

**The so-called public consultations
held by the Municipality of Alleyn-and-Cawood
(Danford Lake) and the promoter (LDC, Gestion
et services environnementaux) regarding
the proposal for an engineered landfill
at Danford Lake
2004 - 2006**

Myth and Reality

**English translation of the French brief
presented to the public hearings conducted by BAPE
regarding the proposed engineered landfill at Danford Lake
by Michèle Borchers**

on 12 June 2007

« La gestion municipale impose un lien de confiance entre les élus et la population. Elle est assujettie à des principes de transparence, d'indépendance et d'intégrité. [...]

Un élu de confiance,
by Jacques Desmarais et Josée Perras,
Service des institutions municipales et de la formation,
Direction générale des politiques et de la fiscalité

Preamble

This brief fulfills three functions.

First of all, it honors the civic courage and tenacity of the citizens of Alayn-and-Cawood and of the Outaouais region, who struggle to make themselves heard for almost two years.

Next, it bears witness to the lengthy battle that citizens of Quebec and of Canada are still obliged to wage, now, in 2007, in order to exert an influence on a decision that affects their future.

Finally, it will leave behind a written record of the events of the past two years, in the hope that lessons can be learned from them.

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Chronology of Events

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|-------------|--|
| 13.03.2003 | Foundation of LDC |
| Fall 2003 | LDC attempted to establish an engineered landfill in Ouyon (MRC de Pontiac). |
| 05.10.2004 | Letter from Alleyn-and-Cawood's Mayor inviting his fellowcitizens to a public information and consultation meeting on 16 October 2004. |
| 16.10.2004 | <i>First</i> public information and consultation meeting in Alleyn-and-Cawood. |
| 01.11.2004 | Alleyn-and-Cawood's Municipal Council authorized LDC to submit its project to the government (Resolution 123-11-04) |
| 24.11.2004 | The MRC Pontiac supported the project. |
| 12.03.2005 | <i>Second</i> public information and consultation meeting in Alleyn-and-Cawood. |
| 16.03.2005 | LDC submitted its Notice of Project to the Quebec Ministry of the Environment. |
| 04.04.2005 | Alleyn-and-Cawood's Municipal Council decided "to be the host municipality of an engineered landfill site which will serve the Outaouais Region" (Resolution 034-04-05) |
| 27.04.2005 | LDC requested an exception to the moratorium on landfills. |
| 03.06.2005 | The MRC Pontiac wrote to the City of Gatineau to promote the proposed engineered landfill at Danford Lake. |
| 06.06.2005 | LDC wrote to the City of Gatineau to promote its proposed engineered landfill. |
| 31.08. 2005 | Governmental Decree no. 806-2005 granting LDC an exception to the moratorium on landfills. |
| 12.10.2005 | The Mayor confirmed that after obtaining a consensus from ratepayers present (14!) at the public consultation held 16/10/2004, the Council authorized the promoter to go ahead with impact studies. |
| 29.10.2005 | <i>Third</i> public information and consultation meeting in Alleyn-and-Cawood. |
| 22.12.2005 | In a CBC broadcast, the Mayor declared that the final decision rested with the community: « <i>It's going to be a community decision.</i> » |
| 28.01.2006 | Upset by the behavior of their elected officials, the citizens of Alleyn-and-Cawood ask their Municipal Council to furnish them with information on the procedures employed for the public consultation. |
| 06.02.2006 | Alleyn-and-Cawood's Municipal Council passed a resolution allowing a referendum. |
| March 2006 | Alleyn-and-Cawood's Mayor vetoed the resolution. |
| April 2006 | Public consultation on proposed changes to Alleyn-and-Cawood's planning and zoning by-laws. |

| | |
|-------------------|---|
| 12.06.2006 | The MRC Pontiac held a public consultation meeting on the matter of Draft By-Law 120-2006, modifying its Revised Land Development Plan. The purpose was "to identify a potential site for the establishment of an engineered landfill site in the Municipality of Alleyn-and-Cawood". |
| 26.06.2006 | The MRC Pontiac approved a request by the Municipality of Alleyn-and-Cawood to be added to the list of <i>potential</i> sites for an engineered landfill in the Pontiac. The Pontiac Warden, mayors, and land planner confirmed that the MRC de Pontiac would never impose such a project on people who did not want it, and that the Municipality of Alleyn-and-Cawood was required to organize a referendum on changes to its zoning by-laws. |
| Late June 2006 | The MRC Pontiac submitted its proposed Resolution 120-2006 (providing for the municipality of Alleyn-and-Cawood to be considered a potential site for establishing an engineered landfill) to Quebec's Minister of Municipal and Regional Affairs. |
| July 2006 | The Regional Directorate of the Ministry of Municipal and Regional Affairs confirmed to the Coalition's executive that the Municipality of Alleyn-and-Cawood had no choice but to act according to the law and to organize a referendum on changes to the municipal zoning by-laws. |
| Late August 2006 | The Mayor of Alleyn-and-Cawood asked the MRC Pontiac to make Danford Lake the <i>only possible</i> site for an engineered landfill.) |
| 04.09.2006 | For the second time in one year, Alleyn-and-Cawood's Municipal Council tried to pass a resolution allowing for a referendum. |
| 23.09.2006 | Alleyn-and-Cawood's Municipal Council passed a resolution (086-09-06) asking the MRC Pontiac to declare Alleyn-and-Cawood "a site of regional interest for the establishment of a landfill site" |
| 25.09.2006 | The MRC Pontiac passed a resolution voted in favor of the resolution, declaring Alleyn-and-Cawood "a site of regional interest for developing a landfill site." One of the most famous journalists in the region spoke about the "death of democracy". |
| Late October 2006 | The Pontiac Warden admitted that by taking over the project in September, the MRC had <i>de facto</i> eliminated the possibility of a referendum on the zoning changes needed for the landfill project at Alleyn-and-Cawood. |
| 22.11.2006 | The MRC Pontiac adopted its Règlement de contrôle intérimaire concerning the proposed engineered landfill in Danford Lake. |
| 31.01.2007 | The Règlement de contrôle intérimaire came into force. |

Introduction

The goal of public consultation, the key element in participatory democracy, is to ensure that citizens understand what is at stake in a given project so that they might anticipate the consequences of its adoption or rejection.

The government gives great importance to this participation, because the taking into account of the opinions of its citizens confers a legitimacy to the decision that it will make, and it also contributes to social tranquility.

The content of the invitation to the initial public consultation meeting is crucial, since it enables a citizen to answer two fundamental questions:

- 1. Is this worth my effort?*
- 2. Might failing to attend have negative consequences for me?*

If the letter of invitation does not state the purpose of the public consultation clearly, it does not give the citizen the information needed to decide whether s/he should attend or not.

The "consultation" is then a sham from the beginning and should render illegitimate any subsequent municipal decision that is based upon it.

As we shall see a little further on, this, unfortunately, is what has apparently transpired in Alleyn-and-Cawood since 2004. The flagrant lack of transparency and of democracy that marked the two subsequent years (2005 and 2006) have confirmed the feeling of most citizens that the means chosen by their Municipality to inform them have, in fact, served to separate them from the consultation process rather than include them in it.

In 2006, following months of fruitless attempts to be listened to by their elected municipal officials, citizens addressed themselves to the next level of government, the MRC Pontiac.

For several months, the MRC Pontiac lulled them with the illusion that they would have an opportunity to participate by way a referendum on the issue of zoning by-law changes.

This is not just our interpretation of events; it is also that of several Pontiac mayors and of journalists who have followed this issue.

In the fall of 2006, citizens were forced to face the facts: both levels of government in which they had placed their trust and which presumably represented and defended their interests had excluded them from decision-making.

Our brief consists of three parts:

- 1) False appearances (the lack of transparency)
- 2) Grand illusions (the lack of democracy)
- 3) Seeking information (the lack of access to information)

Part One

FALSE APPEARANCES

(The Lack of Transparency)

(October 2004 – October 2005)

Introduction

The Ministry of the Environment *does not oblige* a promoter to consult with the public but, in order to increase a project's chance for success and to render it more acceptable, the Ministry strongly encourages the promoter to do so **from the project's very inception**, so that the public can influence the decisions taken:

«Plus concrètement, le Ministère incite fortement l'initiateur de projet [...] à débiter le processus de consultation avant ou dès le dépôt de l'avis de projet et à y associer toutes les parties concernées, tant les individus, les groupes et les collectivités que les ministères et autres organismes publics et parapublics. Il est utile d'amorcer la consultation le plus tôt possible dans le processus de planification des projets pour que les opinions des parties intéressées puissent exercer une réelle influence sur les questions à étudier, les choix et les prises de décision. Plus la consultation intervient tôt dans le processus qui mène à une décision, plus grande est l'influence des citoyens sur l'ensemble du projet et nécessairement, plus le projet risque d'être acceptable socialement.»¹

The project promoter, in his preface concerning *Relations avec le milieu*,² attempts to convince the reader of his own efforts in this direction:

« Conscient de l'importance d'informer et de consulter les citoyens et les intervenants du milieu hôte, LDC a fait beaucoup d'efforts afin d'informer les citoyens de la municipalité d'Alleynd-Cawood et de recueillir leurs préoccupations à l'égard du projet. » (p. 191)

Further on, he adds:

« Dans l'ensemble, aucun des groupes et des organismes consultés entre octobre 2004 et octobre 2005 n'a remis en cause la nécessité d'implanter un nouveau lieu d'enfouissement technique (LET) dans la région de l'Outaouais. » (p. 198)

Finally, he concludes by stating:

« De façon générale, les organismes rencontrés ont donné leur appui au projet ». (p. 200)

The promoter goes even further in a piece of promotional literature, dated 6 June 2005, and addressed to the Mayor of Gatineau:

«**Des consultations préliminaires ont démontré que près de 100 pour cent de la population locale est d'accord** avec l'aménagement du CIEVO en bordure de la route 301, sur le territoire de la Municipalité de Danford Lake.»³

Now let us compare these statements with the facts.

