

# **I. Executive Summary**

The Partnership for Onondaga Creek (POC) submits “A Study in Environmental Racism: ‘New and Significant’ Information regarding Title VI Claim 03R-04-R2” as one of several ongoing submissions to the U.S. Environmental Protection Agency’s Office of Civil Rights.

**This rigorously documented case study exposes environmental and institutional racism. Such racism does not necessarily occur with the conscious or willful intent to cause harm to a select group; it is the playing out of disparity that already exists in the local power structure. This disparity leads to the privileging of certain groups at the expense of others. This power structure seeks to silence the less privileged, perpetuating a decades-long pattern of social disinvestment and community disempowerment as has occurred repeatedly on Syracuse’s Southside.**

The POC’s “New and Significant” information documents how Onondaga County and its favored cartel of engineering firms protect the mainly white, privileged areas of Syracuse’s Northside -- the home and political base of the county executive. It demonstrates how such privilege fosters the existing disparity by stigmatizing certain sectors with unwelcome sewage projects and by causing disproportionate disruption and unfair dislocation on Syracuse’s Southside, and to a lesser degree, in Downtown and on the Westside.

This study documents how the county’s and New York State Department of Environmental Conservation’s execution of the 1998 Amended Consent Judgment (ACJ) and its Combined Sewer Overflow (CSO) Long-Term Control Plan (LTCP) unfairly burdens Syracuse Southside’s low-income African-American community and Syracuse’s other Title VI communities (Downtown and the Westside).

The study begins with an analytic chronology of the struggle for water quality and environmental justice regarding the execution of the ACJ’s CSO LTCP for Syracuse. The chronology features the protracted, but unsuccessful, attempt by Southsiders and others, to get a combined sewage abatement technology (underground storage) that would have been socially and environmentally friendly -- in place of Onondaga County’s preferred unhealthy, ineffective and costly technology (above ground swirlers with chlorine disinfection).

Chapter II, “The 1998 Amended Consent Judgment,” explains the legal driver behind the CSO projects. It documents the cozy relationship between the county government and its favored few engineering firms who garner lucrative profits from the taxpayer-financed projects.

Chapter III, “The Execution of the Amended Consent Judgment and its CSO Long-Term Control Plan,” describes how the county and these favored engineering firms circumvent mandated public participation in the choice of appropriate CSO abatement technology. It describes how -- through manipulating ACJ milestones, stormwater modeling, CSO design criteria, and cost estimates -- the county and its engineers not only “justify” their preferred swirler/chlorination sewage plants over better alternatives but protect select

communities from undesirable sewage projects. It also describes how, by manipulating the Midland Avenue alternative site review, they impose a sewage plant on a *residential* low-income, African-American neighborhood.

Chapter IV, "Diversity of Syracuse's Combined Sewer Overflow Communities," provides demographic (ethnicity and income) profiles and images of the Northside, Southside, Downtown and Westside, detailing their differences. For example, contrary to the county's assertion that Westside is an average Syracuse neighborhood, Chapter IV shows that the site for one of the county's sewage plants is next to a struggling elementary school in a poor Latino neighborhood.

Chapter V, "Disparity in the Execution of the Combined Sewer Overflow Abatement Projects," examines how, in contrast to the other city sections, the Northside doesn't "capture" its own combined sewage. The county spares the Northside by building CSO projects designed to minimize unsightliness and disruption. As "Disparity" documents, the Northside's sewage release into Onondaga Creek shifts the Northside capture responsibilities onto the Southside, Downtown and the Westside resulting in disproportionate burdens for each of these poorer neighborhoods, which also have a higher percentage of people of color. This shift forces these other city sectors to fulfill the ACJ mandate to capture for treatment, 85% of the combined sewage systemwide.

Chapter VI, "Adverse Impacts," describes the unhappy consequences of these burdensome sewage projects which the Northside escapes, but which other neighborhoods -- especially the Southside -- are forced to live with. It also describes the county's fraudulent low-balling of cost estimates for its favored technology which additionally burdens low-income communities with a regressive sewer tax. Even worse such estimates disqualify a healthier and less costly alternative (i.e. underground storage).

Chapter VII, "Mitigation," tells the sordid story of how the county has withdrawn three million dollars in promised mitigation for the Southside's Midland Avenue CSO project. The county seeks to punish the Southside for the POC's advocacy and for its insistence on having Southsiders participate in CSO technology selection. Such hardball has had a chilling effect on other neighborhoods negotiating with the county over CSO abatement technology. Now, these neighborhoods don't dare argue with the county about its preferred swirler/chlorination plants for fear of reprisal.

As we attempt to conclude this document, we find that "new and significant" information keeps coming our way; therefore, we have had to add two pieces of very recent information as an addendum.

First, we include as an addendum the 2<sup>nd</sup> Circuit's September 21<sup>st</sup> decision on Midland: (*City of Syracuse v. Onondaga County*, 04-0718-cv). It is still very much an open case as to whether or not the county can condemn the land without city approval. Yet the county continues as if it owns the land. It is still also an open issue as to whether "prior public use" doctrine would prevent this condemnation. The 2<sup>nd</sup> Circuit did not rule on these

issues, but has sent the questions onto the New York State Court of Appeals. The land that the county continues to occupy and build on may well not be its land at all.

We also have included the Office of Inspector General's (OIG) report on EPA's current negligence in environmental justice reviews addressing Executive Order 12898, specifically. We cannot state strongly enough that we feel an accurate and fair framework for conducting an environmental assessment at Midland was not followed. We know that an accurate assessment of the environmental justice at Midland would expose not only the disproportionately adverse health and environmental impact on this low income, minority community, but also the disparity that exists between the communities spared and those affected by the CSO-LTCP. We concur with the OIG report and encourage EPA to follow the recommendations. The Midland Avenue injustice would be a good starting point.

Through our Title VI claim, the Partnership for Onondaga Creek seeks:

- the restoration of the Southside mitigation process followed by just compensation for the inequitable treatment. It is important that there is a public reversal of the county's disempowering power play.
- equity in the distribution of combined sewage burdens among Syracuse neighborhoods. This would mean that the Northside would stop releasing its sewage into Onondaga Creek and that it would capture its own sewage. This Northside capture would lessen the burden on the Southside, Downtown and the Westside.
- a re-evaluation of the proposed Southside Midland Avenue Phase III project, Downtown's Clinton Street project and the Westside's Harbor Brook projects. This re-evaluation would be premised on the Northside capturing its combined sewage and an investigation of the modeling, sizing and cost-estimating practices of the county's engineering firms.

The POC hopes to expose institutional racism in Onondaga County and to undo some of the environmental and social harm done by the county's CSO projects, whether already built or proposed.