sites

*Isn't the DEC supposed to be objective in siting potential landfill sites? Why would the DEC want to protect Herkimer County sites?*

**May 1992:** OHSWA newsletter claims 40 willing sellers offer private land for the potential landfill; OHSWA refuses to publish sellers' names in violation of the Freedom of Information Law

**June 1992:** Landfill siting methodology from *OHSWA Environmental Impact Statement* is modified by OHSWA for the first time

**August 1992:** Landfill siting methodology is modified by OHSWA for the second time; 42 owners offer 46 properties for potential landfill; Ava resident Ron Rushford files lawsuit to obtain names of sellers from OHSWA - process takes 3 years – Appellate Court of Rochester rules in favor of releasing names

**October 1992-April 1993:** OHSWA identifies 79 potential landfill sites for further evaluation; OHSWA establishes numerical ranking system (*see OHSWA Environmental Impact Statement*) approved by DEC; ranked from high to low based on numerical scores - top ranked sites were evaluated by additional non-numerical evaluation based on 16 additional environmental, cultural, social, economic criteria

**February 1993:** County Executive Ray Meier authorizes testing (digging) in County Reforestation land (Veterans' Memorial Forest) in violation to County Law 219 and without the permission from Oneida County Legislature.

**February 1993:** Ava resident Alex Stempien discovers OHSWA digging between Krupp and Pohl Road on GBF Corporation land (2 miles south of the Veterans' Memorial Forest); excavators refuse to answer Stempien's questions – OHSWA quickly abandons Pohl Road site and targets the Veterans' Memorial Forest as the ideal place to construct a 104 landfill. OHSWA sites the preference for using public land (violating County Law 219) and claims that the "marker" located on Rt. 294 is the entire Veterans' Memorial Forest

# Ava, NY Landfill Timeline

**March 1993:** AVAL formed - Ava Voices Against the Landfill

**March 5, 1993:** Rome *Daily Sentinel* - OHSWA says landfill has to be located on at least 200 acres, 40-60 acres footprint, 170,000 tons of garbage per year, 20 years, 36-45 million dollars cost

**March 24, 1993:** To NYSDEC Staff from Region 6 Director Thomas E. Brown – purpose to designate Michael Barylski, Project Coordinator OHSWA Landfill Siting Effort – memo states “The success of this project is extremely important and will require that all DEC staff work together as a team. Please give Mike your fullest cooperation on this important project.”

**May 1993:** Meetings held by OHSWA at Adirondack Central High School bring hundreds of local citizens protesting a proposed landfill on the Veterans’ Memorial Forest

**May 1993:** OHSWA publishes top 10 landfill sites in order of OHSWA ranking

1. Ava (Veterans’ Memorial Forest), Oneida County
2. Fairfield - Norway, Herkimer County
3. Verona, Oneida County – Oneida Indian Land Claim Area
4. Verona, Oneida County – Oneida Indian Land Claim Area
5. Fairfield - Newport, Herkimer County
6. Deerfield, Oneida County
7. Fairfield - Little Falls, Herkimer County
8. Verona, Oneida County- Oneida Indian Land Claim Area
9. Verona, Oneida County – Oneida Indian Land Claim Area
10. Verona, Oneida County – Oneida Indian Claim Area

**Important Note: Joe Paluck’s farm in Ava (present landfill site) did not make the top 10 potential landfill sites, nor the list of 79 possible landfill sites in Oneida and Herkimer Counties.**

**May 17, 1993:** *Boonville Herald* - Veterans’ Memorial Forest (public lands) sited for 105-year landfill, violating County Law 219

**May 1993:** OHSWA proposes to build a bypass road as a part of the landfill project @ a cost of \$2.7-3.3 million or build a railroad bypass option for \$13 million for 4-5 miles of track

**May 1993:** Local veterans are outraged when Veterans’ Memorial Forest is selected as future landfill site; Veterans Defending Memorial Forest organization is formed

**June 1993:** *Utica Observer-Dispatch* - OHSWA estimates testing costs for Ava site(s) to be \$60,000 but approximately one year later, actual cost was over one million dollars

**June 1993:** Oneida County American Legion Posts unanimously pass resolution against OHSWA’s selection of Veterans’ Memorial Forest in Ava as a landfill site

**June 23, 1993:** *Boonville Herald* - Letter from Town of Lewis Board indicates an underground lake exists in West Leyden and supplies drinking water for entire town; located only 1 mile from landfill site - ***Town of Lewis did not have representation at the vote to confirm the Ava landfill site because they were not from Oneida County***

# Ava, NY Landfill Timeline

**June 1993:** Adirondack Communities Advisory League (ACAL) is formed to protect the land, air, water, and wildlife in this region

**June 1993:** ACAL hires environmental attorney Michael Gerrard from Berle – Kass & Case Law Firm, New York City

**July 7, 1993:** *Boonville Herald* - 200 local residents go to Oneida County office building with 2,583 signatures against landfill – over 3 times the population of Town of Ava (725)

**July 13, 1993:** *Boonville Herald* - ACAL files lawsuit with regards to County Law 219; OHSWA maintains that "... the New York Public Authorities Law empowers the Authority to acquire [the] county land." ACAL argues that the law creating the Authority does not supersede County Law 219

**July 14, 1993:** *Boonville Herald* - Hans Arnold says landfill will accept 400-600 tons of garbage per day; projected 1998 tipping fee will be \$134 per ton

**July 20, 1993:** *Daily Sentinel* - OHSWA insists the Veterans' Memorial Forest is their only choice for a landfill. They claim the Memorial is public land and a county reforestation area, and viewed as being a favorable landfill site despite opposing views from area citizens and veterans

**August 11, 1993:** *Boonville Herald* - OHSWA evaluates 3 solid waste alternatives based on Barton & Loguidice's March 1993 presentation:

- 1) build a new waste-to-energy plant (\$104 million ) or rebuild the energy recovery facility (\$100 million)
- 2) build a new long-term landfill (\$36-45 million)
- 3) continue exporting waste to PA (no cost estimate provided)

**August 16, 1993:** OHSWA files lawsuit against 22 Ava landowners to test on their properties

**August 30, 1993:** Oneida County Judge Tenney fails to rule on ACAL's lawsuit regarding 5 landowners and County Law 219

**August 1993:** Ava fights to have eligible landowners included in Agricultural District for farmland protection; agencies involved in decision-making process were:

Oneida-Herkimer Solid Waste Authority,  
Oneida County Environmental Management Council,  
Oneida County Agricultural and Farmland Protection Board, Oneida County Department of Planning,  
Oneida County Board of Legislators

See *Report to the Oneida County Legislature on Landfill Siting, p.8-12*

**SEE AG DISTRICT NOTES – APPENDIX A**

**September 1993:** Judge Tenney gives permission for "walk-overs" on property of 22 land owners; **Joseph Paluck's farm, represented as unfavorable hydrogeology and not included in OHSWA's original top 10 list, was selected for further testing - OHSWA walks on Paluck farm accompanied by 8 State Police officers**

# Ava, NY Landfill Timeline

**September 1993:** Judge John R. Tenney threatens to hold landowners in contempt of court should they decide to write letters to local newspapers expressing their opinions of court proceedings

**September 1993:** 7/20/93 DEC letter to OHSWA recommends they delineate federal and state wetlands before testing; OHSWA Attorney Rayhill countered w/ letter from Army Corp of Engineers authorizing testing w/ heavy equipment; Army Corps of Engineers issued OHSWA a permit to cross wetlands with strict provisions to mitigate against extensive environmental damage; published photographs provide evidence OHSWA was in violation of said provisions outlined in permit; Judge Tenney denied application for the court to require wetland delineation to be conducted before testing

**September 1993:** OHSWA violates agreement with Oneida County Executive Ray Meier stating landfill site testing must be conducted in the presence of the County Conservation Officer

**September 15, 1993:** *Boonville Herald* - Member of Boonville VFW Hennessey Post and Disabled American Veterans (Korean War) New York State Senator William R. Sears is adamant in his objection to use the Veterans' Memorial Forest as a landfill – "I cannot emphasize this enough, I have been against this right from the start."

**Sept. 93- Oct. 94:** Testing on Paluck farm took over 1 year

**September 1993:** Arnold writes 8/24/93 letter to Chairman of Oneida County Farmland Protection Board Neil Angell demanding OHSWA become involved in the Ava Ag District issue

**October 1993:** OHSWA continues to violate Oneida County testing agreement by testing on Veterans' Memorial Forest; private citizens threatened by heavy equipment

**October 1993:** At the request of members of the Gleasman family, OHSWA begins to search for local cemeteries on landfill site

**December 1993:** All Ava parcels in close proximity to the landfill were ALL denied Ag District approval except Joe Paluck's farm - first approved Oct. 15, 1993 and removed from the list on Nov. 10, 1993

**SEE APPENDIX A**

**December 23, 1993:** OHSWA offers to buy Paluck farm for \$239,850

**December 1993:** Testimony from President John Mondrick of Oneida County Farmers Union to Oneida County Legislators - Paluck's farm should have been permanently accepted based on Ag District criteria, not because OHSWA wanted the farm for their landfill

**December 1993:** OHSWA estimated cost to build the landfill was \$50-80 million

# Ava, NY Landfill Timeline

**January 20, 1994:** *Daily Sentinel* - OHSWA offers to buy Paluck farm for \$239,850 [original offer] 369 acres, older house and barns - full value assessed @ \$100,388

SWA projects testing (drilling, digging) to be completed by Feb. 1994 ... SWA offered Paluck a \$40,000 option to purchase

**March 1994:** OHSWA claims landfill will be 105 years, 125 feet high, and receive 500 tons of garbage per day

**March 3, 1994:** Letter to all town supervisors in New York State from State Low-Level Radioactive Waste Siting Commission seeking volunteer communities to host a low-level radioactive waste site – later became a dead issue when there were no “takers”

**\*\*\*As of 2005, NYS has not resolved the issue of where to put radioactive waste.\*\*\***

**May 1994:** Paluck says “NO” to OHSWA land offer

**May 1994:** Ava/Boonville residents begin to lobby Oneida County Legislature on a monthly basis in protest against the Ava landfill

**May 1994:** OHSWA charging \$88 per ton (audit)

**May 1994:** *Journal & Republican* - Clarkstown, Rockland County vs. Carbone deemed flow control illegal in U.S. Supreme Court – the court ruled that local governments cannot require all trash within their borders be sent to a designated facility

