HOW TO DEAL WITH

A PROPOSED FACILITY
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BY WILL COLLETTE

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CONTENTS

Dealing with Guilt, "NIMBY" and other emotional disorders...............p. 3
Organizational structure..................................................p. 12
Recruitment.................................................................p. 14
Research.....................................................................p. 15
Media.................................................................p. 17
Experts.................................................................p. 18
Lawyers.................................................................p. 19
Strategy and Tactics.....................................................p. 21
Special Angles............................................................p. 24
Alternatives...............................................................p. 30
1987 updates.............................................................p. 32

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So a facility has been proposed for your community! There's something about it that sends alarm bells ringing in your head. You sense that you're not the only one concerned about the threat this thing poses to your home and family and the life of your community. What do you do? You're not a professional activist—\textit{in fact}, being an activist is the last thing you've ever thought of doing. But you can't sit back and let this thing proceed without doing something.

One of the first things you're probably going to do is check to see if you really do have some reason to be concerned. That's probably how you got in touch with CCHW!

Once you've done your checking and are reasonably sure, you want to proceed to the next step. \textit{This book's purpose} is to help get you through those next steps. It's a book for local leaders on how to deal with a proposed facility. Industry and government has a term for these facilities: "LULUs" ("Locally Undesireable Land Uses"). It could be a hazardous waste facility, an incinerator, a storage area, a plant that's going to discharge hazardous substances or an expansion of any of these.

This book is about the \textit{process} you use to stop bad things from happening to your community.

No matter what the facility is, \textit{at minimum}, you and your neighbors have the right to expect that the facility's operators will behave like "good neighbors." This means your objective is to win clear, concrete and enforceable safeguards to protect life, health and property. That's the least you have a right to expect.
Or, it could be your best judgement that no amount of advance assurances will make this facility a positive addition to your community. Therefore, your objective is to keep it out.

This book should give you some helpful advice, no matter what your objective is.

One last introductory note: of all the kinds of issues involved in waste management, the easiest of all to win is a fight dealing with a proposed facility. We can tell you from experience that fighting to prevent something awful from happening to your community is a whole lot easier than fighting later to try to clean it up. It's also good policy to keep bad things from happening.

I. THE BEGINNING

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

2. You talk to other people about it. Often, within a day or two of a LULU announcement, there'll be a meeting of 5-6 people in someone's living room as folks compare notes and try to decide what to do. Out of such a meeting generally comes the following decisions:

a. Do more research and investigation (a good idea);

b. Hire a lawyer (usually a terrible idea; more on that later);

c. Contact local politicians (often a waste a time; sometimes o.k.; almost always necessary);

d. Talk to some other group with more knowledge and experience (a good idea if that group's been successful);
3. Sometimes, the group "hits the ground running" at this first meeting and formally organizes right on the spot. They pick a name, elect officers, draft up a petition and issue a news release. That's fine, but sometimes "haste does make waste" and errors are committed early on that come back to haunt the group later. Don't feel bad if you don't accomplish everything at your first meeting. This meeting is a success if it sets the stage well for the next meeting or activity.

GUILT, "NIMBY" AND OTHER EMOTIONAL DISORDERS

From the moment you go public with your opposition or even concerns about the facility, your opposition will counterattack. Your opponents could include the local city or town officials (though there are plenty of cases where they've been on your side), Chamber of Commerce (though the Jaycees have been on the right side plenty of times), unemployed folks (thinking they'll get jobs), your best friend (it happens) and even sometimes other "environmental" groups.

THEY'LL SAY:

"It's got to go somewhere." Drayton Pruitt, the white politician who controls the majority Black county of Sumter, Alabama, told "60 Minutes" that it was folks "patriotic duty" to take hazardous waste. That's why he sold land to George Wallace's son-in-law who then sold it to Waste Management, Inc., to build the world's largest hazardous landfill and why he serves as attorney to Waste Management in defending the site.

RESPONSE:

The best place to dispose of waste is the place where it's generated. That's the safest way to do it and, as many businesses are discovering, the cheapest in the long-run. The new trend is toward "Source Reduction" where companies (a) recycle, (b) destroy or neutralize waste on-site or (c) change their production methods so that they're no longer generating as much or any waste at all. There's another method called "Waste Exchange," where
companies "swap" materials—one company's waste is another company's raw material. The main problem with waste exchange, though, is transportation and storage. Many companies are learning how to use "closed loop" production systems, where hazardous materials are kept inside the production system and never released as waste. For example, if a company works with metal products, it is probably using solvents to wash off metal shavings, allowing both the waste metal and used solvents to become toxic waste. It doesn't have to! With a closed loop system, it filters the solvent, recovers the metal and puts it back into the system, "cleans" the solvent and reuses that too. Companies have found that they can install these systems and recover their investment in as little as 6 months and seldom does it take longer than two years. Plus, your local government can help small companies do this through the use of tax-exempt "Industrial Revenue Bonds" to provide the company with low-cost loans.
The answer to municipal waste is not new landfills, nor new incinerators. Incinerators (given the "nice" title of "Resource Recovery Centers") are very controversial. They do not solve the problem—-in fact, they cause plenty of new problems. For example, they discharge alarming amounts of dioxin, the deadliest chemical known to humankind. Further, these incinerators (NOTE: don't use their term for it—-call it what it is) leave behind lots of flyash, filled with heavy metals, dioxin and lots of other highly toxic materials. Where's this supposed to go? You guessed it! To a landfill! One last point: municipal incinerators generally rule out real recycling. The contractors for these incinerators will make your town sign a contract guaranteeing a certain tonnage of burnable material. This means that programs to recycle paper and garbage (and probably other materials) will have to be scrapped in order to meet the terms of the contract, and your town may even have to bring in garbage from other towns to meet the contract.

