



**PUBLIC DEFENDER'S INVESTIGATIVE REPORT**  
**INTO MARCH 2015 FIRE AT RIVERTON CITY**  
**DUMP/DISPOSAL SITE**

**OFFICE OF THE PUBLIC DEFENDER**

**March 2016**

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## **INTRODUCTION**

ON THE MORNING OF MARCH 7, 2015 A LITTLE LESS THAN ONE HALF OF JAMAICA'S POPULATION IN KINGSTON AND ST. ANDREW PARTS OF ST. CATHERINE AND ST. THOMAS WOKE UP TO A CLOUD OF DARK SMOKE BLANKETING THE SKIES. WE LATER LEARNT AND IT BECAME CLEAR TO SEE THAT THE RIVERTON DISPOSAL SITE WAS ONCE AGAIN ON FIRE.

THIS TIME THE ENTIRE RIVERTON DISPOSAL FACILITY OF APPROXIMATELY 120 ACRES WAS ON FIRE.

CITIZENS OF THESE PARISHES HAVE SUFFERED ANNUALLY WITH AT LEAST ONE LARGE FIRE AND A NUMBER OF SMALLER FIRES. THIS FIRE HOWEVER WAS OF AN UNPRECEDENTED SCALE, INTENSITY, AND EFFECT.

ALARMS MADE — ONE MAN SAW FIRE AND CALLED THE POLICE. THEREAFTER THE FIRE BRIGADE ARRIVED AND BEGAN TO EXTINGUISH THE BLAZE WHICH PROVED TO BE OVERWHELMING. EFFORTS CONTINUED FOR DAYS TO CONTAIN THE FIRE AND WHEN IT WAS EXTINGUISHED THE SMOKE, DUST AND PUTRID SMELLS CONTINUED FOR DAYS.

THERE WAS NO ABATEMENT IN SIGHT. THE CONDITIONS OF SMOKE, DUST AND A FOUL ODOUR GREW PROGRESSIVELY WORSE DAY BY DAY. ACCORDING TO THE STATISTICS PROVIDED BY THE MINISTRY

OF HEALTH, OVER 1000 CITIZENS FELL ILL AND HAD TO SEEK MEDICAL HELP. CLINICS AND HOSPITALS OPENED SPECIAL FACILITIES TO CARE FOR THOSE SUFFERING ILL EFFECTS OF WHAT CAN ONLY BE DESCRIBED AS A CATASTROPHIC EVENT.

A LARGE SECTION OF THE JAMAICAN COMMUNITY SUFFERED FROM DIVERSE RESPIRATORY CONDITIONS DURING THIS PERIOD AND STRUGGLED WITH INHALING SMOKE WHICH SATURATED THE AIR FOR MOST OF THE MONTH OF MARCH 2015.

THE MINISTRY OF HEALTH REPORTED THAT THE MAJORITY OF PERSONS WHO SOUGHT MEDICAL ASSISTANCE FROM THE PUBLIC HEALTH FACILITIES WERE CHILDREN.

BUSINESSES AND OFFICES WERE CLOSED, AND STAFF SENT HOME; SCHOOLS ALSO HAD TO BE CLOSED, AND CHILDREN SENT HOME.

SIXTY THREE SCHOOLS WERE CLOSED IN KINGSTON, ST. ANDREW AND ST. CATHERINE. OF THIS NUMBER THIRTY WERE HIGH SCHOOLS AND THIRTY THREE PRIMARY AND INFANT SCHOOLS. THE CLOSURE OF SCHOOLS AFFECTED OVER 61,447 STUDENTS AND 3137 TEACHERS. THIS FIGURE DOES NOT INCLUDE STUDENTS ATTENDING PREPARATORY SCHOOLS AND PRIVATELY OPERATED SCHOOLS THAT HAD TO CLOSE BECAUSE OF THE AIR POLLUTION.

ULTIMATELY, THE MINISTRY OF EDUCATION WAS FORCED TO RESCHEDULE THE GSAT EXAMINATION, A DECISION WHICH AFFECTED ABOUT 40,000, 10-12 YEAR OLD CHILDREN ACROSS JAMAICA.

FROM THE MATERIAL COLLATED BY THE PUBLIC DEFENDER, WITHOUT QUESTION, CHILDREN WERE THE MOST AFFECTED GROUP IMPACTED BY THE FIRES.

THERE WAS VERY LITTLE, IF ANY, THAT THE CITIZEN COULD DO OR COULD HAVE DONE TO PROTECT HIMSELF AND FAMILY FROM THE ONSLAUGHT OF THE STIFLING SMOKE OVER THE PERIOD. IN SOME INSTANCES PERSONS WERE FORCED TO LEAVE THEIR HOMES AND HEADED TO THE COUNTRY TO ESCAPE THE ILL EFFECTS OF THE SMOKE AND FOUL AIR CAUSED FROM THE FIRES AT THE RIVERTON DISPOSAL SITE.

ACCORDING TO A NATIONAL ENVIRONMENTAL PLANNING AGENCY (NEPA) REPORT, APPROXIMATELY 808,553 PERSONS RESIDING WITHIN THOSE PARISHES WERE AFFECTED BY THE FIRE. OVER 80 PER CENT OF PERSONS LIVING IN KINGSTON AND ST. ANDREW AND OVER ONE HALF OF THE POPULATION OF ST. CATHERINE WERE ADVERSELY AFFECTED BY THE FIRE.

THE NEPA REPORT IDENTIFIED THAT 257,567 PERSONS OR 10 PER CENT OF JAMAICA'S POPULATION RESIDE IN THE AREA IT DESCRIBED AS 'VERY HIGH HEALTH RISK' WHILE ANOTHER 60,398 PERSONS OR 5 PER CENT OF THE CITIZENRY RESIDE IN AREAS IDENTIFIED AS 'HIGH HEALTH RISK'

THE FIRES BROUGHT THE METROPOLIS OF THE COUNTRY TO A GRINDING HALT. WHILE THE PUBLIC DEFENDER DID NOT RECEIVE ANY COMPLAINTS FROM MAJOR BUSINESSES IN THE CORPORATE AREA, IT IS KNOWN THAT THE RIVERTON DISPOSAL SITE IS LOCATED

IN AN IMPORTANT INDUSTRIAL COMMUNITY THAT WOULD HAVE ENDURED THE BRUNT OF THE SMOKE, SMELL AND EMISSION OF NOXIOUS FUMES AND DUST.

NEVER HAD THIS COUNTRY WITNESSED SUCH A FIRE OF THE MAGNITUDE AND PROPORTIONS WHICH AFFECTED ABOUT A HALF OF THE JAMAICAN POPULATION OF OVER PERIOD OF 21 DAYS.

THE PUBLIC DEFENDER WAS OUTRAGED BY YET ANOTHER FIRE, THE EVIDENT NEGATIVE IMPACT OF THIS FIRE ON THE HEALTH AND WELLBEING OF CITIZENS ESPECIALLY CHILDREN AND THE ELDERLY AND THE CONSEQUENCES FOR THEIR IMMEDIATE AND LONG TERM HEALTH, COMMENCED AN INVESTIGATION. IN ADDITION, COST TO BUSINESS AND PRODUCTION APPEARED ALARMING.

THE PUBLIC DEFENDER ISSUED A STATEMENT AND TOOK A DECISION THAT IT WAS HER DUTY TO INITIATE INVESTIGATIONS.

THE ENTITIES RESPONSIBLE FOR THE PRIMARY MANAGEMENT OF THE RIVERTON DISPOSAL FACILITY DUMP WERE IDENTIFIED AS NATIONAL ENVIRONMENT PLANNING AGENCY AND NATIONAL SOLID WASTE MANAGEMENT AUTHORITY, WITH STATUTORY DUTIES FOR THE PROPER GOVERNANCE AND MANAGEMENT OF THE RIVERTON DISPOSAL FACILITY.

### **JURISDICTION OF THE PUBLIC DEFENDER TO INVESTIGATE**

IT IS NECESSARY TO OFFER CLARIFICATION IN RESPECT OF THE PUBLIC DEFENDER'S JURISDICTION AS THERE APPEARS TO BE A MISAPPREHENSION AS TO THE PUBLIC DEFENDER'S JURISDICTIONAL

INVESTIGATIVE REMIT. THESE FEW WORDS ARE INTENDED TO ELUCIDATE THE PUBLIC DEFENDER'S JURISDICTION IN RELATION TO INVESTIGATIONS UNDERTAKEN BY HER.

THERE APPEARS TO BE A FUNDAMENTAL MISUNDERSTANDING THAT THE PUBLIC DEFENDER IN CONDUCTING AN INVESTIGATION UNDER SECTION 13 (1) OF THE PUBLIC DEFENDER (INTERIM) ACT, MUST PROCEED EITHER BY SUB-PARAGRAPH (A) (I) OR SUB-PARAGRAPH (A) (II).