**June 1994:** *Daily Sentinel* – OHSWA Attorney Phillip Rayhill states, “Clarkstown does not apply to the Oneida-Herkimer Solid Waste Authority”

**June 4, 1994:** *Daily Sentinel* – The Authority’s charter leaves the counties responsible for their debt (Oneida 75%, Herkimer 25%) should landfill fail financially; OHSWA is currently about \$50 million in debt

**July 13, 1994:** ACAL invites OHSWA to publicly debate landfill issue with internationally renowned solid waste expert Dr. Paul Connett, Professor of Chemistry, St. Lawrence University, NY - **OHSWA refused to participate**

**August 24, 1994:** Letter from Hans Arnold indicates preparation and application of landfill siting methodology, including on-site testing costs from 1989-1994 were just over \$2 million – **Original OHSWA estimate was \$60,000**

**September 1994:** Oneida County Legislature refuses to help transfer ownership of the Veterans' Memorial Forest to OHSWA

**September 1994:** SWA to test WLE-5 East and West, Ava and Tannery Rd., Rome for landfill site feasibility

**Sept. 26, 1994:** *Boonville Herald* - Site Suitability Study of WLE-5 East and West (Veterans’ Memorial Forest), Ava and Tannery Road, Rome - **shows Ava site to be more costly**

# Ava, NY Landfill Timeline

**Sept. 27, 1994:** Michael J. Bean, Chairman Wildlife Program, Environmental Defense Fund, sends letter to Mr. Westley A. Ford, Department of the Army, Buffalo District Corps of Engineers regarding OHSWA proposed landfill site WLE-5 in the Town of Ava. He urges the Corps to carefully consider 3 issues in their review of the site.

1) **The landfill is “simply not necessary” considering excess landfill capacity in New York State;** the use of recycling, reusing, and composting; predicted decrease in population of both Oneida and Herkimer Counties.

2) **Proposed site possesses diverse habitats.** Fifteen species that under state or federal law are considered endangered, threatened, rare, or special concern have been observed in or near the site including immature and adult bald eagles, bog turtles, peregrine falcons, Northern harriers, and ospreys. “Destruction of this habitat by the construction of a landfill will detrimentally impact the area’s unique wildlife, some of which is protected by state and federal laws.”

3) **Negative impacts the proposed landfill will have on the area’s water supply and wetlands should be carefully considered.** WLE-5 contains NYSDEC Conservation Class II Wetlands, and approximately 40% of WLE-5 consists of potential federal wetlands. “The site is bordered on three sides by aquifers and on the east side by the Boonville reservoir, and is a recharge area for both the Black River and Tug Hill aquifer. Considering that almost the entire area relies on private wells, the proposed landfill is a significant potential threat to the area’s water supply.”

**September 27, 1994:** *Observer-Dispatch* - 107 private wells are located within 1 mile from landfill site; SWA estimates possible Boonville bypass road to cost \$1.69 – 4.64 million

**October 5, 1994:** NYS Senator William R. Sears and Assemblyman David R. Townsend said that they refuse to introduce, sponsor or co-sponsor legislation in Albany that would allow the taking of county reforestation land, including the Veterans’ Memorial Forest in Ava for a landfill. “We are making a firm commitment to Veterans, and our friends in the North Country, to ensure this sacred living memorial will not be desecrated,” said Senator Sears. Assemblyman Townsend stated, “Our promise to the community is that we will not support any such proposals. The Veterans’ Memorial Forest was established through promises which should be upheld, not broken.”

**October 27, 1994:** Initial assessment of wetland delineation by Hudsonia (a non-profit institute); Botanist Gretchen Stevens completed study on WLE-5 East

**SEE APPENDIX B for details on Gretchen Stevens’ important study**

**November 1994:** Mohawk Valley Community College, Utica, NY - OHSWA announces proposed landfill site in Ava is to be moved just east of the Veterans' Memorial Forest. Local veterans and residents are unhappy with the new location of the proposed site, less than 1,000 feet from the Memorial Forest. Ned Ross, chairman of ACAL, vehemently vows to continue the fight against the landfill.

**November 1994:** Local veterans hold annual Veterans' Day Ceremony at the Memorial Forest

# Ava, NY Landfill Timeline

**November 8, 1994:** Acting Field Supervisor of U. S. Dept. of Fish and Wildlife David A. Stilwell letter to OHSWA Chairman David Link expressing concern that Ava landfill site will “adversely impact about 40.5 acres of primarily palustrine emergent wetlands which is about twice the previous projection of about 20 acres. This doubling is cause for concern.” The service suggested the alternatives be re-evaluated “to see if less damaging alternatives can be found, particularly with respect to fish and wildlife resources.” *This letter was discovered by ACAL attorney Michael Gerrard after inspecting U.S. Army Corps of Engineers’ files through the Freedom of Information Act. Oneida County Legislator Pam Mandryck stated in a 4-19-95 Rome Sentinel article: [The authority] “buried information that definitely has the potential of changing the site decision.”*

**November 8, 1994:** NYSDEC Thomas E. Brown letter to OHSWA Chairman David Link encourages OHSWA to continue their efforts to site a 2-county landfill “this office believes there is a pressing need for in-county waste disposal within the two counties.”

**December 11, 1994:** *Watertown Daily Times* – Development Authority of the North Country (DANC) officials report a drop in tonnage of garbage at their facility and are concerned if this trend continues, tax payers of the 3 counties would have to pay any deficit – *In 1998 DANC expands Rodman facility to include garbage from 100 mile radius - OHSWA ignores offer; In 2004, DANC offers to accept Oneida-Herkimer garbage for 50 years – OHSWA declines offer*

**February 1995:** Seneca Meadows offers to take Oneida-Herkimer garbage in a letter to OHSWA executive director Hans Arnold – Distance from Utica to Seneca Falls is 96 miles, and distance from Utica to Taylor, PA is 151 miles (where OHSWA was shipping garbage)

**March 28, 1995:** Letter to Hans Arnold from Conservation Chair of Old Erie Audubon Bruce R. Carpenter, raising questions with regards to future population in Oneida-Herkimer countries and whether a large landfill is needed; recommends looking into other alternatives as suggested by the U.S. Fish and Wildlife recommendation (see 11/08/1994 letter) including transporting Oneida-Herkimer garbage to the Rodman landfill

**April 1995:** NYSDEC Commissioner Michael Zagata letter to Hans Arnold in response to Arnold’s claims that the “Seneca Meadows’ liner system is obsolete” – Zagata clarifies Seneca Meadows is NOT operating under outdated standards as Arnold implied

**April 14, 1995:** Letter to Hans Arnold from Joseph Homberger concerning the presence of a “buried sand unit” (principle aquifer) on the Ava landfill site

**April 24, 1995:** OHSWA authorized agreement with Joseph Paluck for access in testing and contingent purchase of approx. 381 acres for \$444, 760 (including drilling and testing compensation); *The agreement authorizes the purchase ONLY if all required permits are granted by the state and other governmental agencies.*

**April 25, 1995:** *Daily Sentinel* – Arnold said the authority will not move to exercise the purchase option on Paluck property until it has completed testing and the site has been permitted for a landfill by NYSDEC

# Ava, NY Landfill Timeline

**June 23, 1995:** NYSDEC Commissioner Michael Zagata letter to Hans Arnold regarding Arnold's request to obtain over 2,600 pages of Seneca Meadows monitoring documents ... "While we [DEC] are mindful of the difficulties you are experiencing due to competition for waste with the Seneca Meadows Landfill, we have no basis at present to take any action against that facility that would stop this competition."

**August 22, 1995:** *Rome Sentinel* - Archeological dig initiated by Gleasman descendants to search for ancient burial ground located on Gleasman Farm in 1830's (still identifiable by family members in 1939-40) and for 2 Gleasman infants buried on Ava landfill site in the 1800's

**Sept. 1995 – Dec. 1996:** \*\*\* SEE APPENDIX D – NYSDEC MEMOS \*\*\*

**November 1995:** ACAL sponsors conference in Boonville to discuss waste management alternatives; led by internationally renowned St. Lawrence University Chemistry Professor, Dr. Paul Connett

**January 10, 1996:** *Observe-Dispatch* – OHSWA states Ava landfill will be 128-acres within a 1,590-acre site, will cost \$38-42 million and open in August 1998

**February 25, 1996:** *Syracuse Herald American* – Oneida-Herkimer Solid Waste Authority claim they will move graves to another location should they be found; Gleasman family insists the gravesites exist and are concerned the archeological dig went down only 6 inches

**April 25, 1996:** *Daily Sentinel* – 6 private garbage haulers sued OHSWA to break county's flow control law; private haulers argue they need to seek the lowest tipping fees in order to stay in business (free enterprise)

**May 29, 1996:** *Boonville Herald* – Dedication of historic marker for an early cemetery on Germanski (Gleasman) Road which is located on the banks of the Moose Creek, Town of Ava Right-of-Way

**September 19, 1996:** Request by Ava town officials to meet with NYSDEC to hold discussions, questions and answers concerning landfill

**November 1996:** OHSWA states cost of landfill will be \$36-39 million [OHSWA figures decreased from \$38-42 million in January 1996]

**May and Nov. 1996:** Local veterans continue to hold special ceremonies at the Veterans' Memorial Forest, including Memorial Day and Veterans' Day

**November 25, 1996:** *Observer-Dispatch* – Ava landfill construction is behind schedule, could be 2000 or later before garbage is accepted

**December 16, 1996:** Scoping Session held at Adirondack High School, 400-500 people attended (Boonville Herald), 3 ½ hours – Authority stated in a prepared document the Ava landfill will be full service and can accept solid waste by households, commercial establishments and industries, construction and demo debris, sludge and any residues from recycling, composting, incineration or other processing technologies. According to SWA only trash from Oneida and Herkimer counties will be accepted and "no portion of the county reforestation area is proposed for landfill development."

