

**Environmental Racism in Syracuse, NY:
A Case Study of Government's Failure
to Protect an Endangered Waterway and a Neglected Community
(Paper #110606-3)**

Written by:

Aggie Lane & Tarki Heath
Partnership for Onondaga Creek¹

Written for:

“The State of Environmental Justice in America 2007” conference
Howard University Law School
Washington D.C.
March 29-31, 2007

¹ The Partnership for Onondaga Creek (POC), founded in 2000, is a non-profit, un-staffed, low-budget, unincorporated, independent grassroots citizens' group. The POC is dedicated to environmental justice and to the water quality of Syracuse's waterways, especially Onondaga Creek. POC members who have commented on this paper: Ed Kinane & Lindsay Speer (copy-editors), Teichera Price, Annette Pfannenstiel and Don Hughes.

Introduction

Racism is about power. Today, throughout the United States, our governments are not doing their job to protect impoverished minority communities from environmental harms. At-risk communities inhabit polluted areas, while richer and “whiter” communities live in “nice” neighborhoods. During the 1950s and 1960s, with its homeowner and urban renewal policies, government encouraged and enabled “white flight” from cities into surrounding suburbs.² Here in Central New York, well-off, white Onondaga County suburban townships ring Syracuse, an ethnically diverse and economically struggling municipality. Citizens, and even our elected representatives, are unaware of this history. Currently, Onondaga County legislators,³ funding the building of sewage projects in Syracuse’s neighborhoods, bristle when opponents call these county projects inherently racist. This study in racism demonstrates the power imbalances between the county and the city, between the privileged and the neglected, and exposes the contradiction between private corporate profit and civic well-being. This study in environmental injustice documents the government’s failure to protect an endangered waterway and Syracuse’s vulnerable neighborhoods.

An Endangered Waterway

Onondaga Creek is located in central New York, and is part of the Great Lakes Watershed. It flows north from a source above a wide glacial valley through forests, farmlands and small communities, through the current Onondaga Nation Territory and the center of Syracuse, to the inner harbor of Onondaga Lake (a Superfund Site). The creek was originally a meandering

² Here are statistics from the U.S. 2000 census for the city of Syracuse, and a representative sample of surrounding townships. The percentage of white people living in each city is followed by median (and per capita) income. Syracuse: 68% / \$28,525 (\$17,307). To the north: Baldwinsville (in District 1) 97.8% / \$45,803 (\$22,611). To the south: Fabius (in District 12) 99.5% / \$59,698 (\$20,531). To the east: Fayetteville (in District 10) 99% / \$57,732 (\$34,554). To the west: Skaneateles (in District 6) 99% / \$65,131 (\$33,283).

stream, surrounded by wetlands and forests; a major life force for its watershed. It was enjoyed and cherished by the Onondaga Nation⁴ until these original inhabitants were pushed off their land. Settlers and industrialists found new uses for this sacred and precious waterway. Quite rapidly, the water began to deteriorate; becoming a product of industrialization the creek has been channelized, dammed, and poisoned with industrial waste. Most critically and of importance to this topic, in the 19th century the creek became a sewage conveyance for the city of Syracuse. In 1988 Atlantic States Legal Foundation (ASLF), joined by the New York State's Department of Environmental Conservation (NYSDEC), successfully sued Onondaga County for its water quality violations under the 1972 Federal Clean Water Act. After ten years of secret talks, the county, NYSDEC, and reluctantly ASLF, signed a renegotiated court order, the Amended Consent Judgment (ACJ). The ACJ specified a list of sewage projects now estimated to cost \$550 million that Onondaga County had to complete by 2012. One ACJ project, the Midland Avenue sewage treatment plant, now under construction, would utilize a chlorine-based technology that did not address the combined sewer overflows (CSOs) to Onondaga Creek in an environmentally sound way.

The problem of combined sewer overflows into urban waters is not unique to Syracuse. Many municipalities are under federal or state court orders to abate CSO pollution. Cities have come up with innovative and appropriate solutions. Some eliminated CSOs through sewer separation or captured them, preventing the environmental harms to their waterways and neighborhoods. But Onondaga County, aided by NYSDEC, turned a blind eye to these appropriate CSO abatement alternatives. Instead, the county pushed a chlorine-based technology

³ Two-thirds of the Onondaga County Legislature come from outlying townships.