THE PROVISIONS READ:

13-(1) SUBJECT TO THIS SECTION, THE PUBLIC DEFENDER SHALL INVESTIGATE ANY ACTION TAKEN WHERE HE IS OF THE OPINION-

(a) THAT ANY PERSON OR BODY OF PERSONS -

- (i) HAS SUSTAINED INJUSTICE AS A RESULT OF ANY ACTION TAKEN BY AN AUTHORITY OR AN OFFICER OR MEMBER OF SUCH AUTHORITY, IN THE EXERCISE OF THE ADMINISTRATIVE FUNCTIONS OF THAT AUTHORITY OR
- (ii) HAS SUFFERED, IS SUFFERING OR IS LIKELY TO SUFFER AN INFRINGEMENT OF HIS CONSTITUTIONAL RIGHTS AS A RESULT OF ANY ACTION TAKEN BY AN AUTHORITY OR AN OFFICER OR MEMBER OF THAT AUTHORITY

SUB –PARAGRAPHS (a)(i) AND (a)(ii) DO NOT CREATE CATEGORIES OF JURISDICTIONAL EXERCISE FOR THE PUBLIC DEFENDER: RATHER THEY REFER TO DIFFERENT LEGAL FOUNDATIONS IN WHICH COMPLAINTS CAN BE GROUNDED. PUT ANOTHER WAY, THOSE PROVISIONS CREATE THE FOUNDATION FOR COMPLAINTS. FOR EXAMPLE, WHEN THE PUBLIC DEFENDER UNDERTAKES AN INVESTIGATION SHE DOES NOT HAVE TO CHOOSE TO PROCEED UNDER SECTION 13 (a) (i) OR 13 (a)(ii) BUT CAN PROCEED UNDER BOTH SUB-SECTIONS BECAUSE THE PROVISIONS GIVE HER POWER TO DEAL WITH MATTERS OF BAD MANAGEMENT AND CONSTITUTIONAL VIOLATIONS.

THE PROCESS CONDUCTED BY THE PUBLIC DEFENDER IS INQUISITORIAL AS DISTINCT FROM ADVERSARIAL. THE INTENT IS TO UNCOVER THE TRUTH WHERE POSSIBLE AND TO FIND SOLUTIONS, FINALLY, TO MAKE RECOMMENDATIONS WHERE APPROPRIATE.

### **METHODOLOGY**

THE PUBLIC DEFENDER UTILIZED THE POWER VESTED IN HER UNDER SECTION 17 OF THE PUBLIC DEFENDER (INTERIM) ACT 2000. THIS PROVISION VESTS IN HER LEGAL AUTHORITY TO COMMENCE AND CARRY OUT INVESTIGATIONS. SHE IS CLOTH WITH THE AUTHORITY TO SEEK THE AUDIENCE AND CO-OPERATION OF PERSONS WHO MAY BE ABLE TO GIVE ASSISTANCE IN THE INVESTIGATION OF ANY MATTER.



BY SECTION 17 OF THE ACT THE PUBLIC DEFENDER MAY AT ANY TIME SUMMON:

“...ANY OFFICER OR MEMBER OF AN AUTHORITY, OR ANY OTHER PERSON WHO, IN HIS OPINION, IS ABLE TO GIVE ASSISTANCE IN RELATION TO THE INVESTIGATION OF ANY MATTER....”

SUCH PERSONS SUMMONED CAN ALSO BE REQUIRED TO FURNISH “...SUCH INFORMATION AND PRODUCE ANY DOCUMENT OR THING IN CONNECTION WITH SUCH MATTER AND WHICH MAY BE IN THE POSSESSION OR UNDER THE CONTROL OF THAT OFFICER OR MEMBER OR OTHER PERSON.”

THESE OFFICERS ARE OBLIGED UNDER LAW TO SUBMIT TO THE PUBLIC DEFENDER’S REQUEST FOR ASSISTANCE IN THE CONDUCT OF THE INVESTIGATION. THE PUBLIC DEFENDER IS EMPOWERED TO SUMMON SUCH OFFICERS OR MEMBERS TO PROVIDE ASSISTANCE TO THE PUBLIC DEFENDER IN THE PURSUIT OF AN INVESTIGATION.

BECAUSE OF THE SCALE AND MAGNITUDE OF THE FIRES AND THE HARMFUL EFFECT ON THE CITIZENS THE PUBLIC DEFENDER SAW IT FIT AND NECESSARY TO ISSUE SUMMONS TO THE LEADERS OF THE BODIES WITH STATUTORY DUTIES FOR THE EFFECTIVE MANAGEMENT AND GOVERNANCE OF THE RIVERTON DISPOSAL SITE.

THE PUBLIC DEFENDER NOT ONLY ISSUED SUMMONS BUT CALLED ON A NUMBER OF PERSONS AND AGENCIES TO ASSIST IN THE INVESTIGATIONS.

AT HER REQUEST THE FIRE DEPARTMENT FURNISHED COPIES OF ALL FIRE REPORTS IN ITS POSSESSION RELATIVE TO THE RIVERTON DISPOSAL FACILITY. THE PUBLIC DEFENDER IS APPRECIATIVE OF THE COOPERATION RECEIVED FROM THE FIRE DEPARTMENT.

BELOW IS A TABLE RECEIVED FROM THE FIRE DEPARTMENT OF RECORDED FIRES AT THE RIVERTON DISPOSAL FACILITY FOR THE PERIOD 1996 TO 2015.

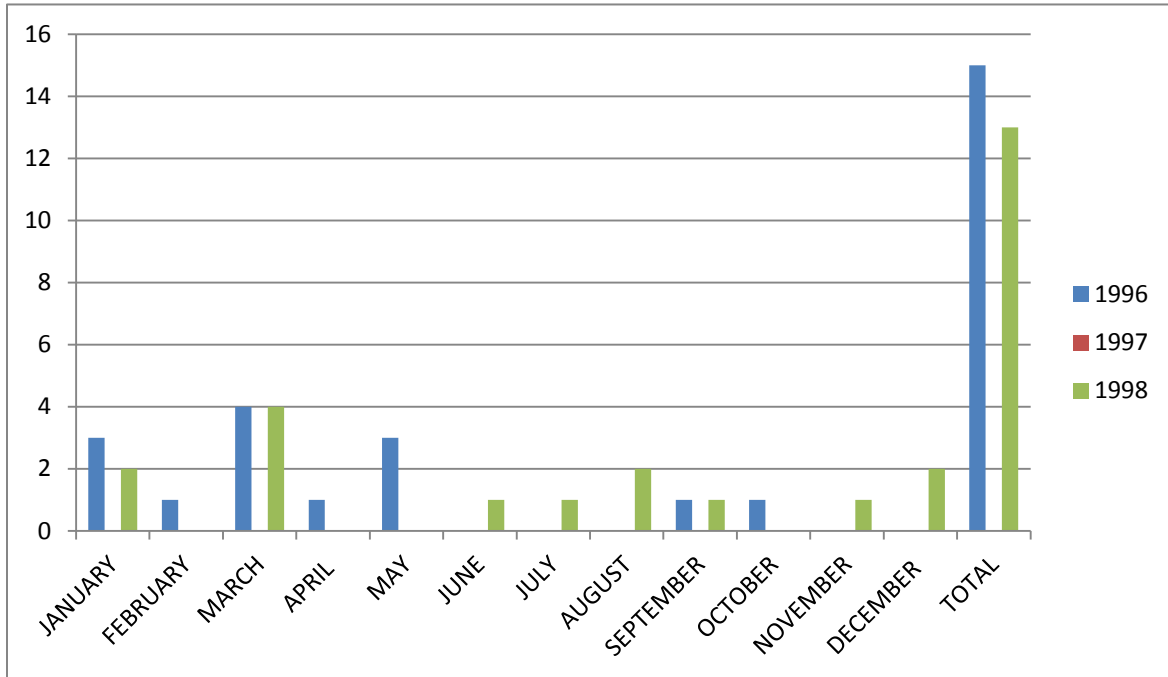
RIVERTON CITY LANDFILL FIRES 1996 – 2015													
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT.	OCT	NOV	DEC	TOTAL
1996	3	1	4	1	3	1	0	0	1	1	0	0	15
1997	0	0	0	0	0	0	0	0	0	0	0	0	0
1998	2	0	4	0	0	1	1	2	1	0	0	2	13
1999	3	1	5	2	2	2	2	8	0	0	0	1	26
2000	0	0	0	0	0	0	0	0	2	1	0	0	3
2001	0	0	2	0	0	5	6	0	3	0	0	0	16
2002	2	1	4	4	0	0	0	0	0	0	0	0	11
2003	0	0	1	0	0	0	1	6	1	1	0	0	10
2004	0	1	0	1	1	3	0	4	0	0	1	1	12
2005	1	2	0	3	1	1	0	0	0	0	0	0	8
2006	4	1	0	0	0	0	0	0	0	0	0	1	6
2007	7	0	6	0	0	0	0	0	0	1	0	1	15
2008	0	1	4	4	6	5	9	0	0	0	0	1	30
2009	0	3	1	3	0	0	1	2	1	0	1	2	14
2010	3	2	0	0	1	0	0	0	4	1	0	0	11
2011	1	0	0	0	2	4	5	4	0	3	2	4	25
2012	4	19	3	1	2	1	4	2	0	0	3	2	41
2013	2	0	0	0	7	7	13	9	4	0	5	10	57
2014	12	0	0	16	2	5	7	0	3	7	2	2	56
2015	4	0	5	15	5	6	3	3	4	1	0	0	46
<b>TOTAL</b>	<b>48</b>	<b>32</b>	<b>39</b>	<b>50</b>	<b>32</b>	<b>41</b>	<b>52</b>	<b>40</b>	<b>24</b>	<b>16</b>	<b>14</b>	<b>27</b>	<b>415</b>

ON A PERUSAL OF THE INDIVIDUAL FIRE REPORTS THE ORIGIN OF MANY OF THE FIRES WAS NOTED AS “UNKNOWN” WHILE SEVERAL WERE RECORDED AS A RESULT OF “BURNING BUSH,” “DISCARDED LIGHT” AND SOME WERE DUE TO “DIRECT BURNING.” VERY FEW OF THE FIRES OVER THE PERIOD WERE ATTRIBUTED TO “SPONTANEOUS COMBUSTION,” TYPICALLY ASSOCIATED WITH WASTE SITES.