# Ava, NY Landfill Timeline

**January 17, 1997:** *Daily Sentinel* – Consulting firm Geraghty and Miller, working for the NYSDEC, ruled that there is no principal aquifer on the Ava landsite – However, Dr. Andrew Michalski, hydrogeologist, hired by ACAL, stated that conditions at the surface strongly suggest the site is a principal aquifer and that the Solid Waste Authority’s Site Investigation Plan ignored the principal aquifer issue

**January 20, 1997:** In a letter to Attorney Michael Gerrard from OHSWA executive director Hans Arnold in response to concerns over New York City waste importation, Arnold states, “I can assure you that the Authority’s position on waste importation remains unchanged. We haven’t done it, we don’t do it now, and we don’t plan to do it in the future.”

**March 1997:** NYSDEC Acting Commissioner John P. Cahill testimony before U.S. Senate Committee on Environment and Public Works presented the state’s viewpoint on flow control and interstate waste issues. “We believe that our waste exports should be sent only to those communities willing to receive it and, are willing to work with interested municipalities to develop these agreements. To exemplify this commitment, NY City and the State have made the commitment to require any facility accepting residential solid waste exported by the city to have a host community benefit agreement in place.”

***As of August 2005, the Town of Ava officials have refused to negotiate any host community benefits.***

**July 14, 1997:** Ava Town Board resolution declines OHSWA offer to discuss “host community benefits” and encourages waste authority to “select one of the many viable waste management alternatives available to you in the market place.”

**August 8, 1997:** *Daily Sentinel* – In response to the landfill’s financial status, Hans Arnold states on the issue of halting the landfill process, [it]“would cause the loss of the \$5-6 million investment”.

**September 1997:** ACAL purchases 50 acres from the estate of Rudolph Olesen for \$5,000 – land borders Ava landfill site and contains wetlands

**December 1997:** OHSWA claims the landfill will cost \$33-36 million – down from \$38-42 million in 1996

**January 13, 1998:** *Daily Sentinel* - Article states two-county landfill in Ava will cost more than \$137 million upon completion

**January 1998:** *Draft Environmental Impact Statement* p. 28, 39, 229 states Ava landfill will accept 797 tons of garbage per day, height to be 138 feet high, length of landfill is 67 years on 150 acres

**January 27, 1998:** *Daily Sentinel* – Legal Notices – “Although it is not part of the proposed transportation plan, OHSWA continues to be interested in working with town and village of Boonville officials on the potential future development of a bypass road. If a permit to construct a landfill is obtained for site WLE-5 East and local officials request a bypass route, the SWA would be willing to provide all of the financing and to conduct all of the necessary environmental and engineering studies for that route. Selection of any bypass route would reflect the mutual agreement of local officials and the SWA.”

# Ava, NY Landfill Timeline

**February 1998:** Comments on Draft Environmental Impact Statement WLE-5 East by Dr. Andrew Michalski, Hydrogeologist – **SEE APPENDIX C**

**March 2, 1998:** *Daily Sentinel* - Veterans and citizens continue to speak out against the Ava landfill at a 2/28/98 public hearing in Boonville; ACAL attorney Michael Gerrard challenges the lack of non-transfer ability in OHSWA's landfill permit – Hans Arnold states, “This is the only waste authority (OHSWA) in New York with a statutory requirement it can't import trash.”

**April 14, 1998:** *Daily Sentinel* – OHSWA's director of engineering Michael Wolak stated, [“The landfill is in the Black River drainage basin so any possible flow \(from the landfill\) would be to the Sugar River to the Black River, up north.”](#)

**May 20, 1998:** *Boonville Herald* – Ornithologist Robert Andrie, PhD reports there are 51 species of birds recorded on the proposed Ava landfill site

**June 17, 1998:** *Boonville Herald* – Hydrogeologist Dr. Andrew Michalski, states *“The authority and I have reached two totally different conclusions on the hydrogeology of the proposed landfill site ... I stake my reputation on what I'm saying, an aquifer exists under the site, the authority data proves that it does.”*

**July 21, 1998:** *Daily Sentinel* – OHSWA claims landfill site is 532 acres, tipping fees are currently \$44 per ton at Rodman, \$79 per ton that contract haulers pay to OHSWA, and \$93 per ton paid by Rome

**August 1998:** OHSWA *Final Environmental Impact Statement* - 62 years, 797 tons per day, 150 acres, 138 feet high

**September 1998:** Hans Arnold files for DEC permit and requests 1,000 tons of garbage per day, 150 acres (footprint), 184 feet +/- high and included a groundwater separation variance – **These figures are in conflict with figures presented one month earlier in the Final Environmental Impact Statement.**

**September 1998:** DANC expands Rodman facility to include garbage from 100 mile radius - OHSWA ignores offer – OHSWA transfer station in Utica is approx. 85 miles from Rodman

**September 1998:** Lewis County Legislators pass resolution to oppose the Ava Landfill

**September 19, 1998:** OHSWA purchases 389.63 acres for \$371,200 from Joseph Paluck ***OHSWA violated” The agreement [which] authorizes the purchase ONLY if all required permits are granted by the state and other governmental agencies. (See April 1995)***

**October 1998:** Waste Dynamics Northeast – “Where Will the Garbage Go” – annual study of the legislative commission on solid waste management – Assemblymen Steve Englebright, Chairman of the Commission, states with regard to landfills, “Sort of a stone age technology of throwing your garbage into a big heap and sprinkling some sand across the top of it to keep the rats down.”

**December 30, 1998:** OHSWA submitted its permit application for the proposed landfill on Sept. 17, 1998 while local municipalities continue to oppose the landfill - \$108,000 was appropriated by the Towns of Ava, Boonville, Lewis and Village of Boonville to retain environmental attorney Michael Gerrard of the New York City Law Firm of Arnold and Porter.

# Ava, NY Landfill Timeline

**January 7, 1999:** Comments from Botanist Gretchen Stevenson on OHSWA Final Environmental Impact Statement for WLE-5 East - **SEE APPENDIX B**

**January 11, 1999:** Letter to Deputy Regulatory Permit Administrator NYSDEC Joseph Homburger, from Daniel Gutman (B.S., M.S. in Physics) Comments on air quality analysis in the Final Environmental Impact Statement - **SEE APPENDIX E**

**March 9, 1999:** *Daily Sentinel* - Major dispute between Waste Systems International accusing the Oneida-Herkimer Solid Waste Authority of “predatory” practices. OHSWA charges contracted haulers \$79 per ton tipping fees as compared to WSI’s \$40 per ton tipping fee – In a Jan. 13, 1999 article in the Canastota Bee-Journal, Madison County dropped tipping fees by \$18 per ton when they signed a contract with WSI

**December 25, 1999:** *Observer-Dispatch* - OHSWA purchases 45 acres from Ava land owners, making OHSWA’s total property acquired: 575 of the 640 acres it desires to own Hans Arnold was quoted as saying there would be a need for a landfill over the next 50 years – “I’m looking to next year as the year we will have the landfill permit in hand.”

***OHSWA continues to purchase property without the necessary legal landfill permits.***

**March 22, 2000:** *Daily Sentinel* – Hans Arnold states in reply to citizens’ concern of the emission of a foul odor at the [landfill] location, “First of all, all of the waste that is brought into the landfill is covered each and every day so that odors that might be generated are stopped at the beginning.”

*In addition, methane gas which is produced by solid waste, whether stored in a garbage can or a landfill, will be collected and transported to a central location within the landfill and ultimately, according to Arnold, could power an electric generator in the future.*

Arnold also states, “We have very, very, deep tight soils so if all the technology was to fail, which is highly unlikely, but you still contain contamination in a way that it can be cleaned up decades before it reaches drinking water.”

**“I would not be involved in this if I had any belief that this kind of facility would have a negative impact on the environment. This is the most environmentally sound way to handle solid waste.”** “... State and federal regulations require new landfills to be built in locations where the ground water won’t be jeopardized or put at risk, particularly where people’s drinking water will not be put at risk. Right from the start, our approach in following those regulations was to find the best possible site from the objective of protecting drinking water.”

**May 3, 2000:** *Daily Sentinel* – Greenbrier Management Corp., a solid waste disposal company, met privately with Rome Mayor Joe Griffo and offered to build a landfill in West Rome that would accept New York City garbage. Greenbrier offered the City of Rome \$5 million per year in annual payments. This offer came as a result of Fresh Kills landfill closing in Staten Island.

**June 15, 2000:** *Daily Sentinel* – OHSWA Director of Engineering Michael Wolak states, “The high quality wetlands such as beaver ponds in open water areas surrounding the site will not be altered. In addition, methane gas which is produced by solid waste whether it is stored in a garbage can or a landfill, will be collected and transported to a location where it will go through a combustion process.”

# Ava, NY Landfill Timeline

**June 20, 2000:** *Daily Sentinel* - OHSWA states cost of the proposed Ava landfill will be \$33-36 million

**July 20, 2000:** Atlantic Chapter of Sierra Club's letter to Lewis County Board of Legislators Planning Committee Chairman Bruce Krug strongly opposes the siting of the OHSWA landfill in federally protected wetlands, near an aquifer, in close proximity to schools, and are concerned about the increased cancer rates in people who live near landfills.

**August 2000:** Veterans Reclaim Memorial Forest; Veterans Defending Our Memorial Forest (VDOMF) occupy the Memorial Forest with an encampment to protest the proposed landfill site, located feet from the Veterans' Memorial Forest - *Photograph of Vietnam Veteran Bob Willson makes Associated Press wire photo and is seen all over the United States. He was quoted as saying, "In Vietnam, I didn't know what I was fighting for. Here, I do."*

**August 10, 2000:** In a letter to a constituent from Congressman Sherwood Boehlert regarding the Ava landfill, Boehlert states, "In order for the Ava project to move forward, the Corps must determine that there are no reasonable alternatives to eliminating wetlands, that wetland elimination is kept to a minimum, that no serious adverse effects will result from eliminating wetlands, and that any wetland loss is mitigated."

**August 11, 2000:** ACAL organizes caravan to DEC public hearing *Daily Sentinel* (2-2-01) "Speakers against the project easily outnumbered those in favor, especially in the evening session, which featured an organized protest by project opponents. A caravan of about 90 vehicles, including 3 school buses, traveled from Boonville to the SUNY campus in Marcy for the evening session, the vehicles bearing anti-dump balloons."

**August 11, 2000:** *Observer-Dispatch* – In a DEC public hearing held at SUNY Institute of Technology in Utica, NYSDEC Deputy Regional Permit Administrator for Region 6 Joe Homburger states, "We believe the draft permit is issuable as prepared for this hearing and that this project should proceed."