Waste from other sites, such as Superfund waste, doesn't need to be brought to your town. Until recently, EPA routinely rode what came to be known as the "Toxic Merry-Go-Round" where they dug up Superfund waste and dumped it in leaking landfills, themselves destined to become Superfund sites. After a Congressional investigation by the Office of Technology Assessment, the new strategy trend is to keep waste on-site by temporarily containing (best method: above ground storage) and working on new technology to permanently destroy or neutralize the contamination at the Superfund site.

THEY'LL SAY:

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

RESPONSE:

Is it immoral for you to have questions about whether it's fair that your community should have a facility when you've still got a lot of reasonable doubts and reservations? Or is it fair that your community should play host to some gigantic facility that will take waste from dozens of other places? We don't feel that you have anything to feel guilty about. Besides, you're
THEY'LL SAY:

"This is the best site anywhere for this type of facility."

RESPONSE:

The choice of site usually has nothing to do with the scientific or technical aspects of the site, but rather with the perception by the operator and government policymakers that the political climate is right.

THEY'LL SAY:

"This facility will bring in jobs and prosperity." Jobs, magnet for new industry, increased tax revenues.

RESPONSE:

Sure, and if it rained ice cream, we could all have dessert. Consider these economic considerations: (a) most sites offer very few new jobs (the biggest hazardous waste site in the world only has about 100 workers). Most new jobs offered are for technical positions that will probably be filled from outside. (b) The facility's costs to the community have to be weighed in the balance. Consider the increased costs of public services, wear-and-tear on the roads, the need to train and equip emergency personnel to deal with the inevitable disasters, the lost of property values generally in the community. (c) There's no evidence that the presence of a hazardous waste facility draws in new industry. In fact, you could argue that the existence of a site makes that community less attractive to the kinds of industry your community wants.
not being any more cautious about this facility than the insurance industry, which, as a whole, refuses to issue insurance policies to any company dealing with chemicals or chemical waste. You are expected to assume risks that the insurance industry won't touch with a 10-foot pole.

THEY'LL SAY:

"This is state-of-the-art technology." This means that all of this operator's previous designs have failed, so they're going to try something new, with you as the guinea pigs.

RESPONSE:

Despite all of the industry claims, American industry's track record on dealing with hazardous waste has been pitiful. You have a right to be skeptical of any new process from an industry that has yet to prove it is trustworthy. It's as though you were dealing with a builder of jet airplanes that always crashed. Now, the jet maker comes to you and says, "This new design is terrific---it'll never crash." Would you fly that plane?
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Consider also, when you're dealing with a big, regional waste disposal facility, that such facilities are running counter to some very important economic trends in American industry. For example:

* More waste is being processed on-site through various "source reduction" methods because it's more economical;

* Government is less inclined to move waste around from one site to another because of criticism leveled at the "Toxic Merry-Go-Round."

* Moving waste to big, regional disposal centers runs the risk of transportation disasters and the liability involved in that. More than half of the country's trucks and trains are unsafe, according to recent surveys, posing big insurance problems.

* Responsible operators are finding that, contrary to the "American Way" of thinking, bigger is not better. In fact, smaller facilities, especially those on site, offer better quality control (the operator knows better what's being handled), and can be much safer and efficient than big facilities.

**VALUE FOR MONEY**

In the industrialised world, the cost of environmental policies has been estimated at between 1% and 2% of GNP. But the cost of pollution damage is estimated at between 3% and 5% of GNP.
Right at the outset of a LULU fight, the supporters of the facility will try to strip you of your faith in your own common sense, intelligence and knowledge of the land and community. They operate on the theory that if enough Ph.D.'s say water flows up stream, even the most die-hard skeptic is bound to wonder.

Often, they will try to strip you of your sense of hope, when a LULU proposal is announced at a major media event where every major political and business bigshot is lined up to sing its praises and assure the smiling operator that no delay will be tolerated.

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

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

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

As guidance, we offer CCHW's "People's Bill of Rights" that tells you what we stand for. In addition, we take the position that it's wrong to assume that "waste has got to go somewhere" and many of the best experts in the country agree with us. Basically, they believe that waste can be best handled by "source reduction" (recycling or eliminating waste where it is produced), on-site destruction or neutralization, waste exchange or on-site, above-ground storage (a last resort if no technology is practical).

[Image: UNITE]
People in this country have the right to be safe and secure in their homes and workplaces. We have the right to bring up our children and live our lives free from harm imposed by toxic substances that have been brought into our communities, neighborhoods, workplaces, schools and farms by others, without our knowledge and without our consent. We have the right to clean air, clean water, uncontaminated food and safe places to live, work and play. We have the right to require our government to be accountable and industry to be responsible. We have the right to action and to public policy which will restore to us that which has been taken away and to stop the needless and unjustifiable attack on our lives, families, homes, jobs and future that come from the imposition of toxic substances in our environment.

- **RIGHT TO BE SAFE FROM HARMFUL EXPOSURE.** People have the inherent right to be safe in their homes and workplaces. Our children have the right to grow up strong and healthy, not diseased, deformed or to die before they've had a chance to live, to be safe in their schools, free from cancer-causing asbestos or other hazards, and to play in their backyards free from erupting chemical pits or contaminated soils. We have the right to be free from exposures, imposed on us against our will, to poisonous substances that can cause birth defects, cancer, sterility, genetic damage, miscarriages and still births.