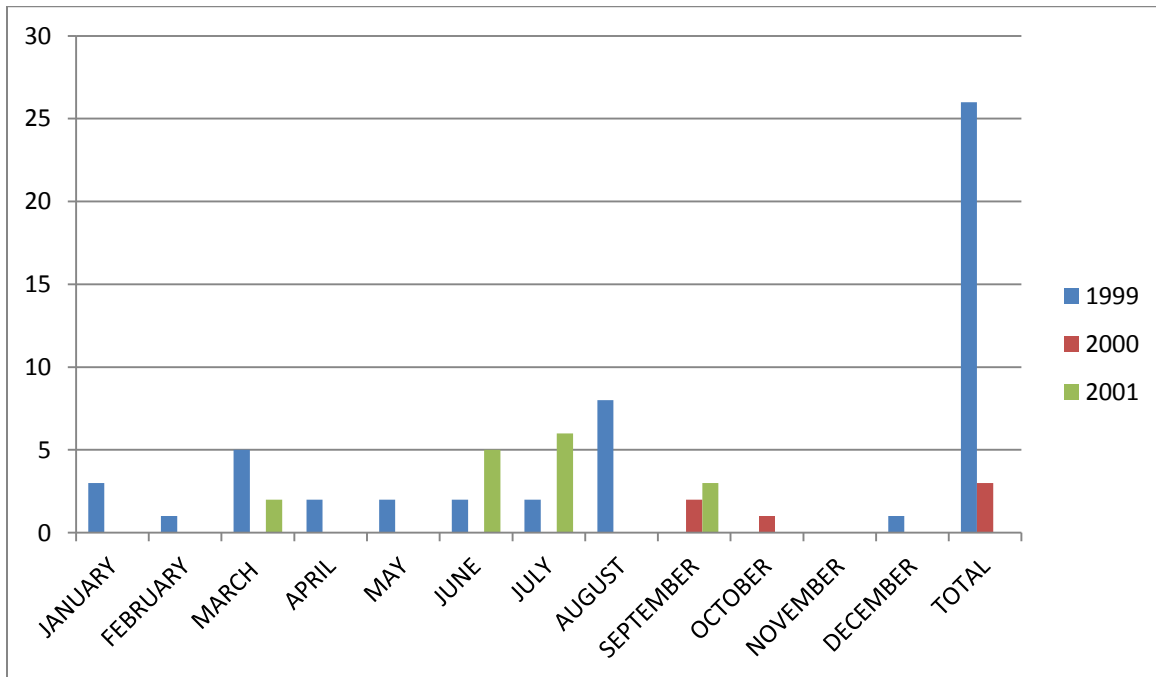
THE GRAPHS FOLLOWING SHOW THE NUMBER OF FIRES TO WHICH WE HAVE BEEN CAPTIVES AS A RESULT OF THE HAPPENINGS OF RIVERTON.