⁴ The Onondaga Nation recently has initiated a land rights action which, now pending in federal court, addresses many past grievances, and demands that water quality be restored to Onondaga Creek and Onondaga Lake, the birthplace of Haudenosaunee (Iroquois) Confederacy.

avored by its engineering consulting firms, a powerful cartel⁵ of Fortune 500 firms with “old boy” ties ⁶ to the county. Besides harming the creek with chlorinated effluent when the sewage plant goes on-line, the Midland plant adversely impacts an at-risk, African-American community on Syracuse’s Southside.

An Imperiled Community

The Southside, once a well-off white community, today is the home of an economically stressed African-American community. The urban renewal projects of the 1960s, and the 1967 expansion of interstate I-81, uprooted African-Americans from their neighborhoods pushing them into the Southside. With white flight and government neglect, the Southside slipped into decline. In the 1970s, government forced African-Americans from their homes to build a regional bus garage and to enlarge a steam plant. Currently, Onondaga County is again tearing up and tearing apart a Southside African-American community to build its sewage treatment plant with its 12-ft diameter, mile-long pipeline.

The sewage plant site used to be a valued, quiet, trusting, supportive community on Oxford and Blaine Streets (off Midland Avenue). This small neighborhood, built in the 1970s by the Syracuse Housing Authority (SHA), even had its own green space and basketball court. With the help of SHA, Onondaga County evicted the Oxford and Blaine residents. Then, the county demolished a nine-unit apartment complex, boarded up the homes and encircled them with barbed wire topped fencing.

⁵ In 1994 immediately after Republican George Pataki replaced Democrat Mario Cuomo as governor, O’Brien & Gere, Blasland, Bouck & Lee and Stearns & Wheler formed Environmental Engineering Associates (EEA). This limited liability partnership, formed solely to control and profit from over \$550 million of ACJ projects.

⁶ Richard Elander, Commissioner of Onondaga County’s Water, Environment Protection Department, was a former Vice-President of O’Brien & Gere. Peter Moffa, founder and president of Moffa & Associates, was the former fraternity brother of Jack Kranik, the commissioner before Elander. The current president of the State University of New York Environmental Science and Forestry College in Syracuse, Cornelius “Neil” Murphy was the O’Brien & Gere CEO who helped form EEA.

The Partnership for Onondaga Creek

Initially, in 1999, the Oxford and Blaine residents organized themselves as Citizens for Fair Treatment. Even though the residents voiced their concerns and outrage about the sewage plant, the county and its engineering firms essentially ignored them, telling them that the sewage plant was the only feasible and acceptable solution.

In 2000, the Southside advocacy organization, Syracuse United Neighbors, helped form the Partnership for Onondaga Creek (POC). Immediately, the Partnership began to advocate for Onondaga Creek's water quality and for the justice owed to this much-harmed and neglected community.

As POC advocated for environmental justice, clergy, teachers, scientists, students, environmentalists, business people, social justice activists, and city residents – most living on the Southside -- joined the Partnership. From the beginning, the POC had strong support from the Onondaga Nation, the Syracuse Peace Council, the local chapter of the Sierra Club, and the Student Environmental Action Coalition of Syracuse University and of the State University's College of Environmental Science and Forestry.

From this wonderful mosaic, POC created a powerful, credible, diverse group. Assisted by scientists, engineers and environmental lawyers, the Partnership educated itself about various combined sewer overflow abatement technologies, their environmental and social impacts, and about the federal Clean Water Act and its regulations. This research effort transformed the POC's initial message, "Not in my Backyard," into "Do the Right Thing," advocating for a win-win solution to the Midland Avenue sewage plant controversy.

The POC made "friends" with academic experts, politicians, civic leaders, and state and national environmental advocacy groups. Unfortunately, some of our friends depend on local

political, corporate, and academic power structures for their funding. Despite their silence, the POC was grateful for their support although saddened that it had to remain hidden. Additionally, some community interests competed with equity, water quality and the city's future development. As the county promised mitigation money to needy neighborhoods or grants to local agencies, the dangled funds silenced opposition to the county's favored sewage plant technology. When the POC denounced "buy-out" deals, it appeared the "spoiler." To counter this negative label, the POC continued to keep its message focused on doing the right thing.

The POC's Title VI Claim

After three years of advocating for socially and environmentally better alternatives to the Midland sewage plant, the POC realized that the county, supported by the NYSDEC, wasn't budging about the plant's site or its toxic chlorine-based CSO technology. At this point, the POC looked to civil rights law. It knew that Onondaga County was counting on \$45 million from the US Environmental Protection Agency (USEPA) to build the Midland plant. It learned that the federal government, under Title VI of the 1966 Civil Rights Act, cannot fund discriminatory projects without violating the law of the land.