**August 13, 2000:** *Observer-Dispatch* – Executive Director Hans Arnold describing the Aug. 11 public hearing as a "circus atmosphere."

**August 18, 2000:** *Daily Sentinel* – OHSWA executive director Hans Arnold states, "**The liner of the landfill is not going to leak.**" Even if the landfill does leak, Town of Lee water supplies would not be affected. "**It's (landfill) not in the Mohawk basin (watershed), it's in the Black River basin.**"

**Note: According to the Environmental Protection Agency (EPA), all landfill liners will eventually weaken and leak, polluting ground water even after the landfill is closed. (Federal Register, August 20, 1988)**

**August 18, 2000:** *Daily Sentinel* – Town of Lee votes unanimously to oppose Ava landfill in a board resolution.

**August 28- Sept. 1, 2000:** Issues Conference concerning proposed Ava landfill, presided by NYSDEC Judge Edward I. Buhrmaster – Opponents to landfill verses OHSWA –14 issues were adjudicated including siting methodology, need, wetlands impact, air quality, threatened bird species, hydrogeology, wetland classification, Veterans' Memorial Forest, visual impact, truck traffic, site access, property values, controls against animals, and environmental justice.

# Ava, NY Landfill Timeline

**September 16, 2000:** *Observer-Dispatch* - **Miss America 2000, Heather Renee French, pledges her support to the Veterans Defending Our Memorial Forest. She is horrified that a memorial site could be a neighbor to a waste site.**

**January 31, 2001:** NYSDEC Judge Buhrmaster dismissed all of the 14 adjudicated issues regarding proposed Ava landfill except: wetlands' impacts, need, birds, and hydrogeology

**February 1, 2001:** *Observer-Dispatch* - New York State Department of Environmental Conservation (DEC) Administrative Law Judge Edward Buhrmaster dismisses Veterans' Memorial Forest as being an irrelevant issue to be adjudicated with regards to the Ava landfill.

**March 16, 2001:** OHSWA files appeal to NYSDEC Commissioner to have Judge Buhrmaster's ruling on the 4 adjudicated issues overruled.

**March 22, 2001:** **Fresh Kills Landfill, Staten Island, NY, closes after operating for 53 years.**

**March 23, 2001:** *Daily Sentinel* – Senator Ray Meier refuses to introduce a bill proposed by Assemblyman David Townsend that would prohibit the issuance of a landfill permit within 10 miles of any public or private school. Meier comments, “Bad public policy. I'm not going to introduce it. Why just schools? Why are we picking on just schools? If this is such a risk, why is it a risk only to kids?”

**June 2001:** Section 404 Federal Wetlands Permit issued to OHSWA by U.S. Army Corps of Engineers, Buffalo District – 10-year term

**June 14, 2001:** Letter to Hans G. Arnold from Assemblyman David R. Townsend of 115th District – states opposition to the Ava landfill, his concern about the close proximity of the Veterans' Memorial Forest, and the issue of the Developmental Authority of the North Country (DANC) landfill options.

**July 30, 2001:** Second Circuit Court of Appeals reversed a decision by a Federal District Court Judge regarding the local solid waste management laws of Oneida and Herkimer Counties, allowing flow control to continue in the 2-county region.

**March 6, 2002:** *Daily Sentinel* – Arnold states the authority has spent more than \$7 million on the project including environmental studies, engineering fees, installation of monitoring wells, legal fees and the land purchases. The authority's total indebtedness is \$41.3 million.

**March 14, 2002:** *Observer-Dispatch* – OHSWA filed a claim in state Supreme Court against the town of Ava to protect its plans to construct a landfill.

**April 5, 2002:** *Daily Sentinel* – DEC Commissioner Erin Crotty ruled on 3 issues (from 2001 adjudicatory hearing/Buhrmaster) that did not merit further study: 1. Need for a landfill, 2. Wetlands, 3. Traffic impact

**The authority has long maintained it has no interest in a permit sale. Any transfer of the permit would require the prior written approval of the DEC.**

**April 29, 2002:** Waste Authority extends boundary in SW portion of landfill site by purchasing more property

# Ava, NY Landfill Timeline

**September 19, 2002:** New York State DEC adjudicatory hearing to discuss air and water issues with regards to Ava landfill

**September 20, 2002:** *Boonville Herald* – DEC Division of Solid and Hazardous Materials Robert J. Bazarnick was surprised when ACAL attorney Michael Gerrard produced several handwritten documents in Bazarnick's handwriting that the Authority and DEC were unaware of. In a brief skirmish, both sides argued the merits of whether the documents should or should not be admitted as evidence. Attorney H.D. Heberlig Jr., representing the Authority, and Attorney Randall Young of the DEC, vigorously opposed the admittance of the potentially damaging documents. Judge Buhrmaster ruled that some of the pertinent documents were admissible. "The cat's out of the bag," Buhrmaster said.

**September 25-27, 2002:** Volume II transcript from adjudicatory hearing by Nancy L. Freddoso, RPR, pg. 1965-1992 regarding the determination of a principal aquifer on the landfill site

**October 10, 2002:** DEC internal memo to Mark Craig from Patricia Riexinger regarding use of plants and vulnerable species in classifying wetlands – "Because no hearings were ever held nor amendments to Part 664 conducted for the purpose of establishing either an endangered plant list or a vulnerable species list, these criteria cannot be used in classifying or reclassifying wetlands."

**October 11, 2002:** DEC response to Heidi Wendel of Arnold & Porter representing ACAL re: Request for reclassification freshwater wetland WL-2 in Ava. **While DEC concedes WL-2 is located adjacent to or contiguous to a protected stream**, that it is one of the three largest wetlands within the town of Ava, and is located within a publicly owned recreation area, it would require existence of certain plant and animal species to meet requirements for upgrade from Class II to Class I. Request was also made to consider whether WL-2 was hydraulically connected to an aquifer. DEC determined the request failed to supply evidence pursuant to 6 NYCRR 664.4(g) to consider the request. "The regulatory definitions of vulnerable plant and animal species are contained in 6 NYCRR 664.6(c) 4 and 5. Program staff have determined that the plant and animal species cited in your request have not been included in the definitions because there have been no public hearings conducted to include these species."

**October 21, 2002:** Letter from Hans Arnold stating: "Building a local landfill will not increase cost to local residents. The proposed landfill facility will keep local money in the local economy. The authority has purchased 527 acres. The authority has invested, on the public's behalf, \$10 million. The need for a local landfill is compelling."

**October 23, 2002:** *Boonville Herald* – Testimony given by hydrogeologist Dr. Andrew Michalski with regard to presence of aquifer under footprint, stated, "The proof is in the pudding, if they would only drill in the right location the matter would finally be resolved." DEC senior geologist Dr. Donald Seigel maintains the \$250,000 investment (cost to drill well) would be a waste of time and money.

**Michael Gerrard raises opponents' long-standing request of drilling test well to settle aquifer issue once and for all; OHSWA refused to drill the well.**

# Ava, NY Landfill Timeline

**February 18, 2003:** *Concerned Citizens of Cattaraugus County* – DEC Commissioner Erin Crotty approved the permit for Waste Management to build and operate a new regional landfill in Albion, Orleans County, that will dispose over one half million tons per year of municipal waste or 7.35 million tons over the life of the dump, about 1,000 feet from the banks of the Erie Canal. The footprint is adjacent to two closed landfills that are currently leaking pollutants into ground water. Half of the 750 truck trips per day will transport garbage over the Albion Central School crosswalk.

**May 28, 2003:** *Albany Times Union* – Nearly 100 veterans gathered at the Veterans' Memorial Forest on Memorial Day to honor their fallen comrades and to reaffirm they haven't given up the fight against a controversial landfill. "They say they're not really going to build it [landfill] in our forest, that they're going to use the forest as a green belt to catch the stuff that blows out," said Mark Shoemaker, a former helicopter pilot who was shot down three times in Vietnam. "Well, that's not what this was for. I don't want to say next year that the directions to the Memorial Day services are easy to find because they're right next door to the county dump."

**June 2003:** *Daily Sentinel* – Photograph of a sign showing the distance in miles from Veterans' Memorial Forest, Ava, NY to various battle sites throughout U.S. history. In large letters, the sign reads, "OHSWA Dump – adjacent."

**June 6, 2003:** *Observer-Dispatch* – The Freshwater Wetlands Appeals Board reversed the October 2002 DEC decision, stating the DEC must review Ava wetlands request for reclassification.

**June 17, 2003:** *Daily Sentinel* – OHSWA appeals a State boards' appeal to allow further consideration of an application to upgrade wetland classification on the proposed landfill site.

**June 18, 2003:** *Daily Sentinel* – Supreme Court Justice Anthony F. Shaheen, in a decision announced earlier this month, ruled, "The authority's right to acquire the approximately 42 acre parcel (through eminent domain) is prior to and predominant to any rights the town has to create a town park [in Ava] on the parcel."

**July 2, 2003:** *Boonville Herald* – In 170 page report concerning the adjudicatory hearing held last fall, Judge Buhrmaster acknowledged there is a buried valley aquifer in Ava, "The deep sand/till unit contains a buried aquifer that exists within a valley or a depression the bedrock surface. While additional testing as proposed by the objectors would provide relevant information bearing on factors affecting a principal aquifer determination such testing is not reasonably necessary to determine that no principal aquifer exists. For that reason no further testing should be required of the authority."

**July 5, 2003:** *Observer-Dispatch* – On June 26, DEC Judge Buhrmaster recommends DEC Commissioner Crotty to grant OHSWA landfill permit; ACAL Vice President Alex Stempien said Buhrmaster just ignored the need for additional drilling to test the aquifer and said that Ava was the victim of political intrigue with the Oneida County Board of Legislators because it is the smallest town within the county with 725 residents. Rome Mayor John Mazzaferro raised concerns about Rome's water source that lies within 7 miles of the landfill (Lake Tagasoke) and the issue of trash trucks going through the city of Rome.

# Ava, NY Landfill Timeline

**July 10, 2003:** ACAL Board of Directors letter requested a meeting with Commissioner Erin Crotty regarding issuance of the Ava landfill permit - It was their opinion that OHSWA and DEC “overlooked, down played and at times ignored critical facts that would have made it unfeasible and illegal to site a landfill on the proposed property.”