## RIVERTON CITY DISPOSAL FACILITY

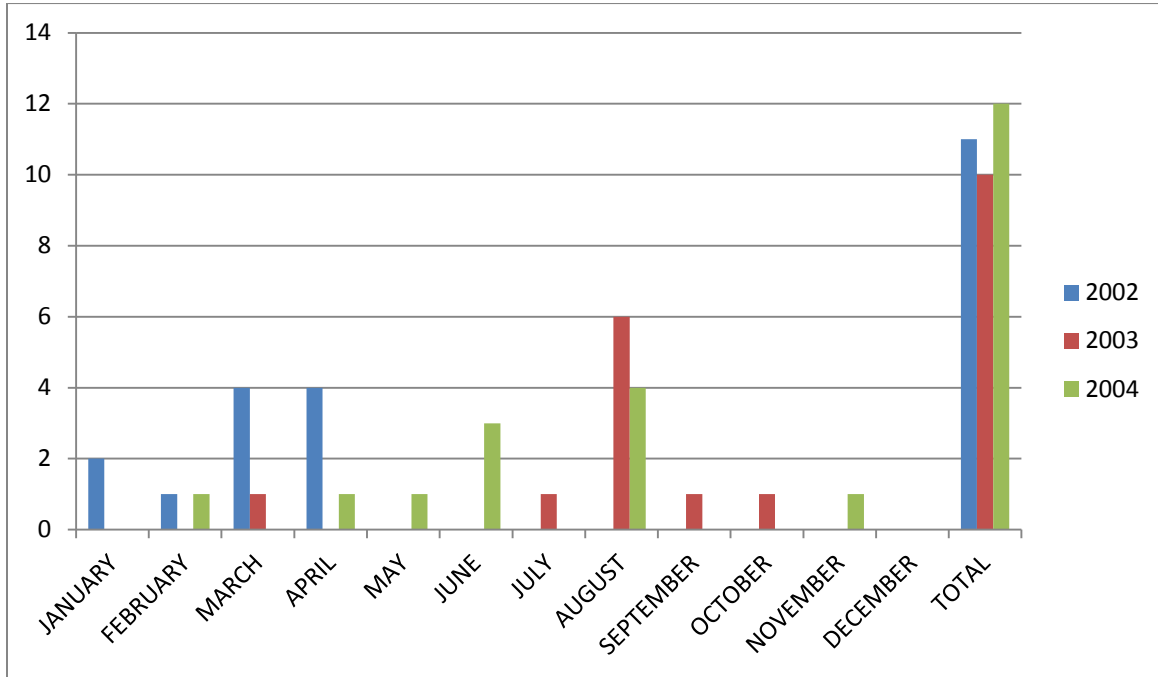
1996-1998



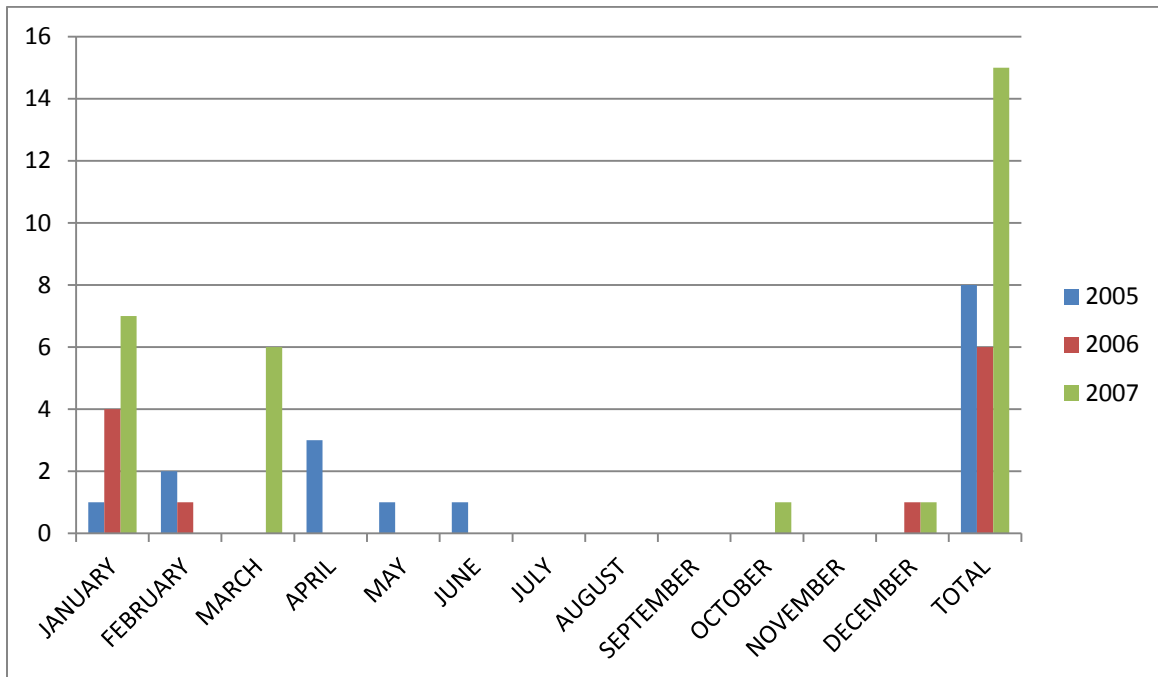
1999-2001



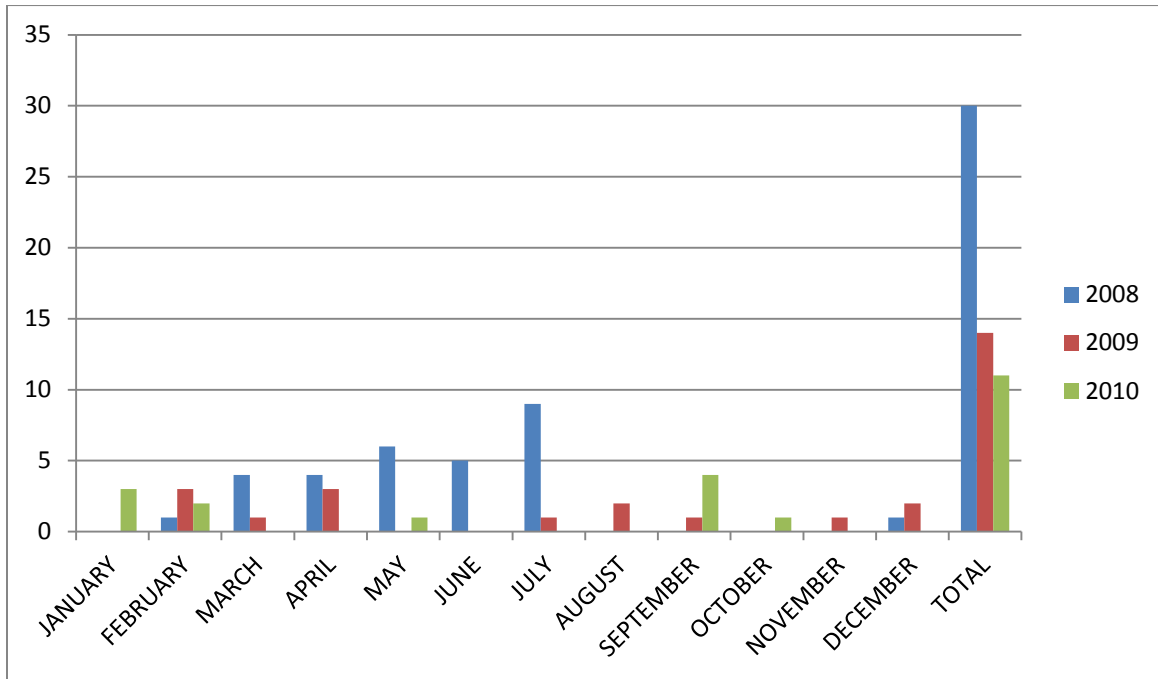
## 2002-2004



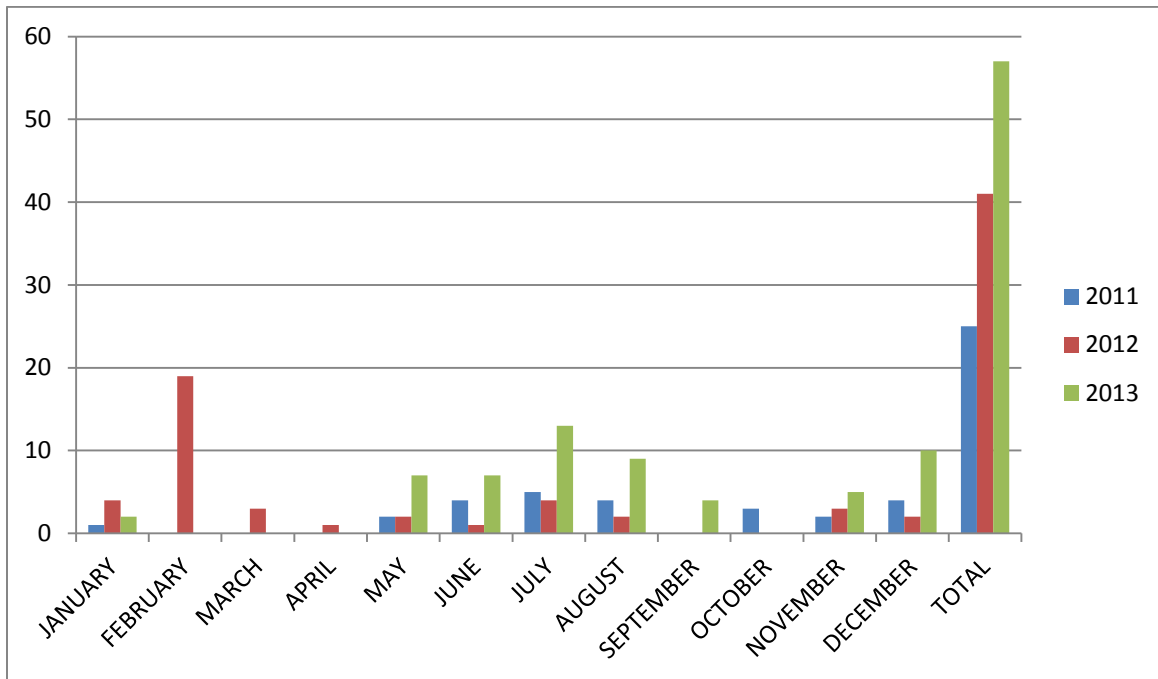
## 2005-2007



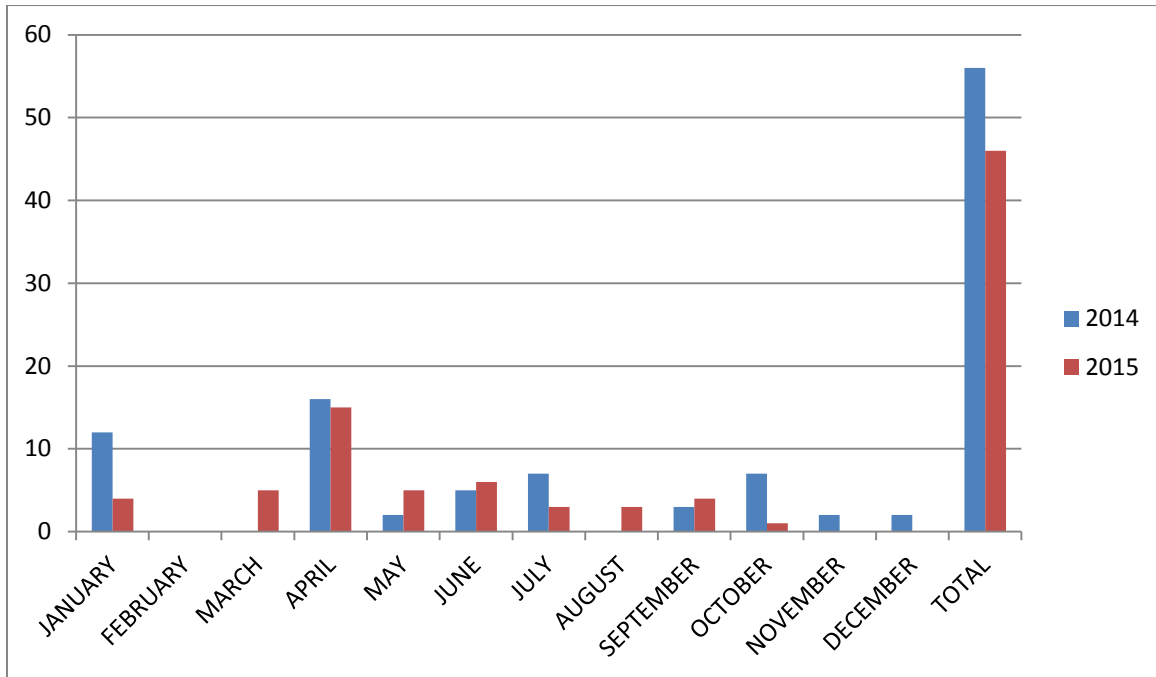
## 2008-2010



## 2011-2013



2014-2015



### **MARCH 2015 FIRE REPORT**

THE FIRE REPORT, IN RESPECT OF THE MARCH 2015 FIRE UNDER THE HAND OF P. GOODEN, ACTING SENIOR DEPUTY SUPERINTENDENT PROVIDES INSIGHT INTO THE EXTENT AND INTENSITY OF THE MARCH 2015 RIVERTON FIRE. IT TOOK THE CONSISTENT EFFORT OF COMMISSIONER E. MOWATT, HEAD OF THE FIRE DEPARTMENT WITH A CREW OF 231 FIREFIGHTERS, 45 FIRE UNITS, 7 UTILITY VEHICLES, WATER TANKERS AND 9 TRACTORS OVER THE PERIOD OF EARLY MARCH TO MARCH 29 TO PUT OUT THIS FIRE. NINE THOUSAND FIVE HUNDRED (9,500) TRUCK LOAD OF DRY EARTH WERE APPLIED TO EXTINGUISH THE FIRE.