¹ Government Guidelines for the proposed engineered landfill site in Danford Lake (3211-23-072), Introduction, Section 5 (Incitation à consulter le public en début de procédure)

² LDC's Impact Study, Main Report, February 2006

³ Section 8, *L'acceptabilité sociale du projet* (Appendix 00)

1. Face to face with the people: the three public meetings

According to the promoter,⁴

« trois séances publiques d'information et de consultation à l'intention des citoyens et des principaux intervenants directement concernés par le projet ont été tenues. Ces dernières ont été organisées par le promoteur en collaboration avec la municipalité de Alleyn-and-Cawood, Fondex Outaouais et Teknika HBA⁵ ».

The *first* meeting was held in the fall of 2004, on **16 October**. A letter from the Mayor (unsigned) invited *all* citizens of Alleyn-and-Cawood to attend.

The *second* meeting was held in the winter of 2005, on **12 March**. This time the citizens were invited to attend by a simple public notice posted in Alleyn-and-Cawood.

The *third* meeting was again held in the fall, on **29 October 29 2005**. This time the mayor again invited *all* the citizens of Alleyn-and-Cawood.

A cursory analysis might lead one to conclude that all the citizens of Alleyn-and-Cawood were adequately informed and consulted before the Council decided to authorize the promoter to submit his project. In truth, nothing of the sort transpired—for three reasons:

The First Reason: All three meetings were scheduled for the fall and winter, at times of the year when 75% of ratepayers were absent from the area. When questioned on this point at the public BAPE hearing, the Mayor responded that there was no perfect time to schedule public meetings⁶. True, there is no "perfect" time to schedule meetings, but certain times, when a high turnout can reasonably be expected, are clearly better times, and other times, when a low turnout is almost certain, are clearly worse times. Citizens have the right to expect, even to insist, that their Municipal Council demonstrate its ability to discern the difference. Unfortunately, when faced with this choice, the Municipality and the promoter picked the worst times of the year, when turnout was likely to be minimal.

The Second Reason: Instead of waiting until the *end* of the consultation process, until after all three public meetings had been held—which would only be logical, the Municipality decided to authorize the promoter to submit his proposal for an engineered landfill to the government a mere two weeks after the first of the three public meetings, i.e., after the meeting of 16 October 2004, which the overwhelming majority of the

⁴ LDC's Impact Study, Main Report, February 2006, p. 194

⁵ The two firms in charge of the impact studies would be operating the landfill with LDC.

⁶ "Like I said, there never, never is a good time. Somebody always has something to do. There's always something now going on. So when, you can't please and find the time for everybody no matter what you do. If you have it on Christmas, why didn't you have it on Boxing Day. You have it on Boxing Day, why didn't... like it's endless." (DT3.1)

population did not consider worthwhile attending, because they had not been informed of the real reason for the meeting (see the next paragraph: The Third Reason).

The Third Reason: As the Director General⁷ and the Mayor of Alleyn-and-Cawood implied during the public hearings,⁸ the letter of invitation to the *first* public meeting did not mention anything regarding the true scope of the project.

Let us now examine the three public consultation and information meetings.

1.1 The First Public Meeting (16 October 2004): the foundation of the consultation process

Given the extensive impact this project would have on local citizens, the Municipality of Alleyn-and-Cawood should never have given the promoter a green light without first making sure that a majority of those citizens had understood what was at stake and had found the project acceptable. Not only because such an approach would be both logical and democratic, but also because it could guarantee the project's success.

But the Municipality acted to the contrary.

A mere two weeks after the first meeting, i.e. on 1 November 2004, the Municipal Council of Alleyn-and-Cawood rushed to adopt a resolution by majority vote (four in favor, two opposed), authorizing the promoter to submit his proposal to the government.⁹

The promoter confirms on page 32 of his *Rapport principal* that it was after this initial meeting that the Municipality accepted the concept of an engineered landfill on its territory:

« Celle-ci [Alleyn-and-Cawood] a été la première municipalité de la MRC du Pontiac à accepter, après consultation, l'idée d'implanter un LET sur son territoire [...]. Une copie de la résolution 123-11-04 et de la résolution 2004-351, adoptée le 24 novembre 2004 par la MRC, sont jointes à l'Annexe D.»

Thus, the Council chose to league itself with the promoter immediately following the *first* public meeting, and it subsequently invoked this commitment to the promoter as an excuse for refusing a referendum, alleging that the promoter could take legal action

⁷ «Pour le site d'enfouissement, la municipalité a fait parvenir aux gens une lettre juste pour les aviser de ce projet. Pas vraiment de ce projet, mais vraiment les règlements qui prévoient pour les municipalités pour les sites d'enfouissement, les dépôts en tranchée.» (DT1)

⁸ Question: *Why did not the letter of 5 October 2004 specify the scope of the project?*

Mayor Squitti's answer: *"because the details of the scope were given at the public consultation"* (DT3.1).

⁹ Resolution 123-11-04 of 4 November 2004:

To allow LDC, Gestion et Services Environnementaux to proceed with the submission of the notice of project as the promoter for the installation of a regional technical landfill site.

against the Municipality and bankrupt it, because he had already invested a considerable sum of money in the impact studies.

(Questioned about this several times at the public hearings, the promoter denied ever having threatened the municipality with legal action if it withdrew its support. He also acknowledged that the promoter of a project assumes a risk when submitting his Notice of Project and conducting his impact study and that the government is not bound to approve his project simply because it was submitted¹⁰.)

One year later, in October 2005, the Mayor of Alleyn-and-Cawood justified the decision taken by the Council on 1 November 2004 to support the project, by saying that this decision followed upon a consensus obtained from among 14 individuals present at the meeting:

"One year ago, in October of 2004, all ratepayers in Alleyn-and-Cawood received from the municipality an information leaflet [...] and an invitation to a public information meeting [...]. With the general consensus of those who attended and the support of the municipal council, the promoter proceeded with the project."¹¹

When asked at the BAPE hearings about the reason for the haste in granting support to the project, the Mayor simply said that it was necessary to go ahead with the environmental impact study.¹²

When later questioned about this "general consensus" among 14 residents (implying not *all* agreed), the Mayor was unable to say who, with the exception of himself, the six municipal councillors and three or four municipal employees, attended that meeting.¹³

In a letter dated 23 December 2005 and addressed to Mr Shannon Martin, the president of the Danford Lake Association, the promoter stated that he himself was of the opinion that the ratepayers of Alleyn-and-Cawood had been adequately informed of the project since October 2004:

¹⁰ DT6

¹¹ Letter of 12 October 2005 from the Mayor of Alleyn-and-Cawood to his citizens (Appendix 01)

¹² "...we had to go ahead, I mean, I am trying to recollect it, we had to go ahead with the environmental impact study..." (DT3.1)

¹³ "No, No, I don't have that [information] with me, and what that was for was to go ahead, I mean, I'm trying to recollect this. I was to go ahead with the environmental impact study." (DT3.1)

"It is our opinion that the taxpayers of the host municipality of Alleyn-and-Cawood were properly informed of the project starting in October 2004."¹⁴

But, as we have seen, only 14 residents attended the public meeting of 16 October 2004. This number was provided by the promoter himself in his publicity brochure of March 2006:¹⁵

«Première invitation publique – Début octobre 2004 : Seuls 14 résidants sont présents.»

When asked at the BAPE hearings why he considered a consensus obtained from among the 14 residents present at this meeting sufficient to authorize the promoter to submit his project to the government, the Mayor replied that the regular municipal council meetings were rarely attended by more than two or three people and that, consequently, the 14 attending this meeting was a much higher number than usual.¹⁶

But there is no comparison between an ordinary municipal council meeting and a public consultation and information meeting on a megaproject that would impact the community for generations to come.