*Observer-Dispatch* – OHSWA filed a lawsuit on July 3 in state Supreme Court in Oneida County against the State Freshwater Wetlands Appeals Board to nullify the boards’ decision that the DEC should consider upgrading the classification of wetlands at the [Ava] landfill site.

**September 2, 2003:** Response to ACAL Board July 10 letter, DEC Executive Deputy Commissioner Denise M. Sheehan writing on behalf of Crotty denied ACAL’s request for a meeting with Commissioner Crotty

**October 22, 2003:** *Boonville Herald* – Democratic candidate for Oneida County Executive Daniel P. Sullivan publicly stated his opposition to the landfill citing cheaper disposal rates at other facilities and newer technologies, and that siting a landfill in Ava is an insult to Veterans.

**November 19, 2003:** *Daily Sentinel* – OHSWA is using the power of eminent domain to acquire 10 acres from ACAL for their landfill; ACAL President Ned Ross describes it (eminent domain) as a “bullying tactic.”

**December 10, 2003:** Representing the Freshwater Wetlands Appeals Board Attorney Michelle Stefanucci, along with ACAL legal representative James O’Rourke, argued against the authority and a DEC representative from the Attorney General’s Office to reclassify wetlands in the Town of Ava based on the presence of the American Bittern. Attorney Heberlig for OHSWA said in court that there never was a public hearing and no list was created by DEC.

**December 17, 2003:** Letter from OHSWA Attorney Peter Rayhill to ACAL Attorney Michael Gerrard regarding the commenced eminent domain proceedings against ACAL to acquire property owned by ACAL

**January 5, 2004:** Town of Ava Resolution -1 opposing the OHSWA landfill ... “the Authority has held the town and its residents hostage since 1993 by continuing this pursuit“ ... **“the Authority commissioned a study that found that waste disposed at its very own landfill would cost \$57 per ton – the Authority now pays \$47 per ton for disposal of waste”** “ ... be it resolved that Ava Town Board for the above reasons and more remain adamantly opposed to the Authority’s plan to locate a landfill in the town of Ava.”

**March 5, 2004:** *Daily Sentinel* – State Supreme Court Judge Joseph D. McGuire dismisses the Solid Waste Authority’s lawsuit challenging the State Freshwater Wetland Appeals Board decision, that the State DEC should reconsider the wetlands classification. **OHSWA Executive Director Hans Arnold said, “The Authority is hopeful that in the near future the DEC Commissioner will grant that landfill permit and deny the request for reclassification.”**

# Ava, NY Landfill Timeline

**March 19, 2004:** DEC Commissioner Erin Crotty denies ACAL's request to reclassify Oneida County Wetland WL-2 from a Class II wetland to a Class I wetland.

**March 19, 2004:** New York State DEC Commission Erin Crotty grants OHSWA a landfill permit while ignoring facts relating to the landfill, including wetlands issues and the Veterans' Memorial Forest.

**March 19, 2004:** OHSWA DEC permit says 1000 tons per day, 185 feet high [difference in permitted height of 1625 above mean sea level and present elevation of 1440 feet], 150-acre landfill, 62 years

**April 7, 2004:** *Daily Sentinel* – Oneida County was placed on Moody's Credit Watch because of dwindling reserves in the last 4 years. Standard and Poor's report the county's financial position presently remains adequate despite consecutive general fund reductions. Moody's also put the Oneida-Herkimer Solid Waste Authority on its credit watch because Oneida and Herkimer counties are required to subsidize authority operating shortfalls even though the authority's rates could cover the operations in debt service.

**April 15, 2004:** ACAL files an appeal against Freshwater Wetlands Board of Appeals decision not to upgrade Ava landfill wetlands from Class II to Class I

**April 22, 2004:** *Daily Sentinel* – Hans Arnold states, "There is no intent to sell the [landfill] permit." Important to note from the *Issues Conference August 28 – September 2, 2000, pages 27-28*, "Objectors have requested that OHSWA incorporate permit conditions that guarantee its proposed landfill will accept no waste from outside Herkimer and Oneida counties and prevent the sale or transfer of the facility to private parties."

According to Exhibit T, OHSWA claimed: "... all plans and designs for the proposed landfill are based only on projections of waste from Oneida and Herkimer counties ..."

**May 25, 2004:** *Observer-Dispatch* – Arnold said that if all goes according to plan the landfill should be ready for operation by 2006. He also said that such compensation could include a payment per ton of waste brought to the landfill, payment in lieu of taxes paid to local schools or contributions to the emergency service providers. Arnold also said the Authority could pay for a road to carry landfill traffic around the Village of Boonville or possibly a 10-year property value stabilization program. Arnold said that such compensation plans would be worked out during meetings in June.

**June 16, 2004:** *Boonville Herald* – Town boards from Ava, Boonville, Lewis and Village of Boonville met jointly for the first time to discuss a plan of action with regards to the proposed dump in Ava. Nearly 100 local residents, business owners and clergy attended the first joint town board meeting in the history of the North Country.

# Ava, NY Landfill Timeline

**June 17, 2004:** State of New York Freshwater Wetlands Appeal Board – Brief in Support of Appeal of Adirondack Communities Advisory League:

**BRIEF BACKGROUND** – On Oct. 3, 2002, ACAL submitted a written request supported by an affidavit of an expert wetlands biologist to upgrade wetlands WL-2 in the Town of Ava, NY from a Class II to a Class I wetland. On Oct. 11, 2002, DEC through its Region 6 council issued a written denial of the ACAL request. ACAL subsequently filed a notice of appeal with the New York State Freshwater Wetlands Appeals Board on Oct. 23, 2002. The Board reversed the Region 6 DEC decision that the request was insufficient to warrant consideration and remanded the matter to the commissioner for further proceedings on June 3, 2003. On July 3, 2003 the Oneida-Herkimer Solid Waste Authority brought an Article 78 against the ward. On Feb. 26, 2004, Supreme Court Joseph D. McGuire sustained the Board's order of June 3, 2003. DEC Commissioner Crotty considered ACAL's request for a reclassification for the wetlands as ordered by the Board. On March 19, 2004, Commissioner denied ACAL's reclassification request and concomitantly issued a decision directing the issuance of a permit for a landfill in the wetland.

**June 21, 2004:** Letter from Assistant Comptroller Steven Hancox states OHSWA had a consecutive deficit of \$9,560,687 in Dec. 31, 2002 and \$7,613,057 in Dec. 31, 2003

**June 30, 2004:** *Daily Sentinel* – CCI was issued a contract with OHSWA for \$1.213 million to build an access road 3300 feet from State Rt. 294. Arnold states, “CCI companies will also construct 2,000 feet of turning lanes on Rt. 294. The design of these turning lanes has been approved by the State Dept. of Transportation for traffic safety

**July 19, 2004:** *Daily Sentinel* - ACAL files Article 78 lawsuit against the NYSDEC Commissioner Erin Crotty for granting the OHSWA landfill permit in Ava

**August 1, 2004:** *New York Post* – “Landfill’s Ills – Lawsuit raps Fresh Kills “Cancers” – **Area residents living in close proximity to the Fresh Kills landfill have become sick and many have died of cancer. Studies found high levels of benzene, lead, mercury and other toxins in the ground and in fluid leaking from the landfills.**

**August 4, 2004:** Boonville Town Council unanimously adopted the Joint Board Resolution opposing the Ava landfill

**August 6, 2004:** **DANC offers to accept Oneida-Herkimer garbage for 50 years;** offer is not even considered by Executive Director Hans Arnold

**August 11, 2004:** Letter to Lewis County Chairman Bruce Krug from OHSWA Executive Director Hans Arnold regarding offer from the Development Authority of the North Country (DANC) to accept Oneida-Herkimer garbage for 50 years: Arnold states, “What you have characterized as disinterest is more accurately characterized as a reaction to a concept that would be more expensive, is legally questionable, presents higher risks and is speculative based on the serious regulatory issues facing the DANC landfill expansion.”

**August 2004:** Representatives from Towns of Ava, Boonville, Lewis and Village of Boonville meet to draft a joint resolution to oppose the Ava landfill and not to discuss host community compensation.

# Ava, NY Landfill Timeline

**August 17, 2004:** 100 residents, media and local legislators attended a press conference called by Lewis County Legislators' Chairman Bruce Krug at the West Leyden Fire Hall for the purpose of presenting DANC's offer to accept solid waste from OHSWA at an initial tipping fee of \$28 per ton for 50 years.

**August 19, 2004:** *Boonville Herald* – Beaver pond and wetland mitigation destroyed on landfill site – Town of Lewis Councilman Ian Klingbail discovered raging water in Moose Creek when a 15 acre beaver pond was breached by unknown causes sending millions of gallons of water, sediment and debris into nearby Moose Creek which flows in the federally protected Sugar and Black Rivers in Lewis County. Native brook trout were found dead along the banks of Moose Creek. [See website for photos.]

**August 24, 2004:** *Observer-Dispatch* – OHSWA Executive Director Hans Arnold said the break (beaver dam) occurred due to natural causes. The DEC agrees.

**August 26, 2004:** Letter from Assemblymen David R. Townsend and Darrel J. Aubertine requesting New York State Comptroller's Office to audit the Solid Waste Authority. Townsend states, "I believe that it is imperative that we as legislators make sure we provide services to our constituents at a high quality level with a low price tag."

**September 1, 2004:** *Boonville Herald* – On Aug. 19, sometime between 6 and 7PM (after construction crews had left the site and before the OHSWA paid Oneida County Sheriff's patrol came on duty), the beaver dam on the landfill site washed out destroying a 15 acre beaver pond. As a result excessive amounts of water, mud contaminant and debris were sent into nearby Moose Creek, Sugar and Black Rivers, killing many native brook trout. Wildlife experts are confident a dam would not wash away on its own unless during spring thaw or if the dam had been abandoned for a number of years. Neither scenario fits this situation. Photo evidence indicating construction crews were working in close proximity to the active beaver dam is available. Further photo evidence shows activity of beavers rebuilding the dam, thus indicating the former pond was active.

**September 15, 2004:** *Observer-Dispatch* – Authority's lawyer Peter Rayhill said state and federal regulations pertaining to landfills and wetlands supersede local laws. "I know it sounds ugly and heavy handed but we can't let local governments frustrate a state agency from fulfilling its duties," Rayhill said.