In April of 2004, the Syracuse University Public Interest Law Firm (PILF) filed a Title VI administrative complaint to the USEPA against Onondaga County and the NYSDEC on behalf of the Partnership. Six months later, the USEPA's Office of Civil Rights (OCR) accepted the claim for investigation. Despite this acceptance, the OCR did not freeze the federal funds for the sewage plant's construction. This inaction signaled the agency's lack of will. It also signaled its lack of enforcement strength and lack of independence from prevailing political agendas. By not freezing the federal funds the OCR also emboldened Onondaga County to

continue its plans, and to evict 28 more families⁷ from the proposed site. After six months of silence, in March 2005, the OCR *abruptly* dismissed the POC's civil rights claim.

In July 2005 in NYC, three months after the dismissal, the POC arranged a meeting with USEPA's Office of Civil Rights to discuss how the OCR could have dismissed the claim without even visiting Syracuse and its affected neighborhoods...and to discuss why the OCR didn't conduct interviews with the affected residents and the POC, especially since the POC had made it clear it had more information supporting its claim. At this meeting, USEPA's OCR agreed it would accept from the POC "new and significant" information towards its Title VI claim. Throughout the next year, the POC rigorously documented disparity and adversity. The POC did the investigation that USEPA neglected to do.

By the end of 2005, the POC sent to the USEPA the POC's first installment of "New and Significant" information. This submittal documents the deeply flawed NYSDEC permitting process under the State Pollutant Discharge Elimination System (SPDES) for Syracuse's Combined Sewer Overflow (CSO) Long-Term Control Plan (LTCP). In October, 2006 we sent the USEPA our second installment, a 160-page document entitled, "A Study in Environmental Racism: 'New and Significant' Information Regarding Title VI Claim 03R-04-R2."⁸ Our Study documents how, with the approval of the NYSDEC, Onondaga County:

- subverted the public process,
- spared privileged communities from stigmatizing, disruptive sewage projects and their adverse impacts, and
- served corporate interests rather than those of protected communities.

⁷ In 1999, the Syracuse Housing Authority evicted seven families from the aforementioned apartment building that Onondaga County subsequently demolished at the sewage plant construction site.

⁸ The Study is supported by 500 pages of Exhibits, which were also provided to the USEPA.

In other words, we documented how environmental racism happens in Syracuse, Onondaga County, New York.

A Bankrupt Public Process

Researching and Advocating for CSO Abatement Alternatives

The Partnership's Study explains that Onondaga County and its favored engineering firms circumvented the mandated public participation process in the choice of appropriate CSO abatement technology.⁹ First, with the help of the NYSDEC, the county manipulated ACJ milestones in an effort to silence dissent and to quickly impose the Midland Avenue sewage treatment plant on the Southside's African-American community. In 2001, the POC researched and presented ACJ-acceptable CSO abatement alternatives to the public and to local elected city and county representatives. This education about feasible CSO abatement alternatives, combined with some political luck, brought the county's steam-rolling process to a halt.

In October 2001, Syracuse's city councilors unanimously refused to sell the land that Onondaga County needed to build the Midland Avenue sewage plant. Since the county's charter prevents it from condemning city land, the county sued the city in federal district court asking the court to force the land sale. Before ruling on the case, Judge Thomas McAvoy asked the city and county to try and work out their differences through NYSDEC-facilitated negotiations. Aware of the Midland sewage plant controversy, the judge also told the parties to open up their negotiations to affected stakeholders. As a stakeholder, the POC wrote the NYSDEC requesting "to be seated," but the agency asserted that the talks were closed to the group. Only after three POC members "crashed" the first negotiating session was the POC delegation seated.

⁹ USEPA's Combined Sewer Overflow Control Policy, 59 Federal Register 18688, p9.

In 2002, after nine months of weekly negotiating sessions, the parties at the table designed an acceptable, healthier and less stigmatizing alternative to the chlorine-based sewage treatment plant. The new proposal combined underground CSO storage and sewer separation. As negotiations approached consensus, the county undermined them. Behind closed doors, the county attempted to bargain with the city, and gave the city certain conditions for the county's acceptance of the underground storage alternative. One of these county conditions would have abrogated the right of another Syracuse neighborhood to enter into a similar negotiated settlement regarding its CSO abatement project. The city turned down the county's deal and the negotiations ceased.