The Municipal Council and the promoter committed a grave error of judgment when they decided that minimal attendance at a single public meeting gave them the right to present this project to the government.

Furthermore, just why did the vast majority of ratepayers fail to respond to their Mayor's invitation?

The answer is simple: as the Director General of the Municipality¹⁷ and the Mayor¹⁸ implied at these BAPE hearings, the letter of invitation dated **5 October 2004**¹⁹ in no way indicated that the new dump would be a thousand times larger than the existing dump because it would serve the entire Outaouais Region—not just the tiny, rural municipality of Alleyn-and-Cawood.

¹⁴ Letter of 23.12.2005 from the promoter to the President of the Danford Lake and District Property Owners Association (Appendix 02)

¹⁵ Appendix 03

¹⁶ "Like I said, at council meetings we usually get two (2) or three (3) people. Here we have fourteen (14), it's five (5) or six (6) times. What do we do? We have to keep moving." [DT3.1]

¹⁷ «Pour le site d'enfouissement, la municipalité a fait parvenir aux gens une lettre juste pour les aviser de ce projet. Pas vraiment de ce projet, mais vraiment les règlements qui prévoient pour les municipalités pour les sites d'enfouissement, les dépôts en tranchée.» [DT1]

¹⁸ Question: "Considering the very long-term impact of this project, why didn't the letter of October 5, 2004 contain any mention of the regional scope of the project?" Answer: "because the details of the scope were given at the public consultation". [DT3.1].

The letter left the impression that the meeting of 16 October 2004 would deal with the new provincial regulations regarding the future closing of trench landfills and the need to replace the old municipal dump with a dump that was more environmentally friendly, one called "an engineered landfill":

«Waste which is presently buried in our trench landfill would be excavated and placed into the engineered site [...] The end result is the closure and clean up of one trench landfill and the creation of one engineered landfill.» (p. 2, English version)

The Mayor even concluded his letter of invitation by reassuring his fellow citizens regarding the strictly preliminary nature of the meeting:

«The project, still at its conceptual stage, would be presented to the public in a more formal fashion once all of the variables are known. Given the Municipality's expectations, public acceptability is a very important element to the project.»

It is no surprise that citizens believed that nothing would be decided at this first meeting and that only 14 people showed up. How many would sacrifice a Saturday afternoon to go listen to engineers speak about the renovation of the municipal dump?

When a public body (a municipality, in this case) invites citizens to an information session regarding some project, the purpose of the meeting should be stated in no uncertain terms so that citizens have a clear concept of what is at stake and can decide, with full knowledge of the facts, whether their attendance at the meeting is important or not.

It is a matter of both common sense and ethics. And it is also the method recommended by the Ministry of Municipal Affairs in regard to public consultations in connection with any proposed change to municipal planning by-laws.²⁰

The content of the invitation to the initial public consultation is crucial, because it allows a citizen to answer two fundamental questions:

1. Is it worth the time and effort?
2. Could failing to attend have negative consequences for me?

If the invitation does not state the reason for the public consultation clearly, then it does not give the recipient the information needed to decide whether to attend or not.

¹⁹ Annexe 04

²⁰ Manuel de procédure pour des changements au plan d'urbanisme ou au règlement de zonage

The Supreme Court of Canada considers a public body such as a municipality obligated to exercise its powers equitably, in good faith, and taking into account the public interest.²¹

If the Municipality and the promoter had truly wanted to have a large number of citizens attend, they could easily have done so by saying that they planned to replace the municipal dump with a huge landfill to serve the entire Outaouais Region. But they did not do this.

At the BAPE informational meeting at Otter Lake, 28 February 2007, the promoter was questioned about the lack of citizen participation at the meeting of 16 October 2004. He answered by saying that in his opinion only permanent residents counted. At the BAPE public hearings, he clearly made it known that he considered it sufficient to have the support of "just over half" of the *permanent residents*,²² alleging that the project's impact on seasonal residents would be minimal, considering the "fact" that they only came to their cottages on weekends.²³

Such a stand is quite unrealistic:

(a) Even if true that about half of the *permanent residents now* (in 2007) support the project, such was not the case in 2004, since only 14 people attended the first public meeting on 16 October 2004 (and gave, according to the Mayor, a "consensus", not unanimous support). Moreover, the *Loi sur les élections et les référendums municipaux* [Municipal Elections and Referenda Act] does not distinguish between permanent and seasonal residents. Both groups of citizens enjoy the same rights and obligations at the municipal level. But even supposing that only permanent residents count (a rather bizarre supposition), the 14 residents who attended the first public meeting represent

²¹ Judgment of 30 June 2004 (2004 CSC 48) – URL <http://csc.lexum.umontreal.ca/fr/2004/2004csc48/2004csc48.html>

²² « Au stade où nous en étions avec une étude complétée et l'appui que je considère des résidents permanents, des gens qui vivent avec la réalité de vivre dans le Pontiac, qui doivent gagner leur vie dans le Pontiac, c'est leur réalité quotidienne, ces gens-là, et je crois qu'un groupe de citoyens permanents ont fait circuler une pétition et qu'ils vous la soumettront lors des mémoires, démontre que tout au moins plus de 50 % des résidents permanents appuient fortement le projet. » [DT4]

²³ « Le fait que nous n'exploitions pas le site les fins de semaine, douze mois par année, donc dans la période où pour la grande majorité ces gens-là viennent à leur résidence secondaire, le fait que nous sommes très loin et très isolés de ces résidences secondaires, et que, selon les résultats de l'étude, que les impacts sont tout à fait minimaux surtout face à ces gens-là, non, je crois que l'affirmation n'est pas juste. » [DT4]

only a fraction of the permanent residents. That is far from a majority and even further from the "*près de 100 % de la population*" claimed by the promoter for the benefit of the Mayor of Gatineau in June 2005.

(b) Given that two of Allevyn-and-Cawood's lakes, lakes Neil and Wilson, are physically closer to the proposed landfill site than the village itself and that the predominant winds are from the southwest, the seasonal residents on these two water bodies would be on the front line in terms of nuisance (seagulls, smells, and threats to the water table).

(c) To assert that seasonal residents only come on weekends is to ignore the demographic reality of the region: a growing number of cottagers are baby boomers who, now retired, spend more time at their cottages. Many, in fact, choose to reside there permanently.

Furthermore, the Ministry of the Environment's directive does not make any distinction between permanent and seasonal residents. On the contrary, it clearly states that a consultation must bring together all concerned parties, be they individuals, groups, or public bodies [*"associer toutes les personnes concernées, tant les individus, les groupes et les collectivités que les ministères et autres organismes publics et parapublics..."*²⁴].

When asked whether this restrictive approach to consultation was not contrary to his ministry's directive, the Ministry official responsible for this project replied as follows: the law does not oblige the promoter to hold consultations, it only encourages the promoter to do so (the consultation process may eventually be made obligatory, but at present it is not²⁵), and the promoter is supposed to make a reasonable effort to contact all interested parties²⁶.

²⁴ Government Guidelines concerning the impact study, p. 3 (Section 5)

²⁵ « *On n'exige pas de référendum. Dans la directive, on suggère justement au promoteur de consulter la population et de nous transmettre le résultat de ces consultations-là. Mais ça, ce n'est pas obligatoire, c'est simplement on suggère au promoteur de le faire. Parce que l'étape de consultation obligatoire peut-être un jour viendra dans la modification, mais elle n'est pas encore fixée. La seule consultation qu'on fait faire, c'est la consultation justement qui est régie, elle est régie par le Bureau d'audiences publiques sur l'environnement. Il n'y a pas de critères en tant tels établis. C'est simplement les préoccupations qui sont notées, par exemple, lors des audiences publiques ou lors des consultations publiques.* » [DT2]

²⁶ « *C'est toujours dans la mesure du possible. On n'est pas allés faire faire une enquête pour savoir s'il y a des personnes qui devaient être rencontrées et qui ont été rencontrées. Donc, on dit toujours c'est dans la mesure du possible d'informer et de consulter la population, mais ce n'est pas une étape obligatoire dans la procédure* » [DT6]

This surprising response elicited the following comments:

1. All studies on the social acceptability of infrastructure projects show the importance of including all parties concerned from the inception of the project. True, the law does not obligate the promoter to hold public consultations. However, once the promoter does decide to hold such consultations, isn't he obliged to conduct them equitably and in good faith?
2. The promoter excluded 75% of the local population, and he did so deliberately and arbitrarily, not because it was beyond the reach of "a reasonable attempt".
3. If the promoter is allowed to decide all on his own who are and who are not "interested parties" to be informed and consulted, this could encourage him to restrict the selection to those in favor, and would destroy the credibility of any "public consultation".