- **RIGHT TO KNOW.** We have the right to know what poisons other people, industry, corporate polluters and government have decided to bring into our neighborhoods and workplaces and the right to know how these chemicals can adversely affect our health, our environment and exactly what they intend, if anything, to do about it.

- **RIGHT TO CLEAN UP.** We have the right to safe, total cleanup of hazardous waste sites and spills, to have the cleanups take place quickly with our neighborhoods, homes and environment restored to the way it was before the polluters chose to contaminate them with chemical poisons.

- **RIGHT TO PARTICIPATE.** We have the right to participate, as equals, in decisions affecting our lives, children, homes and jobs on the matter of exposure to hazardous wastes. We have the right of access, without cost, to information and assistance that will make our participation meaningful and to have our needs and concerns be the major factor in all policy decisions.

- **RIGHT TO COMPENSATION.** We have the right to be compensated for damages to our health, our homes and our livelihoods. The responsible parties must compensate us for the cost of cancer treatments, care of our birth-defected children, the loss of our farms and jobs, livestock and the burial of our loved ones.

- **RIGHT TO PREVENTION.** We have the right to public policy that prevents toxic pollution from entering our neighborhoods by using existing technology beginning with reduction at the source—a technology that will provide jobs, business opportunities and conservation of valuable resources. Our workers have the right to safety equipment and other safety measures to prevent their exposure in the workplace.

- **RIGHT TO PROTECTION AND ENFORCEMENT.** We have the right to strong laws controlling toxic wastes and vigorous enforcement of those laws, not backroom, sweetheart deals. If a child dies from exposure to chemical poisons in the environment, someone must be arrested and prosecuted for manslaughter.

By the Citizens Clearinghouse for Hazardous Wastes, P.O. Box 926, Arlington, VA 22216, 4/86 (703) 276-7070
Another moral position we support is what a lot of groups call a "Good Neighbor Policy." That is, if a company is going to come into a community and people want it, for whatever reason, that company must behave like a good neighbor and obey certain standards of safety and courtesy. Think about what you feel is important in a "good neighbor" and apply that to the companies you would allow into your community.

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

In the next sections, we'll look at:

II. Organizational Structure;
III. Recruitment of Members & Outreach to the Community;
IV. Research;
V. Media;
VI. Experts;
VII. Lawyers;
VIII. Strategy and Tactics;
IX. Special Angles;
X. Alternatives.

Most of these subjects are covered in great detail in other CCHW books that focus specifically on those subjects. In this book, we're bringing key points together under one cover to deal with proposed sites. To get more detail on specific topics, get the CCHW books we refer to.
II. ORGANIZATIONAL STRUCTURE

Question: How much structure do you need?

Answer: Enough. Enough to make decisions and enough to effectively involve your members so that (a) they feel needed and (b) you and the other core group members don't do it all.

You don't have to incorporate! In fact, there are lots of reasons to remain an "unincorporated associate" (if you haven't incorporated, that's what you are now). See CCHW's "SHOULD YOUR GROUP INCORPORATE?", # 16.

Most groups make decisions by setting up a pyramid structure that looks like this:

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Top Leader
(Group Founder)

8-10 Original Followers

Everybody Else
mainly warm bodies
at meetings
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This structure is very efficient for decision-making, since they're mainly made by the leaders at the very top. Exception: occasionally, leaders of a pyramid will take a decision to the general membership. The general membership, unaccustomed to being asked, sit there like mushrooms, confirming the top leadership's impressions that for most of the members, "the lights are on but nobody's home."

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

"The chair agrees, these meetings go more smoothly when we don't invite troublemakers. We stand adjourned."

-12- 4/86
The opposite extreme is a freeform, leaderless structure (often called a "collective") where decisions are made only by consensus. Everybody's at the same level. Very democratic. The problem is that decision-making becomes agony. Even though everyone feels like an important part of the group, there's a paralysis that may often lead to the destruction of the group as a functioning organization.

Here's a compromise model we've seen at work with CATS of New Castle, PA that attempts to strike a balance between the two extremes:

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

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

For more ideas on structuring your organization, see CCHW's LEADERSHIP HANDBOOK, #2 on our list.
III. RECRUITMENT

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

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

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

Give your door-knocking teams some advance training, such as role-playing them through some conversations at the doorstep before they go out. Make sure they have some of your group's flyers to leave with people. Your flyers ought to have a "hook." That is, the flyer should ask the reader to do something, like come to a meeting, write a letter, make a phone call, etc.

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

"I am ... (name)"
"We are...(organization and ultrashort statement of purpose)"
"This is...(the specific reason for the visit)"
"We want...(this person to do some specific thing)"
There's more detail on how to do this in CCHW's ORGANIZING TOOLBOX REPRINT, #19 on the list.

Don't give up your original petitions unless you absolutely have to and only after you've transcribed the names, addresses and phone numbers onto a master list (or personal computer if you have one). Your petition helps you create your mailing list and contact list. The names will be hard enough to read in their original handwritten-form; photo-copies will give you a real headache.

You can use other means to recruit people, such as general media announcements, posters, flyers passed around without personal contact, etc. However, face-to-face is how real organizing is done and you'll always get the best results by dealing with people directly. It may be slower, but the quality of the contacts and the "rate of return" is higher.

IV. RESEARCH

If you've developed a fact-finding committee, turn them loose in investigating the operator of the site and the principles in the company running the facility. CCHW'S RESEARCH GUIDE FOR LEADERS (#6) should be helpful.

Key questions:

1. Where is this company headquartered? Where does it operate other facilities? Has it ever operated the kind of facility it is proposing for your community?

2. Who are the key players in this company? Who have they worked for before? What's the track record of these other companies?

