

# Lewiston to Study Its Legal Options To Halt Repository

By JOANN SCELSA

LEWISTON — The Town Board Tuesday authorized its attorney to look into the possibility of taking legal action against "the top officials of Bechtel National Inc. and the U.S. Department of Energy on the grounds of "reckless endangerment."

Deputy Supervisor Robert Lee, who recommended the action, said he believes there are legal precedents for suing a consultant to the federal government such as Bechtel. Mr. Lee said he did not know what the precedents are.

Bechtel is managing the Niagara Falls Storage Site, formerly part of the Lake Ontario Ordnance Works, for the federal government and has recommended use of the site as a nuclear waste repository.

The Town Board last week authorized its attorney to investigate the possibility of legal action against the federal government for alleged violations of a number of environmental laws at the site. Tuesday's action includes Bechtel officials.

"How do we feel there's reckless endangerment?" Councilman Joan Gipp asked.

"That's what we want to find out," Mr. Lee said.

**ATTORNEY** Benjamin Hewitt reported to the board that he believes the town has some "courses of action" open to it, and if they prove to have "technical merit, we can pursue them." Mr. Hewitt said there are cases when a municipality can sue the federal government and other instances when it cannot.

He said the town shouldn't institute a "frivolous action" without some indication that it has a chance of winning. Mr. Hewitt did not detail what courses of action the town may follow, but he said it is possible the town can put the federal government on notice of any violations at the site.

He said the government would have 60 days to rectify the violations or the town could bring a lawsuit.

Mr. Hewitt also gave board members copies of another report prepared by Bechtel for the Energy Department that outlines conceptual plans for two permanent landfill-type radioactive waste disposal facilities, one in New York and another in New Jersey.

**NO SPECIFIC** sites for the facilities are named in the report. It says 53 acres would be required for each facility. The Energy Department

owns 191 acres at the Niagara Falls Storage Site. Mr. Hewitt said, "All I can figure out is they're looking to put wastes from all over the Northeast here and in New Jersey."

The board also agreed to maintain the leadership role it has assumed in opposing the repository plan by adopting a course of action submitted by Councilman Alvin Ogg.

The objective of the plan is to "protect the safety and welfare of the present and future residents of the town and surrounding areas" by preventing further nuclear wastes from coming into the town and advocating the removal of all wastes from the site.

The plan outlines a number of steps for accomplishing the goal. Mr. Ogg said the plan can be modified as the board proceeds.

**IN RELATED** action, the board:

✓ Passed a resolution calling on the Lewiston-Porter School District Board of Education, the Porter Town Board and the Youngstown Village Board to go on record immediately opposing a repository at the ordnance works site.

✓ Passed a resolution requesting all municipalities in Niagara County and the County Legislature to adopt a ban on transporting nuclear wastes on town, city and county roads. The resolution was amended to cover wastes being transported into the site, because Mr. Ogg said if the site should be decommissioned, "We want them to be able to take the stuff out of here."

✓ Defeated a motion by Mr. Lee that the board assist citizens groups fighting the repository plan by assuming duplicating and mailing costs for "any protest material, including letters and petitions."

Board members said the procedure worked well in the Hojack fight, but so far no one group has emerged as the leader in the Ordnance Works protest, and the board has not yet committed any amount of money to this fight.

✓ Refused support of a motion by Mr. Lee to encourage public contributions to Citizens Against Pollution, Operation Clean or any other citizens groups actively involved in the protest.

Mr. Lee withdrew the motion after Mrs. Gipp asked what good "our moral support is going to be in their fund-raising" and said the motion would serve to fragment the groups by naming them.