When questioned about the criteria the Ministry uses to define the social acceptability of a project, the Ministry official responsible for the project replied that there were none and that there were only two mechanisms that actually enabled the government to determine a project's social acceptability: (1) the public consultations of the MRC's waste management plan (PGMR [Plan de gestion des matières résiduelles]); and, (2) the public hearings of BAPE.²⁷

The problem is that the only public consultations on the Pontiac Waste Management Plan (PGMR) took place in 2003, when there had not yet been any talk of an engineered landfill site in *Danford Lake*. The 2003 Pontiac Waste Management Plan only mentioned an engineered landfill *in the Pontiac*, in general terms.

²⁷ «Il y a des audiences publiques qui sont tenues, l'exercice exactement qu'on fait aujourd'hui, et il y a aussi dans la consultation lors de l'élaboration du Plan de gestion des matières résiduelles. Parce que la MRC avait le droit et l'obligation de consulter justement ses concitoyens.» [DT1]

We have asked the Ministry of the Environment if there should not have been a second round of public consultations before revising the Plan to include Danford Lake as a regional landfill site. We are still waiting for an answer.

As for the BAPE hearings, the Ministry of the Environment's representative did acknowledge that the hearings demonstrated strong opposition to the project.

This opposition could have come as no surprise to either his Ministry or to the government. Beginning in late 2005 and continuing throughout 2006 [and into 2007], citizens and the Coalition Against Danford Megadump have been writing regularly to the Premier of Quebec, to the Minister of Sustainable Development, the Environment, and Parks, and to the Minister of Municipal Affairs to complain about the lack of consultation regarding the project and to inform them of the growing opposition that this has engendered.²⁸

One question remains: why didn't the Ministry of the Environment and the other ministries involved in this project react to all the signs of opposition?

Is it due to a lack of political courage? Because it is easier for the government to "handle" a smaller number of grumblers?

1.2 The Second Public meeting (12 March 2005): The Missed Opportunity

According to the promoter, the purpose of this second informational meeting "était de présenter l'avis de projet préliminaire afin de recueillir les préoccupations ainsi que les commentaires de la population avant que celle-ci [celui-ci] ne soit officiellement transmise au MDDEP."²⁹

This second meeting gave the municipality and the promoter an opportunity to correct the error made in connection with the first public meeting. They missed this opportunity by holding the meeting in the middle of winter (when the great majority of residents were absent) and by announcing the meeting solely by posting notices in the municipality

²⁸ Letter of 27.8.2005 from the Danford Lake and District Property Owners Association to the Quebec Ministry of the Environment, letter of 20.01.2006 from the Coalition to the Quebec Premier, letter of 10.4.2006 to the Quebec Ministry of Natural Resources, letter of 15.5.2006 from the Coalition to Mrs. Charlotte l'Écuyer, letters of 16.5.2006, 14.8.2006, 8.9.2006, 11.12.2006 to Mrs. Nathalie Normandeau, letter of 20.6.2006 to Mr. Norman MacMillan, letter of 20.6.2006 to Mr. Benoit Pelletier, ministre responsable de l'Outaouais, letter of 8.5.2006 to Mr. Réjean Lafrénière, letter of 18.8.2006 to Mr. Claude Béchar

²⁹ LDC's Impact Study, Main Report, February 2006, p.194

itself. As the promoter explained at the May 2007 session (see footnotes 22 and 23), he included only permanent residents in his survey. (This is contradictory, since the invitations for the first and third public meetings were sent to ALL residents, permanent and seasonal.)

As it turns out, only 26 people attended this second meeting. Here again, the promoter has not supplied any record of the meeting.

At the May 16 evening session, the Mayor was asked if a written letter could have been sent to all ratepayers. His answer:

"Well, I guess anything could have been done."³⁰

1.3 The Third Public Meeting (29 October 2005)

This third public meeting coincided with the first day of deer season, an important day in Alayn-and-Cawood when most of the men (and even some of the women) were absent in order to augment the family's stock of meat.

This time the Municipality and the promoter again invited by letter *all* the "citizens and landowners" of the Municipality. Two important events had taken place since the second meeting:

1. The project commenced for real because, at the end of August 2005, the Quebec Minister of the Environment had, by decree, removed the prohibition against establishing a landfill in favor of LDC. LDC's impact study was about to be concluded.
2. It had become common knowledge that resistance to the project was being organized. The Municipal Council of Alayn-and-Cawood and the promoter could no longer pretend to be unaware that local people had discovered the actual scope of the project. Thus, 67 people attended this meeting, where, for the first time, the promoter encountered open opposition.

At the very beginning of that meeting, citizens were told that all their questions would be answered and that all their questions and comments would be recorded and submitted to the BAPE. Citizens have never even received written answers to all their questions.

³⁰ DT3.1

But the citizens of Alleyn-and-Cawood were not the only ones shut out of the consultation process.

2. Meetings with groups, public bodies, etc.

2.1 Meeting with groups:

The following appears in the *Rapport principal*:

«Dans l'ensemble, aucun des groupes et des organismes consultés entre octobre 2004 et octobre 2005 n'a remis en cause la nécessité d'implanter un nouveau lieu d'enfouissement technique (LET) dans la région de l'Outaouais.» (p. 198)

«De façon générale, les organismes rencontrés ont donné leur appui au projet.» (p. 200)

The Rapport, however, makes no mention of Renato Livinal's Miljour Estate (a cottage estate development, located near the proposed site), nor of local, regional or provincial organizations with a recreational or touristic interest in the municipality of Alleyn-and-Cawood, such as the Mount O'Brien Association, the Five-Mile Club, the Club Pierre Radisson, la Fédération québécoise du canot et du kayak, and the Trailhead company, to name only a few.

During the summer of 2006, members of the Five-Mile Club, a hunting and fishing club possessing 400 acres near the Village of Danford Lake, voted against the Danford megadump project.

At the Mount O'Brien Association's Annual General Meeting on 20 May 2007, 96% of the membership voted against the engineered landfill project.

As for the Club Pierre Radisson and the Fédération québécoise du canot et du kayak, the letters of opposition to the project that they have addressed to the Coalition Against the Danford Megadump speak for themselves.³¹

In October 2006, Wally Schaber and Chris Harris, the founders of the Trailhead sporting goods company, stated to the Coalition:

³¹ Appendix 06

“Since we began in business in 1971 we would estimate over 5,000 novice canoeists learned their first whitewater canoeing skills on the Picanoc. Its one of the most accessible, beautiful, clean and fun day trips in the region. Today, we see second-generation paddlers from students of our 1980’s classes on the river. Will the third generation think so fondly of the Picanoc? We are deeply concerned about the broader impact this proposed landfill will have on tourism generally in that area”.³²

2.2 Public bodies:

It is enough to look at a map of the Outaouais to see that the Municipality of Allevyn-and-Cawood is located at the *eastern* boundary of the MRC Pontiac.

Given that the largest volume of the residual waste shipped to Danford Lake would come from the rest of the Outaouais, and not from the Pontiac, highways 105 and 301 would be burdened with the additional traffic.

This means that the MRCs of la Vallée-de-la-Gatineau and of des Collines-de-l’Outaouais would suffer the brunt of increased traffic, increased risk of accident, increased noise, and the littering of waste along roads, etc.

The exclusion of neighboring municipality from the consultation process is not only contrary to the good-neighbor principle, it also runs contrary to an avowed goal of the promoter and of the Municipality of Allevyn-and-Cawood, which, since the beginning, has been to give their project a *regional* dimension. Since the project is of regional scope, why wasn't the consultation regional as well?

Questioned at the hearings about this (further) lack of consultation with the Municipality of Kazabazua, the promoter replied:

« J'avoue, madame la présidente, que nos efforts de consultation et de représentation avec la communauté, avec les gens, se sont concentrés dans la municipalité hôte ainsi que dans la MRC hôte, notre position étant que, situé à environ 10 kilomètres ou plus de la municipalité voisine dans la MRC voisine, faisait en sorte que les impacts allaient être limités. Et bien entendu, par exemple, dans tout le respect qu'il y a des impacts à subir de la part de ces gens-là, notamment au niveau du transport, par contre, nous avons cru que les audiences publiques du BAPE étaient le forum pour en discuter plus grandement. Par contre, nous avons ouvert la porte au conseil municipal de Kazabazua à une visite de notre part pour aller leur présenter le projet, une invitation qui n'a jamais été acceptée. »

³² Appendix 07

When asked, Kazabazua's Mayor and Promayor declared that they had never been approached by the promoter³³.