3. Ask for references. Check them out. Check with groups in the other communities where they have facilities (CCHW can probably give you contacts there). Check with the state attorney general's office and/or the Environmental Protection Agency for other states where they're located.
4. What is the financial condition of the company? What kind of insurance coverage do they have? What kinds of litigation are they involved in elsewhere?

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

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

Other tips are in the RESEARCH GUIDE.

You also want to find out:

1. Who stands to profit from this facility? What local people, companies or institutions are going to make money by (a) selling land, (b) making loans, (c) getting jobs or (d) selling services to the facility operator?

2. Where will the money come from to pay for the development of this facility? For example, some facilities are built with "Industrial Revenue Bonds" (government-backed, low-interest, tax-exempt loans). If IRBs are the financing tool being used, there are specific tactics you can use to block them. (See JOBS VS. THE ENVIRONMENT CCHW PUBLICATION #8).
You can simply ask for this information, using the same "win-win" theory as above. Or, you can play private investigator and use your contacts within the community to investigate the answers to these questions.

V. MEDIA

This fight is going to be won (or lost) in the "court of public opinion." Your main access to this "court" is through the media. Don't be surprised if your local newspaper, TV and radio station reporters are either (a) ignorant about the issue and its implications for the quality of life in the community or (b) openly hostile to you because of their ties to the big money interests who back the facility. This is very common, especially with small town media in rural communities.

No matter if your local media is hostile, neutral or friendly to you, you only get coverage if you're "newsworthy." News media cover action, personality, controversy and scandal, not necessarily in that order. If you want coverage, keep these in mind.

Do things that are different, lively, colorful and—for electronic media—both visual and somewhat noisy. For example, groups fighting incinerators will often do "balloon launches" on a weekend, where they release hundreds of helium-filled balloons from the site of the proposed facility to show how the emissions will travel. Protests and demonstrations also get you coverage.

Try to cultivate the media. It wouldn't hurt to try to get a meeting with the editor and/or publisher. The agenda could be: "We want to explain to you who we are and what we stand for, since we're going to be making news and you have a right to get some background on us." Through this kind of meeting, you can scout them out for where they stand, at minimum, and, at best, you might even be able to recruit them as an ally. You can go into such a meeting with a reasonable hope that, at least, they'll treat your side of the story fairly.
You can also begin cultivating local reporters. Feed them juicy stories, hand them interesting news leads. Let them pretend they're going to be famous by doing your local version of a Watergate story. By cultivating a local reporter, you can even get them to do some of your research for you. For example, if you suspect there might be a Mafia connection at this facility, you could feed it to the reporter as an off-the-record rumor and let the reporter follow the lead!

If you can't get decent local media coverage, look at media sources that are outside of your immediate area, but whose newspaper or radio/TV station reaches into your area. Lots of groups we talk to think they can get their story on "60 Minutes" or 20/20." This sometimes happens, but don't pin your hopes on it---nearly every group that contacts us has this dream, so unless there is something really extraordinary about your situation, take a number and wait in line.

More tips on using the media are in CCHW's LEADERSHIP HANDBOOK (#2 on the list).

VI. EXPERTS

Your opponents and the operators of the proposed facility would love to engage you in an exercise we call "duelling experts." That's a situation where you feel compelled (and spend every nickel you've got) hiring experts to refute every technical point their experts bring up. This is usually an awful tactical mistake, but it's a mistake groups make time after time.
Why is it a mistake? First of all, it's naive to think that the science or technical aspects of the question have any real bearing of the siting decision. The real reasons are mainly political and economic. Second, it's a losing proposition for you: for every expert you can find and afford, they can bring in a dozen to say exactly the opposite. You'll be like that character in the fable who was condemned to spend eternity rolling a boulder up a hill, only to have it roll back down as it's just about to reach the top.

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

However, there are good uses for experts, such as getting them to advise you on the technical side of the issue so that your own folks can speak confidently for themselves. And sometimes, the strategic use of a letter, memo or technical report unveiled at a public meeting can work wonders. We offer detailed advice on how to use (and how not to use) experts in #11, "EXPERTS: WHERE TO FIND THEM, HOW TO GET THEM, HOW TO PAY THEM AND HOW TO USE THEM."

![Cartoon: "Let's not play games, Duberman—every consultant has his price."]

VII. LAWYERS

You can probably guess what we're going to say: lawyers are generally more of a problem to you in dealing with a proposed site than they are a help. You generally can't beat a proposed site solely through the courts.
Also, you can't generally get a lawyer to take a case on a proposed site without a basis fee-for-service contract. That is, you normally won't find a lawyer who'll represent you on a "contingency fee" basis, where the lawyer takes a percentage and charges you nothing up front. We could tell you several sad stories about groups that went against our advice and fought the issue through the courts, lost and ended up having to pay the lawyers several hundred dollars.

There are two good uses for a lawyer in a proposed site battle:

1. to give you a "road map" as to what the decision-making process is for a siting decision;

2. to get you a "temporary restraining order" and/or permanent injunction in the event that the siting decision is being sprung on you so fast that you need to buy yourself some time. For example, you find out that the construction for the site will begin in two weeks and you just don't have enough time to muster the folks in the community to stop it. You need time and it's a good use of a lawyer to have him/her win you that time.

When a lawyer gets actively involved in your fight, one of the first things that happens is that as many as half to three-quarters of your members will go home. Why? Because now the lawyer will "handle" the problem for you. It's human nature that your members will think that they can now relax since they've now hired a lawyer to take the issue off their hands. It happens so consistently that we consider it a basic rule that membership will drop in the presence of a lawyer. You're going to have to consider if it's in your group's best interest to bring on a lawyer, given this.