THE ACTING SENIOR DEPUTY SUPERINTENDENT CONCLUDED THAT THE BRIGADE:

”... WAS UNABLE TO FIND ANY DEFINITIVE CLUE OR EVIDENCE TO INDICATE HOW THE FIRE STARTED, THEREFORE THE CAUSE OF THE FIRE IS LISTED AS “UNDETERMINED.” THE BRIGADE WAS UNABLE TO DETERMINE THE COST OF DAMAGE THAT WAS DONE OR THE VALUE OF THE INVOLVED RISK.”

WHILE FIRE FIGHTING EFFORTS CONTINUED AND INCLUDED COOLING DOWN OPERATIONS BETWEEN MARCH 11 –MARCH 29 THE SMOKE, SMOG, FUMES, SMELL CREATED HAVOC FOR ABOUT 47 % OF JAMAICA’S POPULATION

IN SUMMARY, OVER THIS PERIOD 1996 TO MARCH 2015 3399 FIREFIGHTERS HAVE RISKED THEIR LIVES AND HEALTH IN PUTTING OUT FIRES AT THE RIVERTON DISPOSAL FACILITY ACCORDING TO THE INFORMATION SUPPLIED BY THE FIRE DEPARTMENT.

PLAINLY, FIRES AT THE RIVERTON HAVE DISPROPORTIONATELY CONSUMED THE RESOURCES OF THE FIRE DEPARTMENT.

AS THE OCCURRENCE OF FIRES APPEARED AS AN ALMOST NATURAL CONSEQUENCE OF THE RIVERTON DISPOSAL FACILITY, THERE WAS URGENT NEED TO EXAMINE ON OATH THOSE PERSONS WITH STATUTORY RESPONSIBILITY FOR THE GOVERNANCE AND MANAGEMENT OF THE FACILITY. SUMMONS WERE ISSUED TO MR. PETER KNIGHT, THE CHIEF EXECUTIVE OFFICER OF NATIONAL ENVIRONMENTAL PLANNING AGENCY (NEPA), MS. JENNIFER EDWARDS, EXECUTIVE DIRECTOR OF THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY, (NSWMA) AND MR. STEVE ASHLEY FORMER CHAIRMAN OF THE NSWMA. MR. STEVE ASHLEY’S



EVIDENCE WAS RECORDED ON NOVEMBER 10 2015. THE MANAGEMENT/GOVERNANCE STRUCTURE OF THE RIVERTON DISPOSAL SITE, THE TERMS AND CONDITIONS OF THE LICENCE UNDER WHICH THE DISPOSAL FACILITY OPERATED, THE LEVEL OF COMPLIANCE WITH NEPA'S CONDITIONS HAD TO BE REVIEWED. IN ADDITION, AN EXAMINATION OF THE EXISTING LEGAL FRAMEWORK WAS NECESSARY TO DETERMINE WHETHER THE LAWS ARE ROBUST ENOUGH TO OFFER JAMAICANS ENVIRONMENTAL PROTECTION FROM REPEATED FIRES WHICH SEEM TO HAVE BECOME A PART OF NORMAL NATIONAL LIFE.

### **LEGAL FRAMEWORK**

THE JAMAICAN PARLIAMENT ENACTED SEVERAL PIECES OF LEGISLATION TO PROVIDE ENVIRONMENTAL PROTECTION FOR JAMAICA. THESE INCLUDE THE CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS, THE EXECUTIVE AGENCY ACT, THE NATURAL RESOURCES CONSERVATION (AUTHORITY) ACT, THE TOWN AND COUNTRY PLANNING ACT, THE LAND DEVELOPMENT AND UTILISATION ACT, THE BEACH CONTROL ACT, THE WILDLIFE PROTECTION ACT, THE WATERSHED PROTECTION ACT, THE ENDANGERED SPECIES PROTECTION CONSERVATION REGULATIONS TRADE ACT.

THE CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS IS BY FAR THE MOST IMPORTANT LEGAL INSTRUMENT IN JAMAICA'S ARSENAL FOR ENVIRONMENTAL PROTECTION. THE CONSTITUTION AND OTHER LEGISLATION SET THE NATIONAL STANDARD, AS DETERMINED BY

PARLIAMENT, FOR ENVIRONMENTAL INTEGRITY AND PROTECTION FOR ALL JAMAICANS, OTHERS ON THE ISLAND AND FOR OUR NATIONAL TERRITORY.

## **CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOM**

BY THE ENACTMENT OF THE CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS THE JAMAICAN PARLIAMENT ELEVATED THE RIGHT ‘...TO ENJOY A HEALTHY AND PRODUCTIVE ENVIRONMENT...’ TO A CONSTITUTIONAL RIGHT FOR ALL THE CITIZENS OF JAMAICA.

THIS IS DESCRIBED IN THE CHARTER AS:

**‘ THE RIGHT OF ENJOY A HEALTHY AND PRODUCTIVE ENVIRONMENT FREE FROM THE THREAT OF INJURY OR DAMAGE FROM ENVIRONMENTAL ABUSE AND DEGRADATION OF THE ECOLOGICAL HERITAGE;’**

THE INCLUSION OF THE ENVIRONMENTAL RIGHT EXPANDED AND CREATED A NEW HUMAN RIGHT FOR JAMAICANS AND IN SO DOING PROTECTED SUCH A RIGHT IN OUR SUPREME LAW, THE CONSTITUTION.

THE JAMAICAN PARLIAMENT SAW THIS AS A DEVELOPMENTAL STRATEGY, ONE OF THE CORNER STONES FOR BUILDING A NATION, ECONOMIC, SOCIAL AND CULTURAL PROSPERITY. THE INCLUSION OF THE PROVISION IN THE CHARTER ELEVATES THE IMPORTANCE OF ENVIRONMENTAL PROTECTION TO THE LEVEL OF A HUMAN RIGHT AND PUTS A DUTY ON THE STATE AND AGENCIES OF THE STATE ACTING UNDER ORDINARY LEGISLATION TO MEET A HIGHER STANDARD AS SET OUT IN THE CHARTER IN MAKING POLICY AND

DECISIONS AND MANAGING OPERATIONS SUCH AS THE RIVERTON DISPOSAL SITE.

THE RIGHT TO ENJOY A HEALTHY AND PRODUCTIVE ENVIRONMENT IS A POSITIVE ENTITLEMENT. THIS SUGGESTS THAT THE RIGHT IS CONCERNED WITH MORE THAN JUST OVERT ENVIRONMENTAL THREATS, WHICH RIVERTON DISPOSAL SITE IS, BUT SEEMS TO MEAN THAT PEOPLE ARE ENTITLED TO A HIGH STANDARD OF ENVIRONMENTAL INTEGRITY.

THE FIRST ASPECT OF THE RIGHT APPEARS TO BE MORE INDIVIDUAL IN NATURE IN THAT A PERSON IS PROTECTED FROM THE THREAT OF INJURY, INJURY AND DAMAGE FROM ENVIRONMENTAL ABUSE. IMPORTANTLY, CONSTITUTIONAL PROTECTION REACHES TO THE ‘THREAT’ OF ‘INJURY’ OR ‘DAMAGE.’ ONE DOES NOT HAVE TO AWAIT ACTUAL INJURY TO SEEK PROTECTION UNDER THIS RIGHT AS PROTECTION IS OFFERED IN THE FACE OF A THREAT OF ‘INJURY’ OR ‘DAMAGE.’ THE RIGHT IS PREVENTIVE IN NATURE. WHERE POTENTIAL INJURY OR DAMAGE CAN BE SHOWN PROTECTION UNDER THIS PROVISION OF THE CHARTER APPEARS TO BE AVAILABLE.

THE SECOND LIMB OF THE CHARTER PROVISION HAS CONSERVATION IMPLICATIONS IN THAT WE ARE PROTECTED FROM DAMAGE FROM ENVIRONMENTAL ABUSE AND DEGRADATION OF THE ECOLOGICAL HERITAGE.

THE PASSAGE OF THE CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS BROUGHT A NEW DAY TO JAMAICA IN TERMS OF ENVIRONMENTAL PROTECTION IN THAT THE CONSTITUTION SET THE HIGH STANDARD WHICH MUST BE MET BY AGENICES OF GOVERNMENT WITH A STATUTORY OBLIGATION TO PROTECT THE ENVIRONMENT.

### **NATIONAL SOLID WASTE MANAGEMENT AUTHORITY ACT**

IN THE CONDUCT OF THIS INVESTIGATION THE NATIONAL SOLID WASTE MANAGEMENT ACT CAME UNDER SCRUNITY PARTICULARLY HOW THE PROVISIONS OF THE ACT HAVE BEEN CONSTRUED AND IMPLEMENTED SINCE ITS ORIGIN.

WAS NECESSARY TO DETERMINE WHETHER THE LAWS ARE ROBUST ENOUGH TO OFFER JAMAICANS ENVIRONMENTAL PROTECTION FROM REPEATED FIRES WHICH SEEM TO HAVE BECOME A PART OF NORMAL NATIONAL LIFE.