After three months of silence and with no resolution in sight, Judge McAvoy allowed the county to take the land through eminent domain. The county then decided unilaterally to stay with the chlorine-based technology. However, it did make some adjustments to its original sewage plant proposal -- it downsized the sewage plant, added more storage ensuring fewer chlorinated overflows into Onondaga Creek, contracted for a state-of-the-art odor control system, and built the now-smaller sewage plant 160 feet away from neighboring homes.

The county told the public that this scaled-down sewage plant with more storage would be \$20 million cheaper than the POC-favored non-chlorine storage proposal¹⁰. Then, Onondaga County *shamefully punished* this at-risk community. Blaming the community for the POC's activism, the county cancelled the three million dollars of mitigation it had previously earmarked for the community's development.

¹⁰ Onondaga County submitted to the NYSDEC for approval a sewage treatment facility estimated at \$55 million, \$20 million less than the POC's underground storage proposal. In May 2005, upon opening the bids, the \$20 million difference vanished; the county now estimated the sewage plant's construction cost at \$75 million. A year later, in May 2006, the county acknowledged that the project's actual cost would at least be \$122 million. The POC has written and met with the state comptroller's office, asking it to audit of the county's engineering firms to uncover possible fraud.

In 2003, the POC convinced the city to appeal the court's eminent domain ruling.¹¹ But this did not stop the "steam-roller." As the county's engineering consultants worked on the chlorine-based sewage plant design, the POC worked to remove the supposed stumbling block to the underground storage solution – the additional \$20 million dollar construction expense. Through brownfield redevelopment and state-funded sewer separation, the POC found non-local funding sources to completely offset the \$20 million of local debt. It presented two resolutions to the Onondaga County Legislature to enact these possibilities. The POC initiative reopened communication between the city and county. Unfortunately, neither party included the POC in these backroom talks. By March 2003, the POC fully realized that local government, but primarily Onondaga County, would not protect the neglected Southside community. Instead, the county continued to defend its CSO abatement technology (embodied in the neighborhood sewage treatment plants) as promoted by its consulting engineering firms.

Protecting Civil Rights

Disappointed with government lip service to the public's right to select CSO technology, the POC shifted its focus. Instead of researching and advocating for better alternatives to the sewage plant, it began championing the civil rights of the Midland community. Since the USEPA was providing \$45 million of the discriminatory plant's funding, the POC turned to Title VI hoping to stop the plant's construction and to resume negotiations to reach a healthier and fairer solution.

During the 2004 summer, after the Syracuse University's Public Interest Law Firm filed the Title VI claim on behalf of the POC, the POC worked to obtain political support from New York Senators Hillary Clinton and Chuck Schumer. Both senators wrote to the USEPA's OCR

¹¹ On September 21, 2006, the Second Circuit of Appeals deferred to New York's Court of Appeals for clarification regarding eminent domain and Onondaga County's State charter. The Second Circuit promised to rule on this sensitive issue as soon as the NYS Court of Appeals responds. Despite this ambiguity, the court neglected to grant a construction injunction.

urging the office to take the claim seriously. Unfortunately, two local Republican Party representatives, then State Senator Nancy Lorraine Hoffmann and Congressman James Walsh, wouldn't advocate for their vulnerable constituents. In mid-summer 2004, nine POC members committed an act of civil disobedience to highlight the civil rights issue underlying this sewage treatment plant. In Senator Hoffman's Syracuse office, four POC members waited all day to meet with her. At the end of the workday, refusing to leave, they were arrested for trespassing.¹² A few weeks later, at 6:00 AM and before the workday, five POC members "sat under the bulldozers" attempting to block the planned demolition of the apartment building in the way of the proposed sewage plant. They too were arrested for trespassing. (All were eventually sentenced to community service.)

Six months after the Title VI filing, on September 27, 2004, USEPA's OCR accepted for investigation the POC's claim against Onondaga County and NYSDEC. Elated by this success, POC immediately advocated for freezing the federal funding (\$45 million) to the plant and for resuming negotiations. The OCR refused to freeze the funds. During the investigation period, as a speaker at Syracuse University's Thursday Morning Roundtable, Congressman Walsh stated that the USEPA wouldn't find a civil rights violation. The POC suspects that Mr. Walsh, as Congressional chair of USEPA Appropriations Committee, may have blocked the freeze. The POC focused on bringing powerful Onondaga County¹³ "back to the negotiation table" through Governor Pataki and his NYDEC. With the help of Environmental Advocates of New York, citizens sent the governor's and NYSDEC offices 900 faxes asking them to convince Onondaga County not to bulldoze the community's concerns but "to talk them out" to a mutually agreeable

¹² The following November, Senator Hoffmann lost her re-election bid by 673 votes. The 18th election district, home of the proposed Midland Avenue sewage plant, voted overwhelmingly against her.

resolution. But, neither the federal nor state government advocated stalling the sewage plant's construction or resuming negotiations. There seemed to be little interest in protecting this vulnerable community.