Another problem, as well as a common error some groups make, is to use the lawyer to advise them on political strategy. Some groups will ask their lawyer to tell them how to carry out their protest tactics. Many lawyers will simply tell them not to protest, to let the courts be where the problem is addressed. This is a big mistake. Instead, we suggest that you limit your consultation with the lawyer to asking for advice on what is likely to happen if you do "X" (example: "If we march down Main Street, what will happen? Do we need a permit?"). Ask questions that your lawyer is qualified to answer. Your lawyer probably knows about as much (or less) about community organizing as you do, so it's unfair for you to expect the lawyer to have a qualified opinion about it.
You can get more detailed advice on how to deal with lawyers from, you guessed it, CCHW's "LAWYERS: HOW TO GET THEM TO WORK FOR YOU SO YOU'RE NOT WORKING FOR THEM," #12 on the list.

VII. STRATEGY AND TACTICS

1. Community meetings are essential. Everything your group decides to do should be measured against the principle that "if it doesn't involve people actively, then it's probably the wrong thing to do." Set up meetings where you bring in a couple of carefully selected "targets" (i.e. people who have
the power to give you what you want) and put your concerns and demands in front of them. Press them to give you a straight answer, even if that answer is "no." Even if these "targets" don't show up, you then have an angry crowd that feels insulted that these people didn't have the courage or courtesy to come out and face the public. You can then plan an action where you go to these absent "targets" (at their offices, for example) and put the questions in front of them there.

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

![We demand that our contamination and the poisoning of our children be stopped.]

3. We mentioned balloon launches before. You can also do other kinds of demonstrations, such as boat launches, display models and other ways to show how the site will work in such a way that the average person can understand what this site will mean to people in your community.

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

More advice on strategy and tactics is included in CCHW's LEADERSHIP HANDBOOK. Remember, the best tactics are those that involve the largest number of people, that carry the element of surprise and are fun to do.

When you're fighting a proposed facility, time is on your side. After all, you're fighting to keep something from happening; so every day that passes is a victory.
Sometimes, these fights can go very quickly. The record holder for getting an operator's license denied is six days, held by NO DUMPS, INC. of Mullica Township, NJ. However, within a couple of months, the operator came back with a new concept for its proposed facility. Fortunately, NO DUMPS got right on top of it and, as of this writing one year later, they've still kept it out.

That's the record. Some groups end up fighting proposed sites for several years or more. The Red Rose Alliance of Lancaster County, PA, has been at it for nearly 5 years; Save Our County Organization of East Liverpool, OH, for nearly 4 years; Concerned Citizens of Lawrence County, KY, for nearly 3 years. None of these organizations have lost---it's just that they haven't won that final decisive victory that allows them to relax and say it's all over. On the other hand, lots of other groups have gotten companies that proposed bad sites to completely withdraw, and won their decisive victories in 3-4 months. It's hard to predict in advance how long it will take for you to reach this point. We do believe, however, that you will win---it's just that knowing you've won is hard, sometimes.

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

1. INSURANCE. As of this writing, no insurance company will write a policy for chemical or chemical waste companies, unless their track record is really clean and they're willing to pay a very high premium.

YOU are being asked to accept a risk that Lloyd's of London won't touch with a 10-foot pole. You can't get a mortgage or register a car without insurance, but you're expected to allow a facility to come into your community, even though the chemical industry has had accident after accident, including Union Carbide's killing of thousands in Bhopal, India and the repeat incident in Institute, WV only a couple of months later.

Regulations for waste sites require an operator to certify the financial capability to cover costs from sudden accidents and long-term, non-sudden contamination. Since they can't get insurance, these operators try to get by through offering "financial assurances" that are based on the assets of the company. What this boils down to is the company says, "Trust me; I'm big and if anything goes wrong, I'm good for whatever it's going to cost." Right now, EPA is inclined to accept this as good enough for them.

Is that good enough for you? Think about the fact that the Manville Corporation and AH Robins, two of America's largest corporations, have hidden behind Chapter 11 of the bankruptcy laws to avoid their liability for damages caused to people using their products, while still continuing to operate very profitable businesses.

One way to respond to the insurance problem is to demand that the operator set up an "Environmental Trust Fund." This is a sum of money, in cash, that is set aside in the name of your community to cover any accidents or long-term damage. It could be an account in your town or county's name that can be drawn upon only in the event of an eligible expense. The trust fund should be designed in such a way that it can't be touched if the company goes bankrupt, liquidates or is merged with another company.

How much should such a fund be? Well, the South Carolina Health Department staff (they're SC's environmental enforcement agency) looked at a license transfer for SC's only toxic dump and put the figure at $100 million. Try that number on for size! Bear in mind that nearly that amount has been spent at Love Canal and at the Stringfellow Acid Pits in California and hasn't cleaned up either site.

-24- 4/86
2. IN VolvEMENT OF ORGANIZED CRIME. Is this a real concern? Read: POISONING FOR PROFIT by Block and Scarpetti, William Morrow Press, 1984 for some gruesome stories about the involvement of the Mafia in the waste disposal business. Is it likely to happen at your site? It's hard to tell and even harder to prove. Should you raise it as a concern? Yes, but with great care. For example, there is plenty of documentation of Mafia involvement in the waste business in the Mid-Atlantic, especially in NJ, PA and NY. As enforcement increases, the illegal disposal operations look for other sites to do illegal dumping. If you're dealing with a proposed facility, such as a municipal dumpsite and it's in a place that would be convenient to the logical transportation routes from known Mafia areas, you can reasonably say that you might as well put out a welcome mat for the Mafia.