**September 16, 2004:** *Daily Sentinel* – State Supreme Court Justice Samuel Hester heard arguments that OHSWA has been violating local zoning, wetlands and landfill regulations in the Town of Ava.

**September 22, 2004:** *Boonville Herald* - From a letter dated Sept. 7 from DEC Region 6 Director Sandra LeBarron, states that the cause of the beaver dam breaking is "unclear." DEC Public Affairs Spokesman Steve Littweiler said, "No specific investigation is being done" with regards to contaminated streams, dead fish found along the banks of Moose Creek, and the fact there was a section missing from the new dam the beaver are rebuilding on the proposed site.

**September 23, 2004:** *Daily Sentinel* – Landfill opponents believe that the beaver dam breach was caused by OHSWA construction crews. Photo evidence is available.

# Ava, NY Landfill Timeline

**September 24, 2004:** *Daily Sentinel* – OHSWA is granted a preliminary injunction restraining the Town of Ava, its officers and employees from taking any action to enforce its local law regulating the operation of sanitary landfill within the Town of Ava

**September 25, 2004:** *Daily Sentinel* - Boonville and West Leyden Fire Departments were on the scene at a local residence (Fey's) on Rt. 294 near the landfill site when OHSWA construction crews pulled a wire out of the house, causing the family's TV to catch on fire and damaged most major appliances

**September 29, 2004:** *Boonville Herald* – OHSWA construction crews pulled a power line out of a nearby home causing a TV to catch on fire. According to Mrs. Fey, Arnold was apologetic and urged them not to contact their insurance company but rather to allow him to pay for their loss. Arnold personally handled replacing the family's television, VCR, refrigerator, stove, washer, dryer, computer, land line telephone and cell phones plugged into their charges.

**October 7, 2004:** Office of the New York City Comptroller – New York City Comptroller William C. Thompson press release – Thompson issues report, *No room to move: NYC impending solid waste crisis* – PA and VA combined absorb greater than 70% of the city's total waste. By 2007, PA landfills will run out of capacity to accept NYC waste. States that receive waste are taking measures to reduce the impact of importation. Thompson states, "NYC must immediately determine the viability of creating landfills either in state or out of state that are in the city's control." His first recommendation is NYC should consider purchasing access to, or the development rights of, existing landfills in upstate NY to increase in-state disposal capacity." Another recommendation is "NYC should evaluate purchasing permitted but underutilized landfills in other parts of the country near rail or water transportation to provide long term disposal capacity for its waste." Finally, "NYC should aggressively pursue the development of publicly controlled disposal capacity."

**November 2, 2004:** *Observer-Dispatch* – Solid Waste Authority hikes tipping fees: residential to \$79.75 (\$79.95 in 2005), commercial to \$73.10 (\$75.30 in 2005), construction, demolition, waste to \$62.80 (\$65 in 2005), and non-contract waste \$102 (\$105 in 2005)

**November 5, 2004:** *Daily Sentinel* – ACAL invites Governor Pataki to visit Ava landfill site – "We urge you to visit Boonville and personally view the natural resources which are in danger of being destroyed. We also strongly suggest you visit the proposed landfill site and witness the destruction of freshwater wetlands and beaver ponds all located within feet of the only living Veterans' Memorial Forest in New York State. As Governor of New York, it is your responsibility to protect the civil rights of your constituents while protecting the undisturbed natural resources within New York's borders. The rural citizens of northern Oneida and southern Lewis Counties do not want to be a host community for a landfill that will destroy the historic Village of Boonville and pollute the air, water and land of this beautiful and unspoiled region of New York."

**November 2004:** *Daily Sentinel* - OHSWA gets approval for \$15 million in financing for Ava landfill project. The State Environmental Facilities Corporation approved the money through its Clean Water State Revolving Fund, which targets projects that protect groundwater and service water. According to OHSWA, estimated cost of the facility is \$26 million

# Ava, NY Landfill Timeline

**November 29, 2004:** *Daily Sentinel* – Senator Ray Meier opposes alternative to Ava landfill by dismissing DANC’s invitation to accept Oneida- Herkimer garbage for 50 years. In a response to a letter from DANC Executive Director Robert Juravich, Meier states, “You have added fuel to the fire set by a bunch of political demagogues. People like them get to take cheap political shots. People like me, and the people at the Oneida-Herkimer Solid Waste Authority get to try to figure out how we handle our community’s garbage. We expected and think we deserved better from you and DANC.”

**December 8, 2004:** *Boonville Herald* – Instead of answering ACAL’s Nov. 5 letter directly, Governor Pataki told DEC Commissioner Erin Crotty to tell Region 6 Director Sandra LeBarron to respond to the letter.

**December 30, 2004:** *Daily Sentinel* – A lawsuit brought by ACAL to nullify a state permit allowing the construction of a landfill in Ava has been dismissed by State Supreme Court Judge Edward J. Sheridan on Dec. 22 due to a technicality of not filing the suit within the time allowed.

**January 4, 2005:** *Daily Sentinel* - Ex-County Legislator and former member of Oneida County Ag District Board Neil Angell is re-appointed to the board of the Oneida-Herkimer Solid Waste Authority

**January 15, 2005:** *Daily Sentinel* - DEC Commissioner Erin Crotty steps down after nearly four years of service

**February 13, 2005:** *Post Standard* – Federal court in Kentucky strikes down a flow control law that could affect flow control in Oneida-Herkimer counties

**April 5, 2005:** *Daily Sentinel* – The county solid waste management flow control laws have been upheld in a March 24, 2005 decision by United States District Court Judge Norman R. Mordue. The judge concurred and found distinction in the treatment of in state vs. out- of-state businesses. He went on to say that the public nature of the authority was determinative and that the public benefits must be considered.

**April 17, 2005:** [www.ACALNews.org](http://www.ACALNews.org) - Moose Creek, the Class C trout stream that normally runs clear, is filled with muddy water the week of April 17, 2005 after nearly 2 weeks of no rain. Oneida-Herkimer Solid Waste Authority construction crews, working in close proximity to Moose Creek, violated the DEC permit by not providing the proper siltation fencing thus causing the stream to fill with silt

**June 16-17, 2005:** [www.ACALNews.org](http://www.ACALNews.org) - Town of Lewis Councilman Ian Klingbail discovered the section of Moose Creek located at the intersection of Gleasman Road and Rt. 294 was muddy in appearance once again. According to DEC Field Investigator Gary McCullough, the cause of the mud in the Moose Creek was the result of slope failure of a newly constructed berm in the landfill site. Barton & Logeudice construction crews attempted to fix the problem, but the following day it was discovered their preventive measures of creating a stone-lined ditch had failed. The construction crew is presently setting up a system that will pump water through a silt bag and away from the creek.

# Ava, NY Landfill Timeline

According to the DEC permit, the responsibility to keep loose soil and debris within the parameters of landfill site construction and away from nearby tributaries and streams is the responsibility of the Oneida- Herkimer Solid Waste Authority. This incident is the third violation of the DEC permit since August 2004.

**June 20, 2005:** *Observer-Dispatch* – Officials from Ava question the Authority’s environmental efforts to protect streams near the landfill site. The DEC response made by Gabrielle Done, defended them (OHSWA) when a breach in the storm water retention fence filled the Moose Creek with silt. The DEC said that they were working with OHSWA to remedy the situation.

**July 14, 2005:** [www.ACALNews.org](http://www.ACALNews.org) - ACAL Press Release: AVA, NY - A recently constructed storm detention pond located on the Ava landfill site failed yesterday afternoon (July 14) after a heavy rainstorm filled the pond in minutes and sent the excessive rain water and silt into the nearby Moose Creek for the third time in 4 months. The Oneida-Herkimer Solid Waste Authority’s construction crews worked for over 4 hours pumping water and operating bulldozers in the mud attempting to redirect runoff into a makeshift pond. Adirondack Communities Advisory League members discovered mud in the Moose Creek around 6:00PM following a heavy rainstorm, which measured 2.62 inches of precipitation at the Jackson Hill Weather Station, an amount likely to occur in this excessively wet area of the Tug Hill Region. Town of Lewis Councilman Ian Klingbail attempted to reach DEC representative Gary McCullough by phone but was unsuccessful. Mr. Klingbail and Town Supervisor David Mathis were extremely upset over this third breach on the landfill site since April and referred to Item 16 of the DEC permit which clearly states the nearby streams must be protected from landfill construction. Witnesses described the breach as the Niagara Falls of Ava. Muddy water was gushing over the banks of the storm retention pond and into Moose Creek for nearly 3 hours before construction crews could successfully pump enough water out of the pond. Over 15 members from ACAL were on the site, taking pictures as the breach occurred. WKTV Channel 2 News was also on the site recording live footage and interviewing ACAL members. ACAL has been fighting to stop the Oneida-Herkimer Solid Waste Authority from building a 600-acre landfill in the small town of Ava for 12 years. The Moose Creek, a Class C trout-spawning stream flows into the Sugar and Black Rivers north to Watertown. ACAL and Lewis County Legislator Chairman Bruce Krug have repeatedly asked the DEC to investigate the local rivers and streams for evidence of contamination. No action has been taken.

**July 17, 2005:** [www.ACALNews.org](http://www.ACALNews.org) - Just THREE days after the storm detention pond overflowed into Moose Creek, yet another breach on the landfill site (same location as the one on 7-14-05) filled Moose Creek with muddy water for the FOURTH time in 3 months! No construction crews were on the site to pump water and the gushing water overflowed for many hours. WKTV News Channel 2 was on the scene and interviewed ACAL Chairman Ned Ross who called for an end to the ongoing OHSWA violations of their DEC permit causing excessive pollution into Ava’s streams. The storm water detention pond, located on the landfill site, filled to capacity in a matter of minutes and overflowed into Moose Creek for many hours.

# Ava, NY Landfill Timeline

**July 19, 2005:** *Daily Sentinel* – Resolution adopted by the Ava Town Board on July 18 instructed the town attorney to file a complaint with the state agency claiming that OHSWA is violating its state permit by allowing water containing silt to flow off the location. A condition of the permit is that nearby streams be protected during the construction.

**July 21, 2005:** The Lewis County Legislature passed a resolution opposing the construction of the Ava landfill and also “protests to OHSWA their seemingly inability to prevent the pollution of Lewis County streams and rivers” and “demands that the NYSDEC take action.”