At its meeting of 9 January 2007, the Kazabazua Municipal Council adopted a resolution in which it reaffirmed its opposition to landfills in general and its desire to see other solutions to waste management considered, a position which agrees with that adopted by the MRC itself.³⁴

In February 2006, the Municipality of Low declared its opposition to the project.³⁵

The Municipality of Bouchette did the same on 5 September 2006.³⁶

³³ [I was asked] "if our municipal council - if we were approached by the promoter to have meetings in Kazabazua. (End of translation) I have talked with Adrian Noel, the Mayor. He never received that sort of request. He told me yesterday that he would have been more than open to having a meeting and discussion of this sort. Personally, I have never received a request from Mr. Rouleau for a meeting. I have never discussed the dump with Mr. Rouleau. So, I just want to clarify that was a previous outstanding that requires correction." [DT6.1]

³⁴ « Opposition aux lieux d'enfouissement des déchets

CONSIDÉRANT que la MRC a choisi d'évaluer les alternatives aux lieux d'enfouissement technique (LET) dans notre région;

CONSIDÉRANT que ce Conseil souhaite réaffirmer son désir d'évaluer des alternatives viables aux LET avant qu'un tel site ne soit érigé pour combler des besoins devenus urgents;

Il est proposé par Mélanie Irwin

Appuyé par Robert Pétrin

ET EST RÉSOLU QUE ce Conseil réaffirme son opposition aux lieux d'enfouissement techniques (LET) dans notre région et souhaite pouvoir évaluer prochainement les alternatives viables aux LET. Adoptée à la majorité. »

³⁵ Appendix 08

³⁶ Appendix 09

Part 2

GRAND ILLUSIONS

(The Lack of Democracy)

2005 – 2006

1) Repeated rejections (December 2005 – April 2006)

In a letter dated 5 October 2004³⁷ and addressed to his fellow citizens, the Mayor of Alleyn-and-Cawood wrote:

« Given the municipality's expectations, public acceptability is a very important element to the project. » (p. 4)

He stated during a CBC (91.5) regional broadcast on 22 December 2005 that the final decision would rest with the public:

*« It's going to be a community decision. »*³⁸

Nevertheless, throughout 2006, the Mayor and a majority of his councillors refused repeated requests by their fellow citizens to take part in making the decision.

On **6 February 2006**, a majority of municipal councillors passed a resolution in favour of a referendum on the project. At the next council meeting (**March 2006**), however, the Mayor vetoed the resolution.

The mayor's reason for vetoing the referendum: not all council members had been present on 6 February and that a resolution of such importance could not be taken unless all council members were present³⁹.

This argument cannot stand up because:

- (1) the adoption of a resolution only requires a quorum; and,
- (2) not all members of the council (four out of six) were present when, on 1 November 2004, it adopted a resolution of equal importance to the community's future, authorizing the promoter to submit his proposal to the government.

³⁷ Appendix 04

³⁸ Appendix 10

³⁹ "[...] *why I vetoed that vote is because all of the members of council weren't there to vote on it.* [...]" [DT3.1]

Over the following months, the Mayor and some of his councillors attempted in vain to convince his fellow citizens that, having authorized the promoter to submit his proposal to the government, the Municipality could not withdraw its support without risking legal action by the promoter, an action that could bankrupt the municipality. Twice questioned on this subject at the public hearings, the promoter twice replied formally that he had never discussed possible legal action against the Municipality, should it withdraw its support. He also responded in the affirmative to a question from the Commission chair, asking whether the impact study was not a part of the risk of any undertaking⁴⁰.

Here is how the promoter responded in the column of a regional newspaper (the *Shawville Equity*) in 2003, when questioned about a referendum regarding an engineered landfill he proposed to establish in Quyon (MRC Pontiac):

«Question: [...] A referendum has been mentioned so that the people can have a voice. When will this happen?»

Answer: "The promoter certainly endorses this approach to a registry as it establishes one of the key elements to the project.»⁴¹

«Three elements are required to obtain a certificate: public support, political support and meeting all technical requirements. Political support is confirmed, provided the residents want the project. The technical requirements are achievable. The potential for the success of the project now lies in its public acceptability. As the sole financial risk taker in this project, LDC has everything to gain by ensuring that the residents understand the project and support it.»⁴²

At the BAPE hearings, one participant asked the promoter whether, considering he had been favorable to a referendum in Quyon, he would favor one in Allevyn-and-Cawood. The promoter responded by indicating that a referendum had been necessary in Quyon, because the land involved belonged to the municipality, which was not the case in Allevyn-and-Cawood, where the land belonged to the crown.⁴³

⁴⁰ DT6

⁴¹ Denis Rouleau, Section E. Public's concerns, Question 16, in: Typical Questions and Answers published by The Equity of Shawville re the Quyon project (2003), in Katharine Fletcher's Environment Forum Columns

⁴² Denis Rouleau, Section E. Public's concerns, Question 1, in: Typical Questions and Answers published by The Equity of Shawville re the Quyon project (2003), in Katharine Fletcher's Environment Forum Columns

⁴³ «...dans le cadre du projet qui a été cité par monsieur, les terrains nécessaires au développement du lieu d'enfouissement appartenaient à la municipalité. Alors, ça prenait absolument l'aval de la municipalité et de ses citoyens. Dans le cadre de ce projet-ci, ce n'est pas la municipalité qui est propriétaire des terrains convoités. Et pour ce qui est de la question, c'est une question hypothétique, qu'il est très difficile à répondre franchement.» [DT1]

This statement seems to have been contradicted a couple of days later by the Regional Director of the MAMR, who stated at the same hearings:

« On est en territoire municipalisé à ce moment-ci. Alors, quand on est en territoire Municipalisé, même les terres de la Couronne sont soumises en quelque sorte à la gestion Municipale. »⁴⁴

According to a municipal councillor from Low, the promoter and the Mayor of Alleyn-and-Cawood had both stated before the mayors of the Region that they would not proceed with their project if the majority of Alleyn-and-Cawood's residents opposed it.⁴⁵

In the *Journal du Pontiac* of 23 March 2005, the promoter stated:

« The environmental impact study [...] will take about a year to complete [...]. After this, there will be a public consultation period of 45 days, during which the residents of the area can voice any concerns. Ongoing problems at this point may lead to a public hearing or mediation.

"A public hearing could take four or six months," explained M Rouleau. "It is public opinion that can delay or even kill a project, not technical issues. In the past 10 or 14 years, only ten certificates for new landfills have been issued – that's not many. The public has halted those other proposals."

To sum up:

- (1) In the media and in the presence of Outaouais mayors, the promoter and the Mayor repeatedly stated they were in favour of public participation in the decision making.
- (2) According to the Regional Directorate of the Quebec Ministry of Municipal and Regional Affairs, the land involved fall under municipal management.

In other words, there was nothing to prevent holding a referendum *on the* project in Alleyn-and-Cawood.

2) Dashed hopes (April 2006 – November 2006)

When the Municipality of Alleyn-and-Cawood adopted Resolution 123-11-04 on 1 November 2004, authorizing "LDC to proceed with submitting its notice of project", its municipal zoning by-laws did not allow the establishment of an engineered landfill on the proposed site. Consequently, it was necessary to revise them. This fact was confirmed for the Coalition by regional representatives of the Quebec Ministry of Municipal and Regional Affairs. This same information also appears in a letter dated 31 March 2006 that was sent to a resident of Danford Lake.⁴⁶

⁴⁴ DT2

Having met with repeated refusals for a referendum by the Mayor and the majority on the Municipal Council, the people of Alleyn-and-Cawood were encouraged to believe that they could regain control of their fate by participating in the decision-making process.

Over 300 people attended the public consultation meeting on proposal to modify the existing planning and zoning by-laws. In the presence of representatives from the Quebec Ministry of Municipal Affairs, the municipality's urban planner informed participants that the residents of Alleyn-and-Cawood would have 15 days from the date of the meeting (i.e., until 18 April 2006) to submit their questions and comments in writing and that the municipal council would have a certain period of time to answer them. The urban planner explained to the public that they could require the opening of a register by submitting to the municipality letters opposing the by-law modifications and that, if enough "qualified voters" ["personnes habiles à voter"] then signed this register, there would be a referendum open to all residents and ratepayers in the municipality.

Dozens of residents submitted such letters (141, according to the Municipality's Director general), declaring their opposition to the modifications in question. The public anticipated the opening of a register.

Once again, their hopes were dashed.

To everyone's surprise, a consultation on the proposed modifications to the municipal planning and zoning by-laws did not appear on the agenda of the next municipal council meeting on 1 May 2006.

The mayor declared that answering the large number of letters received will delay the consultation process.

Moreover, the majority of the Municipal Council declared its opposition to holding a referendum on changing the zoning under the pretext that a referendum would be too expensive for the municipality. The cost of such a referendum in Alleyn-and-Cawood

⁴⁵ Appendix 11

⁴⁶ Letter of 31.3.2006 to Mrs. G. Thibault, a Danford Lake resident (Appendix 12)

would have been \$6000, according to information provided at the time by the Regional Directorate of the Ministry of Municipal and Regional Affairs—\$6000, the price of public tranquility.

Adding fuel to the fire, the Mayor finally announced that he would rather ask the MRC Pontiac to add Allevyn-and-Cawood to the list of potential sites for an engineered landfill in the Pontiac.

Over the following weeks, neither the Mayor nor the urban planner responded to queries from local citizens.