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

3. DENY ACCESS TO THE SITE. Sometimes you don't have to beat the site on the merits. For example, if you can create the conditions that make it impossible for the facility to exist, you have effectively defeated the site. Here are a couple of specific ways to do this:

a) Establish rules that require that no waste may be dumped unless the operator can prove that every available, practical technology has been used to "source reduce" the material. MEMO of Mississippi got such provisions passed as a state law and it forced Waste Management, Inc., to withdraw its
landfill applications for Mississippi. Or, set conditions about the proximity to groundwater and other environmentally sensitive factors. Both New York and Florida enacted these provisions and these too had the effect of stopping new land disposal facilities from being built.

b) Make it impossible to move hazardous waste onto the proposed site. The best victory was won by the Community Affairs Group of Chickasaw, AL. They reasoned that they would get nowhere with the Alabama enforcement officials, and the Regional EPA office in Atlanta was no better, so they used local police powers to regulate traffic (since such powers can't generally be overruled) and got their city to enact an ordinance with the following provisions:

- The hauler must notify the Chickasaw police chief in advance of route and time, go to a police-designated “staging area” and only move under police escort (hauler pays for the escort). While waiting for the escort, police and the trucker must inspect the vehicle for leaks and defects. If any are found, the trucker can't proceed unless the trucking company posts a $10 million bond to cover any potential damage.
- When traveling through Chickasaw, trucks keep 150 feet away from the nearest vehicle, with the exception of their police escort.
- Headlights on, two-way radio going. Trucks must be marked according to DOT and RCRA rules and drivers must give police their RCRA manifests.
- Truck speed limits: 40 mph (Interstate), 30 mph (state highway), 20 mph (city street) and only between 9:30 a.m. and 3:30 p.m.
- Only two streets lead into the Port of Chickasaw and trucks are banned from one of them. On the other, Viaduct St., there’s a “gross vehicle weight limit” of 30,000 lbs., enforced by new weigh stations at either end of a rickety bridge. This limit is lower than the average WMI truck and when WMI complained, they were told to get smaller trucks. The AL Highway Dept. recently recommended the limit be further lowered.
- Waste trucks can’t travel through the area when it’s raining, has rained or is forecast. Same for freezing conditions, hurricane or tornado warnings or watches and wind conditions of 50 mph or more.
- Mobile City Commission totally banned hazardous waste shipments from the city limits.
Waste Management, Inc. knew that it couldn't operate under this ordinance and withdrew its application for this town. They tried another town in Alabama, across Mobile Bay, but the Chickasaw folks talked to their neighbors there, got them to enact a similar ordinance and forced Waste Management to withdraw the entire Alabama coast line from consideration for their proposed hazardous waste tank farm.

c) In Lawrence County, KY, Concerned Citizens got the county to pass a zoning ordinance that zoned the proposed site out of business. There has been a recent Supreme Court ruling on what appears to be a similar tactic used in Fairmont, West Virginia, but until the full impact of the court's decisions is known, this is an approach worth trying.

d) "Tax" the site to death. You could move to get local government to impose high fees on the operator, demanding money up front, operating fees or both in such a combination that it takes away the proposed site's financial feasibility. Think big, because if you think small, you could have this tactic backfire on you. For example, Waste Management, Inc. pays Sumter County, AL several million a year in "tipping fees" to operate the Sumter County "Cadillac of Landfills." This is big money to the primarily black, rural, low-income community, but it's only spare change to WMI. Further, WMI may add insult to injury if it wins approval from EPA for its proposal to build a hazardous waste incinerator on the site. Since the "tipping fee" is based on the number of barrels buried on the site, it's likely that WMI may have to pay nothing to the community for the waste that is burned. In the meantime, the money that does come in is, according to one community leader, "Like being on dope---we can't live with the poisons they're sticking in here, but we can't live without the money they pay."
BUT, even given this, demanding large fees for waste that will be brought in to the proposed facility is still a good approach. Just make sure you ask for enough. Further, you should use this as an opportunity to raise the debate about the true costs the community will have to bear to support the facility. For example, who's going to pay for the roads that deteriorate from the truck traffic? Who's going to pay to hire, train, equip and maintain the emergency personnel to deal with the inevitable problems? Who's going to be responsible should the operator walk away from the site?

e) Choke off the financing. If you can find out where the operator plans on getting the money to build the facility, you may be able to figure out a way to get the financial backers of the site to withdraw their loans. Let's face it, nobody builds any major facility in this country on their own money. Everybody borrows. The question you should ask publically (as part of the discussion of the operator's financial integrity) is "Where's the developmental money coming from?" In Yazoo City, MS, local leaders followed our advice on this point in their battle with Waste Management and discovered that the money was coming from the county through one of those low-interest, government-backed Industrial Revenue Bonds! They also discovered that the county had violated just about every rule of procedure in issuing the bond and got them to withdraw it. Result: WMI withdrew its application.

If you can pinpoint a local bank or two that's planning to put up the money, we suggest you go after them to re-think the loan at least until the operator demonstrates compliance with a "Good Neighbor Policy." In a similar fashion, your group can go to all of the local insurance underwriters and try to make sure that they're not going to be insuring an unsafe facility (as though they needed any encouragement not to write such policies!).
4. LOCAL GOVERNMENT LIABILITY. All across New Jersey, local governments are losing their liability insurance coverage or are having to pay 4-5 times as much money for half the coverage because of the $15 million court judgement against Jackson Township over the leaking town dump. If your local government is in any way involved in the proposed facility planning, you ought to remind them of the dim view insurance companies take towards such facilities. It's gotten so bad for local governments that they have trouble getting insurance for anything! Even school sports! They don't need the aggravation of having irate citizens raising issues that will flag the attention of the insurance companies.