**August 2005:** OHSWA construction crews continue to work on proposed landfill site with no repercussions, warnings, or violations from the NYDEC despite repeated polluting of Moose Creek, a trout-spawning stream, which flows into the Black River to the St. Lawrence waterways – a violation of the Clean Water Act

**August 6, 2005:** Complaint letter sent to NYSDEC Region 6 Director Sandra LeBarron from Town of Lewis Councilman Ian Klingbail regarding repeated contamination of Moose Creek and violating the NYDEC and Army Corps of Engineers permits. Klingbail requested, “Therefore in light of all these violations, I urge the NYSDEC and ACOE to investigate and take action as is stated in General Condition #4 of the DEC permit - to revoke or suspend permit ... *the grounds for modification, suspension, or revocation include b) failure by the permittee to comply with any terms or conditions of the permit.*”

See [www.ACALnews.org](http://www.ACALnews.org) for complete letter.

**August 16, 2005:** *Daily Sentinel* – During public comment of the Oneida County Board of Legislators meeting, Adirondack Central School Board Member Dave Bird “outlined concerns of about how storm water runoff was handled at the [landfill] site during recent severe rains and then proceeded to ask if the leachate handling and pollution monitoring features will be correctly designed and operated. He expressed fear they would not be adequate. He also said the design of the retention basin during the construction phase should have been adequate to handle the runoff. He said the overflow was in direct violation of state and federal permits.”

**August 23, 2005:** 2:00PM meeting with representatives from NYSDEC at Region 6 Office in Watertown, NY to show video documentation and overhead transparencies of Ian Klingbail’s original August 6 complaint letter regarding stream contamination (Moose Creek) due to uncontrolled landfill site runoff.

Attending the August 23 meeting with Councilman Klingbail were: Town of Ava Councilman Alex Stempien, ACAL President Ned Ross, Town of Lewis Resident Kermit Klingbail, and Lewis County Chairman Bruce Krug.

NYSDEC officials included: Region 6 Director Sandra LeBarron, Engineers Edward Blackmer and Skip Shoemaker, Region 6 Attorney James King, and Solid Waste Field Representative for the Ava Landfill Gary McCullouch.

# Ava, NY Landfill Timeline

**September 2, 2005:** Report from NYSDEC Environmental Engineer Gary McCullouch to Ava Town Councilman Alex Stempien regarding violations of water quality to Moose Creek in June and July 2005, including communications between DEC and OHSWA, and copy of response from Barton & Loguidice to DEC.

**Weather data, including rainfall amounts, was collected at an OHSWA trailer parked on the landfill site. The information collected and used for the report does not constitute official weather data used by the National Weather Service, nor does Barton & Loguidice qualify as experts in determining 2, 10, 50 or 100-year storm events.**

**September 16, 2005:** ACAL begins its thirteenth year to preserve and protect the land, water, air and wildlife in the Northern Oneida/Southern Lewis counties of the Tug Hill Plateau.

**October 7, 2005:** *Daily Sentinel* - "On several occasions, tons of stormwater ran off from the landfill site as a result of severe storms because the temporary retention system to hold back runoff during construction was inadequate due to the sudden volume of water." **OHSWA Executive Director Hans Arnold stated, "It's been an outstanding year construction wise ... we've moved over 1 million cubic yards of soil this year."**

**What the Sentinel failed to report was the storm water management system was having difficulty handling weather of any kind during the summer and fall of 2005. Video and photographic proof show excessive runoff and silt entering Moose Creek on fourteen different occasions, including periods of time when there was no rainfall officially recorded. The problems OHSWA is experiencing with their retention ponds is, in part, due to stripping excessive amounts of topsoil from the site – the very item above Hans Arnold reported as contributing to his so-called "outstanding year construction wise".**

**ACAL is extremely concerned that if OHSWA is having problems with their storm water management system during the construction phase of the landfill, what will happen to Moose Creek, Sugar River, Black River, and local drinking water when leachate, toxins and contaminants enter the streams when the landfill is up and running?**

**October 7, 2005:** *Daily Sentinel* - Moody's Credit Rating of Oneida County went from A2 to A3. A statement issued by Moody's quotes, "Today's assignment to Watch List for potential downgrade reflects further diminishing of reserves in fiscal 2004 and aggressive budgeting of fiscal 2005 revenues. Comptroller Joseph J. Timpano states, "We're still investment grade. The thing is you still don't; like to see it." Generally the better the rating [A1] the lower the interest rate on bonds. Currently the County has about \$84 million in long term debt.

# Ava, NY Landfill Timeline

**October 7, 2005:** Letter to United State Fish and Wildlife Service David Stilwell from Town of Lewis Councilman Ian Klingbail regarding the environmental destruction to Moose Creek “and my lack of any formal response from my August 23, 2005 meeting, I feel the DEC has not taken my complaint seriously.”

**November 4, 2005:** *Daily Sentinel* – OHSWA purchases a 167-acre farm from Matilda Biro in Ava for \$212,000. OHSWA has offered life tenancy for Mrs. Biro, but they will have access to all farm acreage. OHSWA claims the newly acquired property will be used as a buffer zone and be for possible wetland mitigation. OHSWA claims the landfill will be completed by the end of 2006.

The Biro Farm is located across from the landfill to the east on Gleasman Rd.

According to OHSWA, the Town of Ava refuses to discuss their option for host community compensation benefits. Items listed in this *Daily Sentinel* article written by Dan Guzewich from information obtained from OHSWA, however, do not constitute a benefit package for Ava aside from payment per ton. Items such as OHSWA providing new specialized emergency equipment to the West Leyden Fire Department (Town of Lewis), funding for a full time level 3 EMT (Town of Lewis), and additional funding for a bypass road (Town of Boonville) offer benefits to other townships, not Ava. Other items such as programs for monitoring neighboring wells for drinking water, property value protection plans, and programs for environmental reporting to local municipalities are not considered a “benefit” but should be a necessary requirement of constructing an 848-acre landfill.

**November 8, 2005:** Candidates for Ava town supervisor and 2 council members running on a platform of not negotiating with OHSWA were elected by a majority of the area electorate. Based upon the election results, it seems clear a majority of Ava residents oppose negotiating with OHSWA.

**November 14, 2005** From ACAL News [www.ACALnews.org](http://www.ACALnews.org) ...

“Town of Boonville, Supervisor Harkey Bellinger, the Village of Boonville, and Mayor Dave Ernst, vote to hold negotiations with the Oneida-Herkimer Solid Waste Authority (OHSWA) regarding [host] community compensation for the Ava landfill.

In August 2004, the Town of Boonville agreed to a Joint Board Resolution refusing to negotiate with the Solid Waste Authority, unless, at such time, the neighboring towns of Ava, Boonville, and Lewis agreed to do so as a united coalition of boards. The town of Boonville is presently acting in violation of this joint resolution.

Boonville officials are poising themselves to relinquish one of the most powerful rights they have, the right to regulate a landfill within their community. In New York State (NYS), municipalities have the legal authority to refuse to allow a landfill into their community. Unless, of course, the landfill is being forced on the community by a NYS public authority that claims their power preempts all local laws.”

# Ava, NY Landfill Timeline

**November 18, 2005:** *Daily Sentinel* – Boonville town and village boards voted to begin discussions with OHSWA regarding community compensation. Town of Ava, where the landfill is being constructed, continues to show no interest in receiving benefits. Oneida County's smallest town, population 725, has been steadfast in fighting the dump for more than a decade. Authority Executive Director Hans Arnold, comments, "It does make it difficult to talk with the town and village of Boonville and not the community where the landfill is located."

**November 27, 2005:** Letters to State Senator Hillary Rodham-Clinton [cc: Honorable Charles Schumer, Hon. Sherwood Boehlert, and Hon. John McHugh], and Environmental Protection Agency Administration Steve Johnson to request an EPA investigation of numerous violations of the Clean Water Act (33 USC, Section 1365) at the Ava Landfill, NY

**December 1, 2005:** *Watertown Daily Times* - The Development Authority of the North Country (DANC) requested the Town of Rodman to amend their host community agreement that currently prohibits importing trash from out of the state and the NY City metro area. As a result of Casella Waste Systems proposal to bring in up to 50,000 tons of trash from outside New York, "a vocal group at Tuesday's special town meeting said taking trash from New England to appease Casella, the landfill's largest customer, amounts to blackmail".

**December 15, 2005:** *Watertown Daily Times* – "Rodman - the town council on Wednesday rejected a proposal that would have allowed trash from New England to be dumped at the DANC's landfill here."

**November 27, 2005:** Letter to Administrator Steve Johnson of the Environmental Protection Agency from ACAL requesting the EPA "investigate Clean Water Act (33 USC, Section 1365) violations that have occurred as a result of constructing a 860-acre landfill site in our town (Ava); a landfill we have opposed for over 12 years. We are requesting this under Section 505 of the Act, which authorizes citizen suits to enforce violations of effluent standards or limitations."

"We request that you ask for this investigation only after exhausting regulatory and legal avenues on the State level. After numerous attempts, including August 23 meeting, the NYSDEC has failed to deal with the turbidity issues in Moose Creek as it pertains to monitoring and enforcing 6 N.Y.C.R.R. Part 360 landfill regulations. Unfortunately, the environmental impacts of placing a mega landfill at this site were not thoroughly investigated or considered. OHSWA ignored recommendations to choose a less damaging site, or alternative, from highly respected environmental groups/agencies, including Environmental Defense Fund, Sierra Club, and United States Fish and Wildlife Service.

Under Section 505 of 33 USC 1365, the Federal Water Pollution Control Act, Clean Water Act, we request that the EPA investigate these serious violations and determine appropriate corrective action before any further damage is done to these valuable natural resources and wildlife habitat."

# Ava, NY Landfill Timeline

**December 12, 2005:** Town of Lewis, Lewis County, NY sends letter to EPA requesting investigation into the violations of the Clean Water Act regarding Moose Creek (Oneida County), which flows into the rivers of Sugar and Black (Lewis County).

**December 13, 2005:** Region 2 EPA response letter from Douglas McKenna, Chief, Water Compliance Branch. The Ava landfill site will be added to the agenda of the next Significant Non-Compliance Action Program (SNAP) meeting. They will continue to follow-up on this matter with NYSDEC to ensure compliance with the Clean Water Act.