These local citizens sent a new call for help to the Minister of Municipal and Regional Affairs in order to learn about the next steps in the procedure.⁴⁷ As usual, all that they received from the Minister was a simple acknowledgement of receipt.

Why did the Municipal Council of Allevyn-and-Cawood abandon the public consultation process at this time?

At the BAPE hearings, the Commission tried to find out about this from the Director General of the Municipality of Allevyn-and-Cawood. The latter's response was quite clear: the Municipal Council abandoned the process and transferred the file to the MRC because of the majority of citizens opposed the proposed zoning change.⁴⁸

This information was confirmed by the Regional Director of the Ministry of Municipal and Regional Affairs in a letter to the Coalition dated 11 January 2007,⁴⁹ in which he explained that his Ministry recommended that the Municipality transfer the file to the MRC because decisions regarding regional waste management are made at that level.

⁴⁷ Letter of 16.5.2006 (Part of Appendix 05)

⁴⁸ *Mme KIM CARTIER-VILLENEUVE :*

« Là, on a eu le registre. On a eu comme cent... je me souviens pas exactement le nombre de... 140 quelque, je pense, madame? C'est ça. Puis là... »

M. DONALD LABRIE, commissaire :

« Qui ont demandé un référendum. »

Mme KIM CARTIER-VILLENEUVE :

« Oui. C'était comme des plaintes. Oui, c'est ça, exactement. Puis là, c'était le conseil municipal qui ont fait la décision de pas avoir le référendum et d'aller à un niveau plus haut, de transmettre le dossier régional. »

⁴⁹ Lettre du 11.1.2007 (Appendix 13)

He added that, considering decentralization and the greater autonomy given to municipalities, the Ministry of Municipal and Regional Affairs did not intend to interfere in the internal affairs of a municipality nor to intervene in the decision-making process reserved to elected municipal officials.

The Regional Director of the Ministry of Municipal and Regional Affairs confirmed at the BAPE hearings that, faced with the possibility of a referendum on changes to the zoning by-laws, a municipality's decision to avoid it was completely legal. In order to do this, it had to go through two stages: first, it had to renounce the attempt to revise its own by-laws:

«La règle de procédure normale lorsqu'il y a une demande de modification de zonage, il y a une séance de consultation publique, c'est-à-dire une séance d'information. Après ça, il y a un registre qui doit être signé par des citoyens. Et s'il y a un nombre suffisant de signataires, le conseil municipal décide s'il va, oui ou non, en référendum. Lorsque le conseil municipal décide de ne pas y aller, il y a donc avortement automatique du règlement. C'est comme ça. »⁵⁰

then it had to transfer the file to the MRC:

« En fait, normalement, on aurait dû commencer d'abord par la MRC et après ça la municipalité aurait pu disposer si jamais il y avait eu un refus par exemple de la MRC. Mais s'il y avait eu un refus de la MRC, je vois mal comment on aurait pu continuer l'opération. Et comme l'aménagement du territoire, ça relève de la MRC, c'était une question qui devait, selon nous, s'adresser d'abord à la MRC. Voilà pourquoi on a envoyé ça là. »⁵¹

When questioned on this matter, the MRC Pontiac's urban planner stated clearly that the issue of a referendum on zoning had been "settled" by the MRC by adopting an "règlement de contrôle intérimaire".⁵²

The Commission Chairperson then asked the key question that all of the citizens of the region had been asking for more than two years:

« C'est un petit peu difficile à comprendre pourquoi des élus refusent un référendum et disent: 'Bon, on va demander à quelqu'un d'autre de décider à la place de nos citoyens. C'est juste un petit peu difficile à comprendre.' »

⁵⁰ DT2

⁵¹ DT2

⁵² «La question du zonage a été réglée, à toutes fins pratiques, par l'adoption du règlement de contrôle intérimaire [...]. Étant donné que c'est un projet de très grande importance et que je mentionnais que c'était aussi dans l'intérêt de la MRC d'étudier la faisabilité d'aménager un lieu d'enfouissement technique chez nous, on est allés avec l'adoption d'un règlement de contrôle intérimaire conformément à la Loi sur l'aménagement et l'urbanisme [...] Et lorsqu'on adopte un règlement de contrôle intérimaire, on n'est pas tenus de tenir une assemblée publique de consultation ni de référendum. En quelque sorte, on a réglé la question du référendum en ce qui concerne le zonage [...]. » [DT1]

How is it *indeed* possible in 2007 that in a democracy, the law does not provide for some sort of mechanism that would prevent elected officials from mortgaging the future of the community without the approval of their citizens?

The Regional Director of the Ministry of Municipal and Regional Affairs replied that we have to live with the laws we have⁵³. He explained later that the Municipal Council is “in charge” (*souverain*) and that only under exceptional circumstances the Minister forces a referendum⁵⁴.

The problem, as a participant at the May 16 session pointed out, is that officials present at the many public meetings kept telling citizens that the consultation on rezoning was a legal obligation—without ever letting them know that it could be avoided.

I will leave the final word to two permanent residents of Danford Lake, both of whom summarize the prevailing attitude in the community quite eloquently:

“When it comes to my future, my children’s future, that of family and friends, I say we should have the option of deciding what that future will be. Can we take a step backward, hold a referendum not on zoning, just on whether or not we want a dump, I don’t care what the zone is. Let the community decide their own future.”⁵⁵

“She [another resident of the village] heard it admitted that by your colleague on Wednesday night that, basically, you went through the motions of allowing public consultations with the citizens of Allevyn-and-Cawood, all the while planning to clear the way for the establishment of this mega dump. Where is the morality of allowing this deception to continue, allowing so many citizens to sacrifice much, much time, energy, money, and destroy the social fabric of our village in the process?”⁵⁶

3) Broken promises (June 2006 – November 2006)

Since **February 2006**, Danford Lake residents and members of the Coalition have been regularly attending the monthly meetings of the MRC Pontiac. At several of these meetings, the Warden and several Pontiac mayors reassured the public that the MRC

⁵³ « Je suis très mal à l’aise de vous répondre. Je ne suis pas le législateur, moi, je vis, je dois vivre comme, vous et moi, nous devons vivre avec les lois que le législateur nous a adoptées. » [DT3]

⁵⁴ « Toute la question de référendum est liée à la volonté exclusive du conseil municipal. Lorsqu’il y a une modification au zonage qui est proposée, s’il y a un nombre de signataires suffisant dans le registre, le conseil a deux options : soit qu’on s’en va en référendum pour voir si la population est vraiment d’accord ou pas, ou soit que le conseil décide dans sa grande sagesse de faire avorter l’adoption du règlement. Et lorsqu’il y a avortement de l’adoption du règlement, ça veut dire que le règlement est caduc. Alors, c’est la raison pour laquelle le gouvernement a donné le pouvoir facultatif, c’est-à-dire le pouvoir absolu au conseil de décider si, oui ou non, on va en référendum, sauf dans certains cas où il pourrait arriver que le ministre exige qu’il y ait un référendum. Ça, ça peut arriver, mais c’est exceptionnel. Dans les cas usuels, c’est le conseil qui est souverain. Il décide si, oui ou non, il va en référendum. Et ça arrive fréquemment que des questions qui se rendent possiblement jusqu’à référendum avortent au sein des conseils municipaux à cause des coûts que ça occasionne. » [DT2]

⁵⁵ Mr. Stacy Molyneux

⁵⁶ Mrs. Linda Cronk speaking on behalf of Dorothy MacKay

Pontiac had no intention whatsoever of "imposing a project on the residents if they did not want it" and that the community would have a fair opportunity to express themselves in a referendum triggered by the need to change the municipal zoning by-laws.

On **12 June 2006**, the MRC Pontiac held a public consultation meeting on the matter of Draft By-Law 120-2006, modifying its Revised Land Development Plan. The purpose was "to identify a potential site for the establishment of an engineered landfill site in the Municipality of Alleyn-and-Cawood".⁵⁷ Over a hundred people attended and expressed their strong opposition to the project.⁵⁸ The public appealed to the MRC to support democracy.⁵⁹

In a letter dated **19 June 2006**,⁶⁰ the Coalition asked the MRC Pontiac to postpone its vote on Resolution 120-2006 to a later date so that mayors of the Pontiac would have time to study alternatives to landfill and could make an informed decision.

They were not heard.

To the surprise of all the public, at its monthly meeting on **26 June 2006**, the MRC Pontiac approved a request by the Municipality of Alleyn-and-Cawood to be added to the list of *potential* sites for an engineered landfill in the Pontiac.

When questioned by the president of the Coalition about this decision, which contradicted previous statements, the Pontiac Warden, mayors, and urban planner confirmed (in both French and English) in the presence of the media and of the large number of residents from Alleyn-and-Cawood and neighboring municipalities that the MRC de Pontiac would never impose such a project on people who did not want it, and that it was returning the file to the Municipality of Alleyn-and-Cawood, because the latter should first organize a referendum on changes to its zoning by-laws.