ENACTED ON APRIL 1 2002 THE LEGISLATION CREATED A CORPORATION (NSWMA)

THE STATUTORY FUNCTIONS OF THE NSWMA ARE SET OUT AT SECTION 4 OF THE ABOVE NAMED ACT:

“THE AUTHORITY SHALL

- (a) TAKE ALL SUCH STEPS AS ARE NECESSSARY FOR THE EFFECTIVE MANAGEMENT OF SOLID WASTE IN JAMAICA IN ORDER TO SAFEGUARD PUBLIC HEALTH, ENSURE THAT THE WATSE IS COLLECTED, STORED, TRANSPORTED, RECYCLED,

REUSED OR DISPOSED OF, IN AN ENVIRONMENTALLY SOUND MANNER AND PROMOTE SAFETY STANDARDS IN RELATION TO SUCH WASTE;

(b) PROMOTE PUBLIC AWARENESS OF THE IMPORTANCE OF EFFICIENT SOLID WASTE MANAGEMENT AND FOSTER UNDERSTANDING OF ITS IMPORTANCE TO THE CONSERVATION, PROTECTION AND PROPER USE OF THE ENVIRONMENT;

(c) ADVISE THE MINISTER ON MATTERS OF GENERAL POLICY RELATING TO SOLID WASTE MANAGEMENT IN JAMAICA;

(d) PERFORM SUCH OTHER FUNCTIONS PERTAINING TO SOLID WASTE MANAGEMENT AS MAY BE ASSIGNED TO IT BY THE MINISTER OR BY OR UNDER THIS ACT OR ANY OTHER ENACTMENT.

PARLIAMENT CLOTHED THE NSWMA WITH WIDE POWERS AND DISCRETION TO DISCHARGE THE FUNCTIONS LAID OUT IN THE ACT. THUS THE AUTHORITY MAY:-

“(a) CONVERT EXISTING DUMPS INTO SANITARY LANDFILLS;

(b) DESIGNATE, DEVELOP AND MANAGE NEW SANITARY LANDFILLS AND OTHER SOLID WASTE DISPOSAL; OPERATIONS;

- (c) PROVIDE FACILITIES FOR THE COLLECTION, TREATMENT AND DISPOSAL OF SOLID WASTE;
- (d) INSTITUTE MEASURES TO ENCOURAGE WASTE REDUCTION AND RESOURCE RECOVERY;
- (e) INTRODUCE COST RECOVERY MEASURES FOR SERVICES PROVIDED BY OR ON BEHALF OF THE AUTHORITY;
- (f) ESTABLISH PROCEDURES AND DEVELOP, IMPLEMENT AND MONITOR A NATIONAL PLAN AND OTHER PLANS AND PROGRAMMES RELATING TO SOLID WASTE MANAGEMENT;
- (g) FORMULATE STANDARDS, GUIDELINES AND CODES OF PRACTICE RELATING TO SOLID WASTE MANAGEMENT AND MONITOR COMPLIANCE WITH SUCH STANDARDS, GUIDELINES AND CODES;
- (h) INITIATE, CARRY OUT OR SUPPORT, BY FINANCIAL MEANS OR OTHERWISE, RESEARCH WHICH, IN ITS OPINION, IS RELEVANT TO ANY OF ITS FUNCTIONS;
- (i) CONDUCT SEMINARS AND PROVIDE APPROPRIATE TRAINING PROGRAMMES AND CONSULTING SERVICES AND GATHER AND DISSEMINATE INFORMATION RELATING TO SOLID WASTE MANAGEMENT;

(j) DEFINE THE MINIMUM SPECIFICATIONS OF EQUIPMENT USED FOR SOLID WASTE MANAGEMENT;

(k) FROM TIME TO TIME, DESIGNATE ANY PERSON (WHETHER EMPLOYED BY THE AUTHORITY OR NOT ) POSSESSING THE PRESCRIBED QUALIFICATION TO BE AN AUTHORISED OFFICER; AND

(l) DO ANYTHING OR ENTER INTO ANY AGREEMENT WHICH, IN THE OPINION OF THE AUTHORITY, IS NECESSARY TO ENSURE THE PROPER PERFORMANCE OF ITS FUNCTIONS.”

BY THIS LEGISLATION PARLIAMENT CREATED A LEGAL FRAMEWORK UNDER WHICH SOLID WASTE OPERATIONS ARE TO BE CONDUCTED ACROSS JAMAICA.

BY SECTION 23 OF THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY ACT PARLIAMENT ESTABLISHED THE AUTHORITY AS A REGULATORY BODY WITH POWER TO GRANT LICENCES, TO REFUSE THE GRANTING OF A LICENCE, TO RENEW, MODIFY, SUSPEND AND REVOKE LICENCES TO THOSE PERSON OR ENTITIES WHO OPERATE OR PROPOSE TO OPERATE A SOLID WASTE FACILITY, OR TO PROVIDE OR PROPOSE TO PROVIDE SOLID WASTE COLLECTION OR TRANSFER SERVICES OR OTHERWISE ENGAGE IN SOLID WASTE.

THIS AUTHORITY IS STATUTORILY CHARGED TO APPOINT INSPECTORS, TO CARRY OUT INSPECTIONS OF THE PROPOSED SITE

AND BEFORE ISSUING A LICENCE THE AUTHORITY IS REQUIRED BY LAW TO SEEK THE COMMENTS OF BODIES SUCH AS-

- THE NATURAL RESOURCES CONSERVATION AUTHORITY
- THE WATER RESOURCES AUTHORITY
- THE MINISTRY RESPONSIBLE FOR HEALTH
- THE RELEVANT LOCCAL AUTHORITY AND
- SUCH ORGANIZATION AS THE AUTHORITY THINKS APPROPRIATE.

UNDER LAW, IT IS THIS AUTHORITY THAT HAS THE LEGAL DUTY TO GRANT OR TO REFUSE THE ISSUANCE OF A LICENCE, TO DETERMINE THE TERMS AND CONDITIONS OF THE LICENCE, INCLUDING THE PROVISION OF FINANCIAL ASSURANCE OR INSURANCE, TO VARY THE TERMS AND CONDITIONS OF A LICENCE, ALSO THE POWER TO SUSPEND OR REVOKE ANY LICENCE AND TO DETERMINE THE FEE TO BE CHARGED FOR THE ISSUANCE OF SUCH A LICENCE. THE LEGISLATION ALSO PROVIDES FOR A REVIEW TRIBUNAL WHEREIN ANYONE AGGRIEVED BY A DECISION OF THE AUTHORITY MAY APPEAL THAT DECISION.

PARLIAMENT LAID OUT A COMPREHENSIVE REGIME FOR THE OPERATION AND MANAGEMENT OF JAMAICA'S SOLID WASTE AND PLACED IN THE HANDS OF THE NSWMA THE MANAGEMENT OF THE NATION'S SOLID WASTE AS ITS PRIMARY DUTY.

THE ENABLING LEGISLATION IMPOSED A DUTY ON THE AUTHORITY TO PREPARE AND FILE ANNUAL REPORTS TO THE MINISTER AND PARLIAMENT, THE KEEPING OF PROPER ACCOUNTS AND A



LICENSING SYSTEM FOR PERSONS AND ENTITIES WANTING TO ENGAGE IN THE BUSINESS OF SOLID WASTE.

OVER THE MANY YEARS OF ITS EXISTENCE THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY HAS NEVER ACTED AS A REGULATORY BODY, BUT HAS ITSELF ENGAGED IN THE COLLECTION OF WASTE AND THE OPERATION AND MANAGEMENT OF DISPOSAL FACILITIES. IN SHORT, THE AUTHORITY HAS ACTED CONTRARY TO THE TERMS OF THE ACT AND THE INTENTION OF PARLIAMENT REMAINS UNREALISED.

THE INTERPRETATION GIVEN TO THE TERMS OF THE ACT, ADMINISTRATION AFTER ADMINISTRATION IS NARROW AND SHORT SIGHTED, PLAINLY INCORRECT AND CONTRARY TO PARLIAMENT'S SPECIFIC INTENT.

### **PARLIAMENTARY DEBATE - CONSENSUS**

THE DEBATE IN PARLIAMENT, AS REPORTED BY HANSARD, SHOWED THAT PARLIAMENT WAS UNITED IN THE ESTABLISHMENT OF THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY IN RECOGNITION THAT THE LACK OF CLEANINESS WAS A GENERAL FEATURE AND PROBLEM ACROSS THE ISLAND AND FURTHER, THERE WAS NEED FOR A MORE CENTRAL SYSTEM FOR THE COLLECTION AND DISPOSAL OF WASTE.

THERE WAS AGREEMENT ON BOTH SIDES AS TO THE NECESSITY FOR THE PASSAGE OF THIS LEGISLATION.