**December 22, 2005:** Letter to NYS Comptroller Alan Hevesi from Assemblyman Dave Townsend regarding OHSWA audit requested by Mr. Townsend in August 2004. Townsend, once again, expresses concern over constructing a landfill in the Town of Ava and the methodology used by OHSWA to determine a landfill was “the cheapest way to go” [versus taking Oneida-Herkimer garbage to Rodman]

**December 2005: RECAP OF THE FACTS ...**

**FACT: THE PRESENT AVA LANDFILL SITE WAS NOT CONSIDERED IN OHSWA’S TOP TEN SITES, NOR DID IT MAKE THEIR LIST AT ALL.**

**FACT: THE AVA LANDFILL SITE IS LOCATED FEET FROM THE 800-ACRE VETERANS’ MEMORIAL FOREST AND IS LOCATED IN UNFAVORABLE HYDROGEOLOGY.**

**FACT: OHSWA INITIALLY SELECTED THE VETERANS’ MEMORIAL FOREST AS THEIR NUMBER 1 CHOICE FOR A LANDFILL. WHO WOULD WANT TO DECSECRATE THE MEMORY OF UNITED STATES VETERANS BY BUILDING A LANDFILL ON A SITE DEDICATED TO THEM?**

**FACT: SENATOR RAY MEIER, THEN ONEIDA COUNTY EXECUTIVE, TRIED TO CHANGE COUNTY LAW 219 SO OHSWA COULD BUILD A LANDFILL IN THE VETERANS’ FOREST.**

**FACT: SENATOR MEIER CONTINUES TO BE A DRIVING FORCE IN SUPPORTING THE OPENING OF THE AVA LANDFILL, DESPITE SEVERE OPPOSITION TO THE LANDFILL FROM HIS CONSTITUENTS.**

# Ava, NY Landfill Timeline

**FACT: MAJOR ROME AND UTICA NEWSPAPERS DO NOT PRINT INFORMATION SUBMITTED BY ACAL PRESS RELEASES STATING FACTS THE PUBLIC SHOULD KNOW. THEY REGULARLY PRINT OHSWA PRESS RELEASE INFORMATION AND REPEATEDLY INTERVIEW HANS ARNOLD. THIS IS AVA LANDFILL PROPAGANDA, NOT JOURNALISM!**

**HOW MANY TIMES DO THE FACTS HAVE TO BE REPEATED?**

**STOP THE LANDFILL CONSTRUCTION NOW BEFORE THE STREAM AND RIVERS ARE FOREVER POLLUTED!**

**January 2, 2006:** ACAL Press Release, [www.ACALnews.org](http://www.ACALnews.org)

“An audit report released in December 2005 by the New York State Comptroller’s Office entitled *Oneida Herkimer Solid Waste Management Authority Estimated Disposal Costs for a Proposed Regional Landfill Report of Examination, April 21, 2004 – June 30, 2005* has answered the question: Were cost estimates used to assess the economic benefits of the proposed regional landfill project based on complete, objective and verifiable information and analysis?”

... the report does not identify in its 33-page document is whether or not constructing a landfill in the rural town of Ava is more cost efficient than transporting Oneida-Herkimer garbage to the Development Authority of the North Country (DANC) landfill in Rodman, NY – a landfill looking for garbage.”

**“Aside from the fact that the audit did not perform the requested financial comparison and evaluation, OHSWA and local news media are propagating misleading statements to the public.”**

“Although the audit reports local communities do not wish to negotiate with OHSWA for host community compensation, what it doesn’t say is that the Town of Ava has adamantly opposed the siting and construction of this landfill for 13 years. Where other communities throughout the State can stop landfills from being constructed in their towns, Ava has been stripped of the right to protect itself and its citizens have been denied their civil liberties. New York State appointed Authorities supersede local town laws, have been granted the power of eminent domain, and are only held accountable by the laws that created them.”

**January 12, 2006:** Letter to Comptroller Alan Hevesi’s Office from Assemblyman Dave Townsend expressing his disappointment that the OHSWA audit did not address the “Rodman issue” as discussed in his August 26, 2004 letter requesting an audit of OHSWA when they refused to consider a proposal by the Development Authority of the North Country (DANC) to accept Oneida and Herkimer county garbage for 50 years. Townsend asks reasons from the Comptroller’s Office why the “Rodman issue” was excluded from the report.

# Ava, NY Landfill Timeline

**January 20, 2006:** From ACAL News. [www.ACALnews.org](http://www.ACALnews.org) ...

“Due to the fact OHSWA has excessive powers granted them by the State, the rights of rural citizens are being wrongfully denied, with no repercussions or support from State and National government. What is occurring in the small Town of Ava is a violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States, which states:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

**February 24, 2006:** ACAL Press Release,  
“ACAL Finds NYSDEC Consent Out of Order” [www.ACALnews.org](http://www.ACALnews.org) ...

“The Board of Directors and members of Adirondack Communities Advisory League (ACAL), and local residents were shocked and sickened by the New York State Department of Environmental Conservation’s (NYSDEC) February 13, 2006 Consent Order giving the Oneida-Herkimer Solid Waste Authority (OHSWA) permission to pollute Moose Creek, a trout spawning stream.

“This is just another example of a corrupt DEC”, commented ACAL President Ned Ross, after reading the consent order. “The DEC is giving OHSWA permission to pollute.”

Part II of the NYSDEC Consent Order, entitled “Continuing Discharges” states:  
*During the effective period of this Order, so long as the Authority and Rifenburg adhere to the terms, conditions, and stipulations of this Order, discharges from the Authority’s storm water management system that cause a substantial visible contrast from the natural stream condition will not constitute a violation to this Order, nor result in institution of additional actions or proceedings by the Department. If any provision in this Order is breached, the Department may Institute appropriate proceedings as allowed by law.*

“Information taken from the website link, <http://www.dec.state.ny.us/website/dfwmr/habitat/hoa1b2f.html> (which has been removed for the DEC website) clearly shows the OHSWA consent order is a contradiction to the NYSDEC mission and purpose. Under the section entitled, “New York Protects Fish and Wildlife Habitat”, the website states,

*These vulnerable habitats are easily damaged. Certain human activities can degrade, even destroy the delicate ecological balance of these important areas. Unregulated, many of these activities would impair the uses of our water and diminish fish and wildlife populations through habitat destruction and degradation.*

***Fish and wildlife belong to the people of the State. Stewardship of these public resources is charged to the DEC.***

# Ava, NY Landfill Timeline

**March 22, 2006 - ACAL Files Citizens' Lawsuit Against Waste Authority & Rifenburg:** A Notice of Intent to Sue Pursuant to the Clean Water Act, 33 U.S.C. Section 1365(b)(1)(A): Ava Landfill, Town of Ava, Oneida County was filed yesterday by Christopher A. Amato, of Counsel with Dreyer Boyajian LLP Law Firm in Albany, NY against the Oneida-Herkimer Solid Waste Management Authority (OHSWA) and Rifenburg Construction, Inc. (Rifenburg) on behalf of Adirondack Communities Advisory League (ACAL).

The action against OHSWA and Rifenburg is being filed "for past and ongoing discharges of sediment and other pollutants from the Authority's solid waste management facility located adjacent to State Route 294 and Gleasman Road in the Town of Ava."

Commencing in or about April 2005, the Authority and Rifenburg have caused and permitted discharges of sediments and debris to enter the waters of the United States through the South Branch of Moose Creek, a Class C trout spawning stream, which flow to the Sugar and Black Rivers; all of which are "navigable waters" within the Clean Water Act, 33 U.S.C. Section 1362(7)

**June 8, 2006** - Under the citizens' suit provisions of the federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, ACAL files suit against the Oneida Herkimer Solid Waste Management Authority in U.S. District Court for the Northern District of New York, for past and continuing Clean Water Act violations at the Authority's regional solid waste landfill site located in the Town of Ava, Oneida County, New York.

**October 24, 2006** - The Oneida-Herkimer Solid Waste Authority's controversial landfill opened and began accepting garbage in the Town of Ava. Despite strong opposition from the small rural township and ACAL, the landfill was forced into the Ava community by a New York State Public Authority (OHSWA) and supported by a New York State Regulatory Agency (Department of Environmental Conservation).

**OHSWA has stated they, as a New York Public Authority, can supersede local town laws. If this is true, then EVERY town in New York is a potential target for injustice through the crippling of town's rights to protect its citizens and natural resources.**

**August 2007** - OHSWA agrees to settle lawsuit with ACAL in the presence of Northern District Court Judge David Peebles

**February 2010** - Update: OHSWA has NOT settled the lawsuit; ACAL's Clean Water Act citizens' suit against OHSWA continues ...

**February December 2010** - SOLID WASTE AUTHORITY SETTLES CLEAN WATER ACT LAWSUIT WITH ACAL - Please see ACAL NEWS for more details.

# Ava, NY Landfill Timeline

## APPENDIX A

The 1993 Ag District issue was extremely relevant in the siting of the Ava Landfill. Unable to protect their farms from the powerful Waste Authority, the Paluck Farm became the first Ava farm to fall into the hands of OHSWA.

## APPENDIX B

Botanist Gretchen Stevens of Hudsonia predicted the risk of sediment entering Moose Creek back in 1994. "The failure of this system (sedimentation basins) could have devastating consequences to the stream ecosystem." Ms. Stevens' comments regarding OHSWA's Final Environmental Impact Statement are alarming.

## APPENDIX C

Dr. Andrew Michalski provided detailed technical comments in Feb. 1998 regarding OHSWA's Site Investigation Report and Draft Environmental Impact Statement. Dr. Michalski strongly suggested a full scale pump test on landfill site to resolve contested hydrological issues.

## APPENDIX D

New York State Department of Environmental Conservation (DEC) Internal Memos 1993-1996 are extremely telling of the DEC's relationship with OHSWA and the siting of the Ava Landfill (except for those memos that have sections missing or blacked out.)

## APPENDIX E

Physicist Daniel Gutman comments on air quality analysis in OHSWA's Final Environmental Impact Statement in 1999.

## APPENDIX F

The 1998 report *Where Will the Garbage Go?* focuses on New York City's impending municipal solid waste crisis that will occur after the planned closure of New York City's Fresh Kills Landfill in 2002. The report states only 4 landfills will be open in New York State by 2038. With a life expectancy of 62 years, that makes the Ava Landfill one of the four.