⁵⁷ Appendix 14

⁵⁸ Appendix 15

⁵⁹ Appendix 16

⁶⁰ Appendix 17

The Warden went so far as to say that if a majority of Alleyn-and-Cawood residents opposed the changes to these zoning by-laws, "*if [the landfill project] dies right there*".

After interviewing the Pontiac Warden, a CBC journalist stated the next day (**27 June 2006**):

"Mike McCranck is warden for the regional county of Pontiac. He says if Danford Lake can't get its rezoning through, the landfill won't go there."

At the **end of June 2006**, the MRC Pontiac submitted its proposed Resolution 120-2006 (providing for the municipality of Alleyn-and-Cawood to be considered a potential site for establishing an engineered landfill) to Quebec's Minister of Municipal and Regional Affairs.

Two questions remain unanswered:

Since the MRC Pontiac did not officially add Danford Lake to its list of potential sites for an engineered landfill in the Pontiac until the **end of June 2006**,

- (1) how come the Pontiac Warden was promoting an engineered landfill in Danford Lake to the City of Gatineau in **June 2005**⁶¹?
- (2) and how come the promoter mentioned, in his impact study (p. 193), that the resolution passed in **September 2005** by the MRC Pontiac allowed the other Outaouais MRCs to send their waste to the *Danford Lake* engineered landfill, while the MRC's resolution mentions only that they would be allowed to send their waste to a "future engineered landfill site" in the Pontiac?⁶²

Let's return to the chronology.

In **July 2006**, the Regional Directorate of the Ministry of Municipal and Regional Affairs confirmed to citizens requesting information that the Mayor of Alleyn-and-Cawood had no choice but to act according to the law and to organize a binding referendum on changes to the municipal zoning by-laws—information that it had already provided to one resident of Alleyn-and-Cawood in a letter dated 31 March 2005.⁶³

At the **July 2006** session of the Alleyn-and-Cawood Municipal Council, neither the proposed megadump nor the binding referendum in connection to zoning changes

⁶¹ Appendix 18

⁶² LDC's Impact Study, Main Report, p. 193

appeared on the agenda. When questioned about this, the Municipal Council remained mute on both points. To break the pall of silence, one member of the public asked the Council if it were prepared to hold a binding referendum and to give its answer at the next (August) council session.

To the general surprise of the crowd attending the Municipal Council meeting of **7 August 2006**, the Council's agenda mentioned neither the proposed landfill nor any public consultation. When questioned, the Mayor answered that it was first necessary to modify the municipal by-laws and that this would take months. He tersely added that there was no need to provide for any kind of a referendum on zoning changes anyway, thus contradicting the information supplied by the MRC Pontiac and by the Regional Directorate of the Ministry of Municipal and Regional Affairs.

Raising the general ire, the Mayor ordered that the question and answer period be reduced to ten minutes for questions related to the engineered landfill project⁶⁴ and to ten minutes for other questions. And this was done despite the fact that citizens had been desperately attempting for more than nine months to obtain answers from him on an issue that was the most important ever to come before the municipality and the implications of which would impact nothing less than the local quality of life, and for generations to come.

The project promoter, Mr. Denis Rouleau, was present at the **August 2006** meeting of the MRC Pontiac. As soon as the session began, the Warden asked the public to leave the room so that the MRC Council of Mayors could hold an *in camera* meeting. Mr. Denis Rouleau was invited to remain in the room. The *in camera* session of the mayors and the promoter lasted for one hour and a half, while the public and the journalists cooled their heels in the hallway.

⁶³ Appendix 12

⁶⁴ Appendix 19

During this meeting, the Mayor of Alleyn-and-Cawood asked the MRC Pontiac to revise its proposal for Resolution 120-06 (which provided for adding Danford Lake to the list of potential sites for an engineered landfill in the Pontiac).

The content of the revision was not revealed during the course of the public meeting. At the Alleyn-and-Cawood council meeting of **September 2006**, the mayor refused to reveal the tenor of his requested changes. (Later, the Coalition learned that he had asked the MRC not simply to make Danford Lake a potential site for a regional engineered landfill, but to make it the *only possible* site.)

The municipality had not yet begun modifying its zoning plan and by-laws in **September 2006** (even though they were supposed to be completed by 31 December 2004 at the latest). The Mayor was questioned about this at the council meeting of **4 September 2006**. He replied that he was now "waiting" for the "owner of the site" (i.e., the project promoter) to request a zoning change. The public responded by pointing out that the site was on crown land, which meant that the province was the owner. The mayor said he was not aware of this and that he would look into it.

At this meeting, the Mayor also "failed" to inform those present—including his own councilors, who were shocked to learn the news from members of the public—about three points of exceptional interest for the community that had been discussed at the previous monthly meeting of the MRC Pontiac.

At this same meeting of **4 September 2006**, three councilors tabled a resolution asking for a referendum on the project. **This was the second time within a year that councillors asked for a resolution in support of a referendum.** The resolution, lacking a majority (three in favor, three opposed), was not adopted. A fourth councillor explained that he needed to find out how much such a referendum would cost before he could take a position on the issue.

Citizens present *immediately and enthusiastically* volunteered to pay the cost from their own pockets and to organize a public contribution if necessary. People had reached the point where they were willing to pay money in order to be able to exercise their right to vote!

Thus, following an initial defeat in February 2006, some municipal councillors of Alleyn-and-Cawood tried a second time—in vain—to include the public in the decision-making.

4) Passing the matter on to the MRC: A strategy of evasion

Having refused repeated requests for a referendum by residents for over a year, the Municipality of Alleyn-and-Cawood finally decided to turn the matter over to the MRC Pontiac by asking it to make the engineered landfill project in Alleyn-and-Cawood a "project of regional interest".

It first attempted this at a special session called at the last moment for the evening of Wednesday, 20 September 2006, but failed to obtain the necessary quorum.

It called a second special session for 8:30 a.m. on Saturday, **23 September 2006**. The session began at 8:26 a.m. The resolution (086-09-06) appeared at the top of the agenda and was adopted within seconds after it was read, without any discussion.

By 8:30 a.m., when most of the public was still taking their seats, the municipal council session was already on the point of adjournment!

At the MRC Pontiac meeting of **25 September 2006**, the Mayor of Alleyn-and-Cawood tabled a request for an amendment recognizing his municipality as "a site of regional interest for the establishment of a landfill site", which would make it possible to get around any referendum on a zoning change.

At their meeting on **25 September 2006**, thirteen of the eighteen Pontiac mayors, including the Warden, then voted in favor of the resolution, declaring Alleyn-and-Cawood "a site of regional interest for developing a landfill site."

Five mayors refused, because they knew quite well that in adopting this resolution, they were depriving the citizens of Alleyn-and-Cawood of any possibility of being consulted by way of a referendum. Certain mayors could not suppress their indignation and, saying they were men of their word, they felt honor bound to keep their word.

One of them even commented to the *Pontiac Journal*:

« *They knew [that] if there was one [a referendum], they couldn't win it.* »⁶⁵

One of the best known regional journalists, Fred Ryan, wrote an article for the Ottawa *Citizen* with the title "Democracy dies with dump deal":

« *The [Pontiac] MRC's Council of Mayors, after promising the citizens earlier this summer that it would have a referendum on the landfill, decided, at the end of September, to short-circuit [...] a referendum [...]. The MRC decision was not unanimous. Five mayors decided to vote against this flip-flop. According to Shawville Mayor, Albert Armstrong, the five refused to go back on the promise they had made to the citizens group. We can presume [...] that the other 13 mayors had no qualms about breaking their promise.* »⁶⁶

The MRC Pontiac continued by adopting a proposed change to the Pontiac Land Development Plan that would permit the engineered landfill project. This interim by-law entered into force on 31 January 2007.

In a letter dated **12 October 2006**,⁶⁷ the president of the Coalition, André Carrière, reminded the Warden of the previous promises that he and the other Pontiac mayors had made to the citizens of Alleyn-and-Cawood in front of the media:

« *We were further assured that should the council of Alleyn-and-Cawood wish to pursue an engineered landfill site, they would be required to change their planning and zoning by-laws; sufficient opposition to the zoning change would trigger the process leading to a referendum. In fact, you stated at the June MRC meeting that a majority opposed to the zoning change would ensure that the project would "die right there".*

André Carrière asked the Warden for written confirmation that the MRC would not unilaterally impose a decision on the people of Alleyn-and-Cawood and that the ratepayers of this municipality would have a real opportunity to vote on changes to their urban and zoning laws in connection with the megadump project.

⁶⁵ Appendix 20

⁶⁶ Appendix 21

The MRC's October meeting left people with a very bitter taste in their mouths. Those who had hoped to see the Pontiac's mayors make up for the flagrant lack of democracy displayed by the Municipal Council of Alleyn-and-Cawood had hoped in vain.