5. ECONOMIC REALITIES. Just as the proposed facility's operators will crow about the magic their plan will do for the local economy, so too you should be able to talk about dollars and sense. How many jobs—usually these facilities only involve a couple of dozen workers and the best jobs, the technical ones, are going to be filled by people the company brings in from outside.

"The facility will serve as a magnet for new industry"—sure you're right: NAME THEM! Betcha they can't.

"This facility will add needed revenue to your tax base." See Sumter County, Alabama story, above. The sad fact is that this facility will probably be more of a financial drain on the community than anything else, from bridge and roadway deterioration, increased cost of public services, damage to the water supply and sewage treatment system and the cost of training and maintaining the additional, needed emergency personnel.
X. ALTERNATIVES

The operators and their friends in public office say, "Well, unless you come up with a better way, we'll just have to do it like this, right here!" That's like your neighbor walking his German Shepard in front of your house every night. Every night, that dog takes a dump on your front lawn. You come out and tell your neighbor, in no uncertain terms, that you don't appreciate that. Your neighbor replies, "Well, he's gotta go somewhere and he's gonna go here unless you've got a better solution." It's the same logic for this proposed facility. And, just as you'd have a ready answer for a neighbor who would use such a line on you, the same answer applies to the operator and other proponents of the facility.

Before we talk about alternatives, consider the contradictory logic the operators use on you. On the one hand, they try to make you believe that you are totally unqualified to judge the merits of their proposal. On the other hand, you are expected to come up with a better alternative. Which is it, guys? The real truth is that they don't expect you to come up with an alternative, just as they think you're too stupid to judge the proposal on the table.

The reality is that you are qualified to apply your own good common sense to decide whether a proposal makes sense. Further, you can decide that you don't want to take the responsibility for coming up with the alternative. That's not your job and, besides, if they think you're too stupid to evaluate their proposal, then why should you put yourself out to do their work for them. It's o.k. for you to take the position that you will simply look at what they propose and address whether or not you feel it is appropriate.

However, you may nonetheless decide to take a stab at alternatives. For specific ideas, see CCHW's "ALTERNATIVES TO LANDFILLS," #9 on the list. One of the best alternatives is to deal with dangerous waste materials at the place where they are created. We work with groups who oppose big, multi-state waste disposal sites, even though some of the proposals seem to have no glaring deficiencies in their technology for this reason. That's because these big, regional facilities take away from the growing and positive industry trend toward on-site source reduction.
Further, groups have had success in taking the very sound position that no facility should be planned unless there is a long-term, comprehensive plan that deals with waste management and which includes the best use of recycling and other source reduction technology. For example, groups that fight municipal incinerators (so-called Resource Recovery Centers) discover that such facilities eliminate any chance for the community to do real recycling. Why? Because the incinerator operator must be guaranteed a certain tonnage of burnable materials in order to operate economically. This usually rules out any chance to set up newspaper, plastic, glass and metal recycling because everything has to be fed into the maw of the incinerator and goes up the stack or into the flyash heap. And in addition, groups discover that these great incinerators not only don't eliminate landfills, but create even greater landfill problems. That flyash that's left over is often highly concentrated toxic material that has to be land-disposed.

* * * * * *

These are some general ideas on how to deal with proposed facilities. Your own approach is going to have to be tailored to meet the special conditions of your community. But these ideas should give you a good start. Now, stop reading and go out and start talking to people!
UPDATES

Some of the most creative new strategies are those developed by groups fighting proposed facilities. When we wrote the first edition of this book early in 1986, we talked about "Special Angles" that reflects our observation that (a) you have little hope of help from either the federal or state agencies and (b) groups around the country have started to show consistent success in developing "partnerships" with local governments. For example, a number of communities in New Jersey started electing their own slates of local officials mainly for the purpose of fighting proposed facilities (e.g. Tinton Falls, East Greenwich, Deptford, Rockaway). This new phenomenon isn't limited to New Jersey. By the end of 1986, we counted about 20-30 communities where local fights against toxic sites led to community control of local government.

Along with this development are some new or improved approaches to using the powers of local government to address toxic sites:

1. TAXATION (see pg. 27). After the State of Ohio passed a pitifully weak tax bill charging out-of-state dumpers only $8 a ton to dump toxic waste in the state, the City Council of Oregon, OH passed its own "permit fee" and reporting requirement ordinance to try to bring the Fondessey Landfill (OH's only consistently operating toxic dump) under control. Their ordinance was fairly modest but was instantly challenged by Fondessey's owner, Envirosafe (a subsidiary of IU International). The City lost in lower court but, in 1986, the OH Supreme Court ruled in favor of the local tax (see 492 N.E. 2d 797, Ohio, 1986). The Ohio Supreme Court ruled the city's ordinance was a proper exercise of the city's POLICE POWER to protect public health and safety. They were not therefore subject to "pre-emption" by either state or federal law. MORAL OF THE STORY: as long as you focus on public health and safety, and challenge your local government officials to think in terms of what they have the right and duty to do, you're probably on solid ground in pushing for restrictive ordinances. NOTE: the state of Oregon has a neat solution to out-of-state waste: dumpers are invited to dump provided they pay a $250,000 per ton dumping fee!