After six months of silence, on Friday, March 18, 2005, late in the afternoon, USEPA faxed its dismissal to the local daily, the Syracuse *Post-Standard*, and Syracuse University's Public Interest Law Firm (PILF) about the USEPA's dismissal of the POC's claim. PILF's lawyer representing the POC had already left the office for the weekend. As the *Post* reporter called a POC member for a reaction to the dismissal, he realized the POC didn't know about the dismissal and faxed his copy to the group. This late Friday press tactic should be unworthy of the OCR. After reading the dismissal, the POC understood that the OCR relied only on the POC's filed claim and county documents to determine the claim's validity; there was no actual investigation. It was also clear that the OCR was protecting USEPA itself. Citing Onondaga County and the NYSDEC for a civil rights violation would point to the agency's complicity in the violation. USEPA had issued two flawed FONSI's (Findings of no Significant Impact) regarding the Midland Avenue sewage treatment plant. These USEPA rulings had given the county and the state the "go-ahead" for the plant.

Furious that OCR treated its Title VI responsibilities so cavalierly, the POC demanded a face-to-face meeting with Washington's USEPA's OCR. The Partnership needed to challenge the OCR's dismissal. Supported by the presence of an aide from Senator Clinton's NYC office, the local County Legislator, and representatives of the Onondaga Nation and four environmental

¹³ Onondaga County Executive, Nicholas Pirro (R), is the longest running county executive in New York State. He has been in office 20 years. His base of support in Syracuse is the city's Northside, which in the 2002 election gave him 70% of its votes. The Midland Avenue community gave him only 20%.

groups¹⁴, on July 11, 2005, at USEPA's Region II, New York City Office, the POC presented its case to OCR staff who had traveled up from Washington. The Partnership asserted to the OCR that there was supporting evidence for the claim. The POC showed how Onondaga County's projects are discriminatory and are creating adverse impacts for the at-risk communities that OCR, under the law, must protect. After watching the POC's PowerPoint, which documented instances of civil rights violation in Syracuse, the OCR fielded pointed questions from the POC's allies. The meeting closed with the OCR telling the POC that its Title VI claim would remain open for "New and Significant" information. (See p. 5 above.)

A telling moment during this meeting came when the OCR's lawyers couldn't define the criteria used to measure disparity or adversity or the level of these that the injured community must document to support a civil rights violation. The OCR promised to provide these criteria in writing so the POC's investigation would be relevant. Seven months later on March 15, 2006, the OCR eventually sent definitions of disparity and adversity to the POC.

Documenting Environmental Racism

Disparity

The POC compiled instances of disparity and adversity, not only for the Midland Avenue sewage plant but also for the three other proposed plants slated for other vulnerable city sectors: downtown Syracuse and Syracuse's Westside, home to Syracuse's low-income Latino population. The POC found a pattern of discrimination where the county favored Syracuse's high-income Northside communities by building only small, non-toxic, inconspicuous, non-disrupting, non-stigmatizing sewage facilities there.

¹⁴ Samara Swanston, Sierra Club's Northeast Environmental Justice Chair; Peggy Shepard, Executive Director of West Harlem Environmental Action (WE ACT); Kathy Curtis, then Executive Director of Citizens Environmental Coalition; Jeff Jones, then media specialist of Environmental Advocates of New York.

The POC's investigation began with the reading of the county's 1991 *Combined Sewer Overflow Facilities Plan*, which was part of the county's response to the initial 1988 federal court order. The plan attempted to comply with the federal Clean Water Act by capturing for treatment 85% of Syracuse's combined sewage. It was environmentally lacking but it was at least even-handed. In it, the county's consulting engineers recommended dotting Syracuse neighborhoods with nine chlorine-based sewage treatment plants. This 1991 facilities plan was to abate over a billion gallons of CSOs annually from polluting Onondaga Lake and Syracuse's waterways – Onondaga Creek, Ley Creek and Harbor Brook.

From 1995 to 1998, during the non-public negotiations between the county, the state and Atlantic States Legal Foundation, the county and its engineering firms quietly changed the initial CSO abatement plan. The new plan, specified by the ACJ modification, wasn't even-handed because it protected the well-off, predominantly white, Northside neighborhoods from disrupting, stigmatizing sewage treatment plants. The most blatant instance of favoritism is that of the Franklin Floatable Control Facility (FCF).