ACCORDING TO HANSARD, ONE SPEAKER ON THE MATTER SAID:

“... WHAT WE SEE FROM THIS PIECE OF LEGISLATION, MR. SPEAKER, WHICH I WELCOME IS THAT THE AUTHORITY IS REALLY INTENDED TO BE AN AUTHORITY THAT WILL DEAL WITH MATTERS OF POLICY, STANDARDS AND GUIDELINES WHICH IS VERY IMPORTANT TO GET INTO THIS NEW STATUTE BECAUSE OF THE MOMENT EVEN IF THERE ARE SOME STANDARDS AND POLICIES AND GUIDELINES, THEY REALLY EXIST IN A SCATTERED SORT OF WAY AND WHENEVER YOU HAVE THIS SORT OF SCATTERING OF GUIDELINES AND STANDARDS, THERE ARE MANY INSTANCES WHEN THERE IS NOT ONLY CONFUSION BUT IT ALSO IMPOSES AND CAUSES THE REGULATORY AUTHORITIES NOT TO BE ABLE TO CARRY OUT THEIR FUNCTIONS TO THE LEVEL OF EFFICIENCY AND EFFECTIVENESS THAT IS REQUIRED.”

HE WENT ON TO SAY:

“SO WHAT WE ARE MOVING FROM, MR. SPEAKER, IS WHAT USED TO BE A ROLE OF 14 PARISH COUNCILS OR INDEED 13 ADMINISTRATIVE DISTRICTS SINCE KSAC, KINGSTON AND ST. ANDREW, IS ACTUALLY ONE ADMINISTRATIVE DISTRICT ENCOMPASSING TWO PARISH COUNCILS. FROM THAT TO THE PARKS AND MARKETS COMPANIES TO WHAT WILL NOW BE THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY.”

THIS CONTRIBUTOR ADDED:

“... IT MUST BE UNDERSTOOD, MR. SPEAKER, THAT THE LAW PROVIDES, NOT THAT IT IS GOING TO BE THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY ITSELF THAT IS GOING TO BE MANAGING AND OPERATING THESE SITES BUT THE OPPORTUNITY

THAT IS GIVEN HERE BY THIS PIECE OF LEGISLATION, MR. SPEAKER, IS TO HAVE PRIVATE SECTOR PARTICIPATION AND THIS IS IMPORTANT BECAUSE YOU WILL BE NOW ABLE INSTEAD OF RELYING ON ONE AUTHORITY OR A PARKS AND MARKETS COMPANIES TO COLLECT THE WASTE THAT IS GENERATED, TO HAVE PRIVATE SECTOR PARTICIPATION AND PRIVATE SECTOR PARTICIPATION THAT I AM REFERRING TO DOES NOT NECESSARILY FROM WHAT I HAVE SEEN IN THE LEGISLATION REFER JUST TO BIG COMPANIES BUT TO PERSONS WHO ARE INTERESTED IN DOING SOMETHING IN TERMS OF SOLID WASTE MANAGEMENT SO THAT YOU CAN HAVE PERSONS OPERATING LANDFILLS, PERSONS RECYCLING, PERSONS COLLECTING....”

IN THE PREMISE, PARLIAMENT LAID OUT A COMPREHENSIVE REGIME FOR THE OPERATION AND MANAGEMENT OF JAMAICA’S SOLID WASTE AND PLACED IN THE HANDS OF THE NSWMA THE MANAGEMENT OF THE NATION’S SOLID WASTE AS ITS PRIMARY DUTY.

THE ENABLING LEGISLATION IMPOSED A DUTY ON THE AUTHORITY TO PREPARE AND FILE ANNUAL REPORTS TO THE MINISTER AND TO PARLIAMENT.

THE AUTHORITY WAS SPECIFICALLY EMPOWERED TO TREAT WITH LITTER AND TO PROVIDE TRASH CANS AND OTHER DISPOSAL RECEPTACLES WHERE NEEDED.

IN SUMMARY, THE AUTHORITY WAS ESTABLISHED BY PARLIAMENT TO REGULATE THE INDUSTRY OF WASTE DISPOSAL AND TO PROVIDE

A REGIME FOR THE COLLECTION, DISPOSAL, RECYCLING, CONVERTING OF EXISTING DUMPS INTO SANITARY FACILITIES. THE LEGISLATION DID NOT AND DOES NOT PERMIT THE AUTHORITY ITSELF TO ENGAGE IN GARBAGE COLLECTION OF WASTE AS ITS CORE FUNCTION.

### **NATURAL RESOURCES CONSERVATION AUTHORITY ACT**

PRIOR TO THE RIGHT TO A HEALTHY AND PRODUCTIVE ENVIRONMENT BEING ELEVATED TO A CONSTITUTIONAL RIGHT THE ABOVE NAMED ACT WAS THE FLAGSHIP FOR THE PROTECTION OF OUR NATIONAL RESOURCES.

IT REMAINS AN IMPORTANT FOUNDATION BLOCK FOR SECURING ENVIRONMENTAL GOVERNANCE AND INTEGRITY.

**BY SECTION 3 OF THE NATURAL RESOURCES CONSERVATION AUTHORITY ACT PARLIAMENT IN JULY 1991 ESTABLISHED AN AUTHORITY CHARGED WITH THE LEGAL DUTY TO:**

- TO TAKE SUCH STEPS AS ARE NECESSARY FOR THE EFFECTIVE MANAGEMENT OF THE PHYSICAL ENVIRONMENT OF JAMAICA SO AS TO ENSURE THE CONSERVATION, PROTECTION AND PROPER USE OF ITS NATURAL RESOURCES;
- TO PROMOTE PUBLIC AWARENESS OF THE ECOLOGICAL SYSTEMS OF JAMAICA AND THEIR IMPORTANCE TO THE SOCIAL AND ECONOMIC LIFE OF THE ISLAND;

- TO MANAGE SUCH NATIONAL PARKS, MARINE PARKS, **PROTECTED AREAS AND PUBLIC RECREATIONAL FACILITIES AS MAY BE PRESCRIBED;**
- TO ADVISE THE MINISTER ON MATTERS OF GENERAL POLICY RELATING TO THE MANAGEMENT, DEVELOPMENT, CONSERVATION AND CARE OF THE ENVIRONMENT; **AND**
- TO PERFORM SUCH OTHER FUNCTIONS PERTAINING TO THE NATURAL RESOURCES OF JAMAICA AS MAY BE ASSIGNED TO IT BY THE MINISTER OR BY OR UNDER THIS ACT OR ANY OTHER ENACTMENT.

**IN THE PERFORMANCE OF ITS FUNCTIONS PARLIAMENT VESTED WIDE POWERS IN THE AUTHORITY AND MANDATED IT TO:**

- DEVELOP, IMPLEMENT AND MONITOR PLANS AND PROGRAMMES RELATING TO THE MANAGEMENT OF THE ENVIRONMENT **AND** THE CONSERVATION AND PROTECTION OF NATURAL RESOURCES;
- CONSTRUCT AND MAINTAIN BUILDINGS AND OTHER FACILITIES FOR PUBLIC RECREATIONAL PURPOSES;
- IN RELATION TO PRESCRIBED NATIONAL PARKS, MARINE PARKS, PROTECTED AREAS AND PUBLIC RECREATIONAL FACILITIES-

CARRY OUT OR CAUSE TO **BE** CARRIED OUT SUCH IMPROVEMENTS AS IT THINKS FIT; **AND**

PROVIDE FOR THE ZONING THEREOF FOR SPECIFIED PURPOSES AND FOR THE LICENSING *OF* PERSONS CARRYING ON ANY TRADE OR BUSINESS THEREIN;

- FORMULATE STANDARDS AND CODES OF PRACTICE **TO BE** OBSERVED FOR THE IMPROVEMENT AND MAINTENANCE OF THE **QUALITY OF** THE ENVIRONMENT GENERALLY, INCLUDING THE RELEASE OF SUBSTANCES INTO THE ENVIRONMENT **IN** CONNECTION WITH ANY WORKS, ACTIVITY OR UNDERTAKING;
- INVESTIGATE THE EFFECT ON THE ENVIRONMENT OF **ANY** ACTIVITY THAT CAUSES OR MIGHT CAUSE POLLUTION **OR** THAT INVOLVES OR MIGHT INVOLVE WASTE MANAGEMENT OR DISPOSAL, AND TAKE SUCH ACTION AS IT THINKS APPROPRIATE;
- UNDERTAKE STUDIES IN RELATION TO THE ENVIRONMENT AND ENCOURAGE AND PROMOTE RESEARCH INTO THE USE OF TECHNIQUES FOR THE MANAGEMENT *OF* POLLUTION AND THE CONSERVATION OF NATURAL RESOURCES;
- CONDUCT SEMINARS AND **TRAINING** PROGRAMMES AND GATHER AND DISSEMINATE INFORMATION RELATING TO ENVIRONMENTAL MATTERS;
- DO ANYTHING OR ENTER INTO ANY ARRANGEMENT WHICH, IN THE OPINION *OF* THE AUTHORITY, **IS** NECESSARY TO ENSURE THE PROPER PERFORMANCE OF ITS FUNCTIONS.

THIS AUTHORITY HAS THE RESPONSIBILITY FOR THE PROTECTION OF JAMAICA'S NATURAL RESOURCES ON ITS CITIZENS BEHALF AND STANDS IN A FIDUCIARY POSITION TO JAMAICA'S CITIZENS IN

RESPECT OF THE PROTECTION AND PRESERVATION OF THE ENVIRONMENT.