In reality, the Pontiac Warden admitted that by taking over the project in September, the MRC had *de facto* eliminated the possibility of a referendum on the zoning changes needed for the landfill project at Alleyn-and-Cawood. He explained that the municipality could do nothing other than enact a regulation conforming to the Pontiac's Revised Land Development Plan.

Events took a sensational turn when Albert Armstrong, Shawville's mayor, tabled a resolution⁶⁸ providing for the citizens of Alleyn-and-Cawood to vote on the required changes to their municipal zoning. A lively exchange followed. The position taken by Albert Armstrong earned him protests from the Mayor of Alleyn-and-Cawood's mayor, but also the respect and homage of Alleyn-and-Cawood's citizens, who wrote him of how much they appreciated his gesture.⁶⁹

Terry Richard, the Otter Lake mayor, also eased the distress felt by citizens when he stated that he would consult his fellow citizens and that he would never make a decision on a project of such scope all on his own.

Raymond Durocher, the mayor of Fort-Coulonge, said he was deeply alarmed that the citizens of Alleyn-and-Cawood had been "shut out of the process".

After a whole year of fruitless attempts to make themselves heard, the majority of the citizens of Alleyn-and-Cawood had to accept reality: three levels of government had taken refuge behind laws and regulations to prevent their direct involvement in a decision that put their future at stake.

⁶⁷ Appendix 22

⁶⁸ Appendix 23

⁶⁹ Appendix 24

Part 3

Seeking Information

(Lack of access to information)

1) Problems encountered at the municipal level (Municipality of Alleyn-and-Cawood)

As soon as the citizens of Alleyn-and-Cawood learned of the decisions taken by the Municipal Council in their name, but without their agreement, they took steps to learn more about the actions of the officials who had been elected presumably in order to represent and defend their interests.

In a letter dated **28 January 2006**,⁷⁰ indignant citizens asked their Municipal Council to supply them with the agenda and minutes of the public meeting held on 16 October 2004, which the municipality used as the justification for endorsing the project.

The Quebec Ministry of Municipal and Regional Affairs made a similar request a few months later in regard to all three public consultations in connection with the impact study:⁷¹

«Puisque les résultats des séances publiques d'informations et de consultations font partie intégrante de l'étude d'impact remise par l'initiateur du projet et que celle-ci servira à l'analyse de l'acceptabilité du projet, le ministère des Affaires municipales et des Régions demande à l'initiateur du projet d'inclure une copie des avis annonçant la tenue des séances de consultation, ainsi que le compte rendu de celles-ci en annexe du document d'analyse. »

In February 2006, some citizens from Alleyn-and-Cawood went to their Municipal Office to consult the urban planning bylaws. They were turned away. They then asked the Coalition's lawyer to come and consult the documents in question. The lawyer and a colleague travelled from Gatineau to Alleyn-and-Cawood, but he too was denied access to the documents. He wrote an indignant letter of complaint to the Mayor of Alleyn-and-Cawood.

⁷⁰ Appendix 25

⁷¹ Answers to Questions and Comments, Letter of 7.4.2006 from the Regional Director of the Ministry of Municipal and Regional Affairs

It required 40 days *and* a second request⁷² before the Municipality gave the following reply to its citizens:

*« The information that you are requesting is available through LDC, Gestion et Services environnementaux. »*⁷³

Nevertheless, in a letter dated **27 October 2006**, a lawyer for the Municipality informed the Coalition that the requested documents did not exist:⁷⁴

«Après vérification auprès de notre cliente, celle-ci nous confirme que les documents requis [...] sont inexistantes.»

The citizens of Alleyn-and-Cawood will never find out if the records of the informational and consultation meetings exist, and if they exist, who possesses them.

On behalf of the citizens, the Coalition submitted (by non-registered mail) a written request for public documents, dated **14 March 2006**,⁷⁵ in accordance with the Quebec Access to Public Records Act.

Not receiving any response, the Coalition turned to the Quebec Access to Information Commission. A lawyer from the Commission tried to act as a mediator, but faced with the Municipality's continuing non-cooperation, he informed the Coalition that it should submit a formal request for a review of the file ["demande formelle de révision du dossier"] to the Chairman of the Commission. The Chairman of the Commission called the two parties to a meeting scheduled for 30 October 2006⁷⁶. In the meantime, however, the lawyers for the Coalition and for the Municipality came to an understanding regarding the request for the public documents dated 28 January 2006.

On **5 December 2006** the Coalition repeated its request of 14 March 2006, this time by registered letter.⁷⁷

⁷² Appendix 26

⁷³ Appendix 27

⁷⁴ Appendix 28

⁷⁵ Appendix 29

⁷⁶ Appendix 30

⁷⁷ Appendix 31

At the end of December, the Municipality supplied only a portion of the requested documents, and the Coalition was obliged to repeat its request on **15 January 2007**.⁷⁸ The Municipality then submitted more documents, but some of the requested documents were still missing, namely the correspondence between M. Jean Piette and M. José Bonyème concerning an offer to purchase a property in the public domain ["l'offre d'achat d'une propriété du domaine public"], the existence of which the Coalition had learned from the Ministry of Natural Resources.

Another missing document was one that the Coalition was able to obtain from the Quebec Ministry of Natural Resources by virtue of the Access to Information Act: a letter dated 22 September 2005 addressed to Richard Courchaine, Municipal Inspector, by Patrick Autotte of the Ministry of Natural Resources.

(Oddly enough, a letter sent by the municipal inspector to the Ministry of Natural Resources bears two different dates: it is dated 23 March 2005 in the documents obtained from the Ministry of Natural Resources, but in the documents obtained from the Municipality it is dated 14 January 2005.)

2) Problems encountered at the MRC level (MRC Pontiac)

The initial request for information and public documents dates from 26 January 2005.⁷⁹ In the absence of any reply, a second and then a third request followed on 16 February and 6 March 2005.⁸⁰

Citizens turned to the Access to Information Commission for its intervention on 14 March 2006.

On 4 April 2005, the Commission notified the Coalition that it could not follow up on its request because it had asked the MRC Pontiac for information, not for documents.

⁷⁸ Appendix 32

⁷⁹ Appendix 33

⁸⁰ Appendices 34 and 35

In fact, the Coalition had asked for both, since it wrote as follows on page 2 of its letter of 26 January 2005:

« La Coalition aimerait déposer par la présente une demande officielle d'accès à tout document ou à toute information touchant les points susmentionnés [...] . »

By registered letter dated **3 October 2006**, the Coalition invoked Article 9 of the Access to Information Act to request the MRC Pontiac to furnish it with certain documents, including records of the meetings of the Regional Council of Pontiac Mayors.⁸¹

The Secretary-Treasurer of the MRC responded by an e-mail dated **10 October 2006** that she could not send the Coalition records of the MRC meetings because there was a shortage of personnel at the MRC.

The Coalition demonstrated its patience by not repeating its request until three months later, in a new letter of **26 December 2006**,⁸² in which it also requested public documents bearing on the public consultation related to the Pontiac's proposed residual waste management plan.

Still empty-handed, the Coalition repeated its request by registered letter dated **6 February 2007**⁸³—almost four full months after making its initial request.

On **8 February 2007** the MRC de Pontiac finally responded for the first time to all the Coalition's letters by sending it a copy of the Draft Residual Waste Management Plan for 2003 and postponing until the end of February the adoption of the minutes that had been requested.

⁸¹ Appendix 36

⁸² Appendix 37

⁸³ Appendix 38

CONCLUSIONS

The comportment of the Municipality of Alleyn-and-Cawood and of the MRC Pontiac in this matter raise serious questions regarding the power given to elected officials.

Citizens understand quite well that their elected officials are there to represent them and, in their name, to make decisions affecting the daily affairs of the municipality. What they do not understand, however, is how three levels of government can work together to prevent them from participating in making a decision that involves the well-being and the future of generations of citizens

Consequently, the public hearings conducted by BAPE give citizens of our region their first real opportunity to participate in the debate. To say that this is what they have longed for is an understatement.

What these citizens hope for is that the BAPE, having listened to their arguments, will invalidate the sham public consultation organized by the promoter and the Municipal Council of Alleyn-and-Cawood.

If, as came out during these hearings, the Quebec Ministry of the Environment attaches *so little* importance to the promoter's public consultation, then it should at the very least avoid creating expectations that cannot be fulfilled, because that produces *enormous* frustration and anger, and disrupts the community's social fabric. People aren't fools; they can tell the difference between something genuine and something fake.

We would also hope that the BAPE will recommend that the concept of "social acceptability" be clarified by making a list of criteria to guide the public consultation process—criteria that are specific, objective, and clear. There is something perverse in letting these criteria be defined by the projects' proponents.

For all the reasons read out to you today, and also for those written in our brief, we believe that the Danford Lake engineered landfill project should not be approved.