This minuscule facility is at the entrance to the upscale Franklin Square community which was developed in the early 1990s, by business mogul Robert Congel.¹⁵ By changing the 1991-proposed Franklin sewage treatment plant to a FCF, good only for trash removal, the county and its engineers, with the concurrence of the NYSDEC, let the Northside “off the hook.” The Northside wouldn't have to capture for treatment 85% of its combined sewage. The county allowed the three major Northside trunklines, which meet at the Franklin Square's entrance, to continue dumping their combined raw sewage loads into nearby Onondaga Creek, 50 to 60 times a year. In 1998 while reviewing the Franklin Floatable Control Facility design, engineering

consultant Camp, Dresser & McKee (CDM) clearly stated that disruption at the Franklin Square entrance was a major concern. The switch from a sewage treatment plant to a FCF shifted the Northside's sewage *burden* to other neighborhoods and forced adverse changes in their sewage facility plans. To make up for the loss of capture at the Franklin FCF, CDM recommended: "Oversize pipeline in both Midland [Southside] and Clinton [Downtown] to provide additional storage volume to replace the loss of the new alternative."^{16 17}

Some Syracusans might argue that the location of the Franklin Floatable Control Facility doesn't protect anyone since there isn't an obvious neighborhood at the facility's location. The POC knows better. First, Franklin Square is "the baby" of developer Congel, who has undue influence in federal, state, county and city government circles. Second, the 2000 census quantifies the privilege of the Franklin Floatable Control Facility's census tract. This large (land-wise) tract has only 395 residents and their average yearly income is \$39,000, more than double the city average (\$15,000). The tract is 87% white. Today, some Franklin Square condominiums sell for a half million dollars. Contrast this with the small (land-wise) census tract of the Midland Avenue sewage plant. Midland's 1,895 residents are 84% African-American and have an average yearly income of \$8,500 (well under a quarter of the income of Franklin Square residents). In the Midland area, a well-constructed home is lucky to sell for \$50,000.

Onondaga County understands only too well that the Franklin FCF is an ineffective, polluting facility. In 2000, after only a year of operation, the county's engineering consultant Stearns & Wheeler wrote a memorandum to Onondaga County explaining the FCF's problems. It

¹⁵ Robert Congel is a local, wealthy real estate developer and founder of Pyramid Companies. He developed the Carousel Mall, on the Northside of Syracuse. Pyramid has been promising to bring to Syracuse an expansion of the Mall and an energy research park. DestiNY USA, has been widely hyped, so far with no results.

¹⁶ *Preliminary VE Report Value Engineering Review Onondaga County CSO Control Franklin Floatable Control Facility Planning Concept*, Camp, Dresser & McKee, April 1998.

¹⁷ CDM has gotten all the lucrative pipe contracts for the Southside, Downtown and the Westside CSO sewage projects.

recommended an upstream, sewage-capturing underground storage tank placed in a park that is bracketed by a middle-class neighborhood on one side and a wealthy one on the other to rectify the situation. It recommended this storage tank be added to the list of federally mandated projects. Onondaga County ignored the recommendation. The POC believes that with this lack of action the county is favoring these Northside neighborhoods, and protecting itself against the charge of racism.

The POC studied the 2000 census data of the two tracts surrounding the park. The demographics for the middle class neighborhood show that its 2,444 residents are 84% white and have average yearly income of \$15,000 which is the city's average income but still double the Midland tract's income. The wealthy tract has 3,359 residents. They are 92.8% white and have an average yearly income of \$26,654, three times Midland's yearly average income. In ignoring S&W's recommendations, the county protects these neighborhoods from the stigma and inconvenience of a waste facility in their neighborhood.

The county also cleverly avoided introducing a better, less stigmatizing CSO abatement technology into this middle class-to-rich, predominantly white, community. If the county built a non-chlorine, underground storage facility, the Title VI-protected neighborhoods could more readily demand the same or accuse the county of civil rights violations.

Despite plans to revitalize city waters¹⁸, Onondaga County *deplorably* has no plans to capture the sewage released by the Franklin FCF. Through the SPDES permitting process and our Title VI claim, the POC continues to advocate for more CSO storage on the Northside. Such storage would improve Onondaga Lake, its Inner Harbor and Onondaga Creek, and restore some

¹⁸ There is currently significant momentum towards revitalizing the creek, the lake and its harbor. In 2005, with \$250,000, the USEPA funded an Onondaga Creek revitalization public process through the Onondaga Environmental Institute. The ongoing planning process has attracted significant public interest and input.

semblance of fairness regarding CSO abatement projects. Currently, most of the required system-wide CSO capture happens in at-risk communities of color. This capture impacts them adversely.