2. NEW SUPERFUND HANDLE. Organized residents of Parkar Township, NJ had fought to block the state's plan to use a beautiful valley as a solid waste dump. This site would have been right on top of a relatively unpolluted "sour" aquifer. Their legal strategy paid off. They asked their congressman, Rep. Rowe, to add an amendment to Superfund in the 1986 reauthorization process to bring their fight to an end, and to ask folk in the same kind of fight. Here's what that amendment says (it's a Superfund Reauthorization---"SARA"

-32-
1. In 1982, the building permit application by Chemical Waste Management, Inc. to construct 2,500,000 gallons aboveground storage tanks for hazardous wastes was denied by the City of Mobile's Flood Plain Management Ordinance. The federal regulations prohibit these types of uses within the high-volatility zones and floodways.

2. Based on a recommendation from the F.E.M.A. office in Atlanta, the City of Mobile at my request amended its Flood Ordinance to prohibit any construction of hazardous uses within the port of Chickasaw and throughout the City of Mobile. This amendment was enacted in 1982.

3. In 1982, the building permit application by Chemical Waste Management, Inc. to construct 2,500,000 gallons aboveground storage tanks for hazardous wastes was denied by the City of Mobile's Flood Plain Management Ordinance. The federal regulations prohibit these types of uses within the high-volatility zones and floodways.

FLOOD PLAINS: One of the most complicated and creative angles dealing with a proposed facility is to make it illegal due to the flood plain designation. This was one of the several creative angles used in the fight in Chickasaw, AL. What follows are notes from John "Bubba" Jones, the Mobile city planner who used his role to get the Federal Emergency Management Agency to change the designation for the land desired by Waste Management, Inc.:

3. Flood plains. One of the most complicated and creative angles (pg. 26) dealing with a proposed facility is to make it illegal due to flood plain designation. What follows are notes from John "Bubba" Jones, the Mobile city planner who used his role to get the Federal Emergency Management Agency to change the designation for the land desired by Waste Management, Inc.
500 year floodplain. This amendment was sponsored by the Board of Commissioners and unanimously approved by the Planning Commission.

4. A proposed state law to regulate the transportation and storage of hazardous wastes was submitted to the State legislature by Senator Perry Hand. Due to my request the Board of Commissioners recommended the law be amended to prohibit hazardous uses within the 500 year floodplain.

5. In June '84 the Board of Commissioners approved my request to attend a EPA meeting in Washington, DC on the development of the new proposed ocean incineration regulations. During this meeting the following recommendations were made that are now part of the regulations.

a) No existing on-shore facilities for the storage and processing of hazardous wastes be grandfathered in unless they were in compliance with the new Coast Guard regulations.

b) FEMA, the federal agency responsible for regulation of all uses within the regulatory floodplain be included in the list of federal agencies that must approve all applications for on-shore facilities within the regulatory floodplain. This places Chemical Waste Management, Inc. of being unable to use the existing on-shore facilities at the port of Chickasaw and at other locations without compliance with the new Coast Guard regulations and FEMA's approval.

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

If you need any additional information call me at 666-2476 or 343-8296. Area code is 205.

Sincerely,

Mr. John R. Jones

6515 OLD SHELL ROAD, MOBILE, ALABAMA 36608
4. EMINENT DOMAIN. After Peter Obstler of the Nat'l Campaign Against Toxic Hazards told us the story of a proposed facility fight in Westford, MA, we started adding "eminent domain" to our list of local government handles. Here's the theory: your local government has the right under eminent domain, to condemn, purchase and seize property needed for a public purpose. For example, if they want to build a new highway through your property, they serve you a condemnation notice to that effect. The courts have upheld their right to do this. You have some due process rights guaranteed under the Constitution against illegal search and seizure but what it comes down to is you have a right to negotiate the price. The same principle can be applied to proposed toxic sites. If an operator wants to use a piece of land for an undesirable purpose, your local government, in theory, could simply act to seize the property for a public purpose. In Westford, MA, according to Peter, just the threat of this was enough to make a dumper back off.

Well, now it looks like there's a place where local government is actually DOING it. As of this writing, "StopTox" and the local government in Palestine, TX are working together to block TexStore from building a hazardous waste injection site in an old, deteriorating salt dome. Local government has served an eminent domain condemnation notice on the land owner and the dumper is screaming like a stuck pig. The whole town is caught up in the spirit and there's a contest going to give the park that will be built on the site a name! The dumper wants Palestine to pay them for the "improved" or "potential" value of the site (i.e. how much it would be worth when "developed" into a toxic waste site). However "the Texas Constitution provides for adequate compensation for property taken for public use, says Palestine attorney Jim Boone, but "this is hard to define. The Texas Supreme Court ruled in 1969's BRUNSON V. STATE that market value at the time of the taking of the land is considered adequate compensation." To get an update on this, write STOPTOX, P.O. Drawer 1670, Palestine, TX 75801.

Do Toxic Facilities Mean Jobs?

The "Big Lie": "Let us build this dump (incinerator) (deep well) (whatever) and there'll be lots of jobs at the site AND new companies will flock to this county." They tell every community targeted for a site. That's what Waste Management told the majority black, majority poor residents of Sumter County, AL when they built the world's largest hazardous waste landfill at Emelle. You would assume the world's largest dump would produce the world's largest number of great jobs, right? Wrong again. According to May, 1987 AL Dept. of Industrial Relations data, here's what happened in Sumter County since WM1's dump opened:

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<th>UNEMPLOYMENT RATE</th>
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<td>5.8 6.7 12.2 14.2 19.0 15.9 12.7 13.8 21.1</td>
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That's a 264% jump in unemployment over the course of WM1's dumpsite's operations. The only other change during this period is the opening of the Tennessee-Tombigbee Waterway Project, which was also supposed to bring in lots of jobs.