Adverse Impacts

With the county's 1991 *Combined Sewer Overflow Facilities Plan* as a measure, here are the combined sewage burden shifts and the resulting impacts:

- *Northside:* Even though the 1991 Plan recommended a sewage treatment plant at Franklin Square's entrance, the county built instead the inconspicuous, ineffective, merely trash-removing, non-capturing, non-stigmatizing, non-toxic yet polluting, Franklin Floatable Control Facility. Furthermore, the county didn't act on its engineer's recommendation to build an upstream CSO storage tank. Consequently, the Northside didn't experience disrupting or stigmatizing adverse impacts from sewage projects processing the sewage it generates.
- *Southside:* Despite the existence of a healthier, environmentally and socially friendlier CSO abatement alternative (underground storage and with a small amount of sewer separation¹⁹), the county is building the Midland Avenue sewage treatment plant and its mile-long 12-ft diameter pipeline. Besides this physical "tearing up," the county has evicted 42 Southside families, and poorly compensated the 36 families in public housing for their interrupted, uprooted lives. The county (in a reprehensible action) then punished the community for the opposition to its scheme, by withdrawing the promised \$3 million

Currently, the City of Syracuse wants to build on its initial Inner Harbor investment. And, the 1998 ACJ's focus is to restore Onondaga Lake's water quality.

¹⁹ Syracuse has an aging sewer system where two thirds of the sewers lines are combined, i.e., the lines carry both stormwater and sanitary waste. The City of Syracuse is responsible for maintaining and upgrading all lateral sewers connecting to Onondaga County's sewer trunk lines. Because sewer separation, i.e. laying a new sanitary line to separate stormwater from household and business wastewater, is not the county's responsibility, county is very reluctant to leverage the CSO abatement project funds to sewer separate the city's old sewers.

of mitigation for community development. Furthermore, in the 1999 Environmental Information Document, the county told the USEPA there might be 100 high-paying construction jobs as a possible community benefit. But, per a 2005 POC Freedom of Information query, only five people of color out of 158 workers had gotten jobs at Midland's construction site. After a November 2005 community meeting, in which the Midland community complained about the lack of job opportunities, the county said it would consider negotiating more jobs for residents if the community organized itself. With the help of local trade unions, the POC helped organize the community for these job talks. In the end, after months of community work, the county refused to come to the table.

- *Downtown:* Currently, over the City of Syracuse's objection to a sewage treatment facility on city-owned land, the county is proposing a downtown facility with frequent chlorinated overflows to Onondaga Creek. The downtown plant is now double in size to the one recommended by county engineers in 1991. The 2000 census shows that this sewage plant and its pipelines are slated for Title VI census tracts. To silence the business owners, who worry about losing customer parking to the sewage plant but who don't live downtown, the county has promised to build a \$4 million parking garage on top of the sewage plant.
- *Westside:* For this Title VI community with a large Latino population, the county plans to double the size of the two 1991-recommended sewage plants. It wants to build one of these two larger sewage plants kitty-corner to a struggling, bilingual, city elementary school. The county hopes to silence opposition from the city school district by promising

to mitigate the plant's adverse impacts by building a much-needed playground for the school.

Besides disruption and stigma, the county, the state and the USEPA are ignoring the health and environmental impacts on these at-risk neighborhoods. Chlorinated effluent from each of these sewage plants will damage the air of city neighborhoods and the water quality of city streams. Air quality is a particular concern in the Midland area because it is situated on the edge of a light industrialized zone and interstate, its asthma rate is 13 times higher than that of Onondaga County's. Volatized chloroform and other trihalomethanes (THMs) formed by the chlorination of the plant's effluent will adversely affect each neighborhood's air quality. Just as chlorinated by-products are harmful to humans, these toxic disinfectant by-products hurt aquatic life. Up until 2002, all of Syracuse's major waterways were on the state's impaired water list. Instead of improving the streams by setting total maximum daily loads (TMDLs) and rigorous SPDES permit effluent limits and monitoring requirements, the NYSDEC, supported by the USEPA, unjustifiably delisted²⁰ Syracuse streams. To defend the agency's action after critical public comment, the NYSDEC's regional director stated, "There was never any intention to address the individual tributaries with separate TMDLs outside the context of their impact on Onondaga Lake."

Not only does the public value Onondaga Lake but it cares about Syracuse streams, especially Onondaga Creek. Currently, the state is revising for the third time the SPDES permit for the main metropolitan sewage treatment facility and its auxiliary plants. If ever the NYSDEC actually permits these discharges, the delisting of these waterways will allow for insubstantial controls on these polluting neighborhood sewage facilities.

Finally, we must address the long-term adverse impact of the county's regressive sewer tax on the county's poorest homeowners. In 1978, with the concurrence of the City of Syracuse, Onondaga County created a consolidated sewer district. Annually, the county taxes each homeowner at the same rate, regardless of income or whether the person owns a mansion or a humble dwelling. This regressive tax provides the county with revenues for capital sewer projects and the maintenance of the consolidated district's sewage facilities and their trunk lines. During the 2002 negotiations, the county relentlessly championed the sewage plant alternatives over CSO storage ones, saying they were more cost-effective and that the county's obligation was to protect the taxpayer. Near the end of the negotiations, the county accountant showed that pricier storage tanks, unlike sewage treatment plants, paid back the taxpayers over time. This was because the tanks had a low operating and maintenance cost compared to chlorine-based sewage treatment plants. Currently, the boast of a cost-effective CSO abatement plan has become a joke. In May 2006, the county projected that the Midland plant, estimated at \$55 million dollars when the county sought NYSDEC's approval, will now cost taxpayers at least \$122 million. As they suffer from the county's disruptive, stigmatizing sewer projects, Syracuse's low-income homeowners will be economically stressed by this regressive sewer tax.

The county and the state, with the help of the USEPA, burden Syracuse's at-risk communities with unequal treatment and adverse impacts. The Midland area residents have suffered evictions and severe disruption from the protracted construction of the Midland sewage project. These residents can look forward to even lower real estate values for their homes and higher sewer rates. Follow the path of the CSO plan, and it is clear that the county has favored the richer and whiter neighborhoods. Follow the money and see that the county has given its

²⁰ In 2000, according to USEPA, there were 20,000 water bodies in the US that did not meet water quality standards. According to the Clean Water Act (section 303d) these were listed as impaired. It has been up to the states to

engineering friends lucrative contracts while shielding them from competition and public scrutiny.

Corporate Interests

Over the last six years the POC has been speaking out about environmental racism, environmental injustice, and the environmental and economic inadequacies of the CSO abatement plan. These issues mystified many city and county residents. Why would government back an environmentally lacking and discriminatory plan? When the POC exposed the cozy relationship between the county and its engineering firms, the mystery unraveled; these firms have an inside track on the \$550 million worth of federally mandated local projects. Their “old boy” ties to the county assured that competing ideas or firms were effectively shut out. In its Study, the POC documents the blocking tactics. These included:

- flawed stormwater modeling,
- manipulated CSO design criteria,
- questionable and possibly fraudulent cost estimating practices, and
- a self-serving site review of the Midland Avenue sewage plant.

The engineering cartel used the first three tactics to oversize and overprice the non-chlorine CSO storage tanks advocated by the POC. The cartel disqualified tanks as not viable or cost-effective alternatives to its favored chlorine-based sewage treatment plants. Using taxpayer money to enrich itself, the cartel protected its corporate profits at the expense of the public interest.

determine the listing, or delisting of a given water body in that state.

Conclusion

The POC has learned much about sewage treatment, water quality and civil rights. By researching, organizing, negotiating, advocating and even enduring arrest, our group has gained both credibility and notoriety. The Partnership's struggle for environmental justice uncovered institutional, environmental racism.

This racism derives from a concentration of power and thrives on disempowerment and fear. In Syracuse regarding the CSO abatement projects, the "old boys" network of engineering firms and political heavyweights wield undue power. Although the Partnership could not stop the evictions or the building of the Midland sewage plant, we got design concessions: a smaller aboveground footprint, more CSO storage, a less stigmatizing location, and state-of-the-art odor control. Additionally through this struggle, the POC improved the profile of Onondaga Creek, from sewer to potential civic "jewel."

Currently, the POC wants to spark a city-county review of the county's remaining CSO abatement proposals. The POC's struggle at Midland may well lead to other neighborhoods getting a fairer shake. We will continue to push for a state audit of the county's engineering firms, their cost estimating practices and their escalating Midland project. We will continue to hold the USEPA's Office of Civil Rights accountable to its responsibility to protect communities from racism.

Racism happens because we let it. The POC knows that only with public oversight, dogged persistence and committed resistance will equity become the *enforced* law of the land.

###