IT SEEMS THAT THE ELEVATION OF ENVIRONMENTAL RIGHTS AND PROTECTION AS DESCRIBED IN THE CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS WAS A NATURAL PROGRESSION, ALBEIT, TWENTY YEARS LATER. IT SEEMS ALSO THAT THE JAMAICAN PARLIAMENT EMBRACES THAT ENVIRONMENTAL GOVERNANCE AT THE NATIONAL LEVEL IS IMPERATIVE FOR ENVIRONMENTAL SUSTAINABILITY AND ULTIMATELY SUSTAINABLE DEVELOPMENT.

BY SECTION 9 OF THIS ACT CERTAIN ACTIVITIES CANNOT BE UNDERTAKEN EXCEPT WITH A PERMIT. THE OPERATORS OF THE RIVERTON DISPOSAL FACILITY REQUIRE A PERMIT PURSUANT TO THIS PROVISION AND REGULATIONS MADE UNDER THE ACT. THERE ARE MANY CRIMINAL OFFENCES FOR THE FAILURE TO OPERATE WITHOUT A PERMIT AND FOR ENGAGING IN ACTIVITIES THAT ARE POTENTIALLY DANGEROUS TO THE ENVIRONMENT OR HAVE IMPLICATIONS FOR THE ENVIRONMENT.

### **NATIONAL ENVIRONMENTAL PLANNING AGENCY (NEPA)**

THERE IS NO LEGISLATION WHICH CREATES NATIONAL ENVIRONMENTAL PLANNING AGENCY (NEPA). IT IS AN EXECUTIVE AGENCY AND UNDERPINNED BY THE PROVISIONS OF THE EXECUTIVE AGENCY ACT.

NEPA'S DUTY IS TO PROVIDE ADMINISTRATIVE AND TECHNICAL ASSISTANCE TO THE NATURAL RESOURCES CONSERVATION AUTHORITY, THE TOWN AND COUNTRY PLANNING AUTHORITY AND THE LAND UTILISATION COMMISSION.

## **EVIDENCE**

MS. JENNIFER EDWARDS WAS APPOINTED EXECUTIVE DIRECTOR (ED) OF THE NSWMA BY WAY OF A THREE-YEAR CONTRACT STARTING ON FEBRUARY 27 2012. HER IMMEDIATE PREDECESSOR WAS MRS. JOAN GORDON-WEBLEY.

MS. EDWARDS DESCRIBED THE FUNCTIONS OF THE NSWMA THUS:

“THE FUNCTIONS OF THE NATIONAL SOLID WASTE UNDER THE NATIONAL SOLID WASTE ACT (SIC) IS TO ENSURE THE COLLECTION, TRANSPORTATION, STORAGE AND DISPOSAL OF WASTE, IT DOES SO TO ADVISE THE MINISTER ON VARIOUS SOLID WASTE ISSUES, TO PROVIDE PUBLIC EDUCATION ON SOLID WASTE MANAGEMENT AND THERE IS A FOURTH ONE WHICH I DO NOT HONESTLY REMEMBER OFF THE TOP OF MY HEAD.”

ON TAKING OFFICE MS. EDWARDS WAS AWARE OF THE HISTORY OF FIRES AT THE RIVERTON DISPOSAL FACILITY. SHE STATED THAT TO HER KNOWLEDGE THE RESEARCH SHOWED THAT SINCE 2007 THERE WAS A MAJOR FIRE AT THE RIVERTON DISPOSAL FACILITY EVERY YEAR WITH THE EXCEPTION OF 2013. IN FACT, SHORTLY BEFORE SHE ASSUMED OFFICE THERE WAS A FIRE IN ABOUT FEBRUARY 2012 THE COST OF WHICH TO EXTINGUISH ON HER RECOLLECTION WAS



\$62,000,000.00. ON THAT OCCASION ABOUT 17 ACRES OF THE RIVERTON DISPOSAL FACILITY HAD BURNT IN FEBRUARY 2012.

ON TAKING OFFICE SHE PREPARED A STRATEGIC PLAN AND AN ANNUAL OPERATIONAL PLAN AS A GUIDE FOR THE EFFECTIVE MANAGEMENT OF THE RIVERTON DISPOSAL FACILITY. ALSO, REGULAR ADVISORIES WERE GIVEN TO THE MINISTER.

SHE GAVE EVIDENCE THAT ALTHOUGH THE NSWMA HAS:

“... THE OVERARCHING RESPONSIBILITY EACH OF THE REGION IS MANAGED BY A COMPANY, LIMITED LIABILITY COMPANY THAT IS RESPONSIBLE FOR – TO WHOM THE WORK IS DELEGATED THEN.”

SHE EXPLAINED THAT THE RIVERTON DISPOSAL FACILITY:

“...IS MANAGED BY THE METROPOLITAN PARKS AND MARKETS AND THE RIVERTON CITY DUMP AND THE COLLECTION OF WASTE IS DONE BY THEM BUT THEY REPORT TO US.”

THE ED WENT ON TO SAY THAT NSWMA IS COMPRISED OF:

“SIX ENTITIES, MPM WHICH IS ST. THOMAS, KINGSTON AND ST. ANDREW AND ST. CATHERINE, SPM THAT HAS CLARENDON, MANCHESTER AND ST. ELIZABETH; WPM THAT HAS WESTMORELAND, HANOVER AND TRELAWNY, AND NEPM THAT HAS ST. ANN, ST. MARY AND PORTLAND. IN ALL THERE ARE 4 PARKS AND MARKETS COMPANIES AND 4 PUBLIC CLEANSING LIMITED...’

EACH ENTITY HAS ALMOST THE SAME KIND OF STRUCTURE AND ARRANGEMENT, SUCH AS A REGIONAL MANAGER, ACCOUNTANTS,

PUBLIC CLEANSING MANAGER ETC. THE BOARD OF THE 'ENTITIES' IS THE SAME AS THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY.

SHE WENT ON TO SAY THAT THE MINISTRY OF FINANCE PROVIDES THE 6 ENTITIES WITH FOUR HUNDRED MILLION DOLLARS (\$400,000,000.00) TO PAY FOR ADMINISTRATIVE EXPENSES WHILE THE MINISTRY OF LOCAL GOVERNMENT PROVIDES ONE THOUSAND EIGHT HUNDRED MILLION DOLLARS (\$1,800,000,000.00) FOR THE COLLECTION OF GARBAGE AND RELATED MATTERS. THE NSWMA EMPLOYS ABOUT 3000 PERSONS.

MS. EDWARDS SAID THAT THE FINANCIAL ARRANGEMENTS BETWEEN THE ENTITIES ARE VERY LOOSE.

THE MINUTES OF A BOARD MEETING, HOWEVER, GAVE MEANING TO THIS 'LOOSE' SITUATION WHEN IT WAS REPORTED THAT RELATED PARTY RECEIVABLES WERE:

"... - MPM OWES THE NSWMA \$302M; WPM OWES \$268M, SPM \$235M AND PARKS \$79M."

MR. ASHLEY, IN EXPLAINING THE IMPACT OF THE CRISSCROSSING OF FINANCIAL TRANSACTIONS, THE COMMON DIRECTORSHIP OVER ALL THE 'ENTITIES' AND THE GENERAL 'LOOSE' FINANCIAL STATE OF AFFAIRS SAID:

"IF I CAN RECALL THE RESPONSES WERE SO RIDICULOUS THAT – THEY TRIED TO TELL US THAT THERE WERE SOME DIFFERENCES BETWEEN ONE COMPANY AND THE OTHER, AND THAT ONE

COMPANY WOULD SPEND MONEY FOR THE OTHER COMPANY IT WAS A CONVOLUTED EXPLANATION.”

MR. ASHLEY SAID FURTHER, THAT HE DID NOT RECEIVE THIS ‘CONVOLUTED’ EXPLANTION IN WRITING, AND ADDED THAT FOR THE LAST FOUR YEARS:

“...WE TRIED OUR BEST TO FIND A WAY TO DISAGGREGATE THIS THING OVER THE LAST FOUR YEARS AND WE WERE NEVER BEING (SIC) ABLE TO DO IT.”

IT WAS MR. ASHLEY’S OPINION THAT THIS STATE OF AFFAIRS WAS AS A RESULT OF THE ASSOCIATION BETWEEN THE ED AND THE DIRECTOR OF FINANCE. IT WAS HIS OPINION THAT IT IS A SORT OF A “LOCK-SHOP” AND THAT IT IS IMPOSSIBLE TO GET INFORMATION.

SUPPORT FOR MR. ASHLEY’S POSITION WAS FOUND IN MINUTES OF BOARD MEETING OF MARCH 4 2015 WHERE MR.ASHLEY IS QUOTED AS HAVING SAID THAT HE:

“...FOUND IT PARTICULARLY TROUBLING THAT THE DIRECTOR OF FINANCE’S CONTRACT WOULD HAVE BEEN APPROVED BY THE EXECUTIVE DIRECTOR WITHOUT HIS KNOWLEDGE.”

MR. ASHLEY’S EVIDENCE WAS THAT THE DIRECTOR OF FINANCE CONTRACT WAS NOT TO BE RENEWED. HE SAID:

“... HIS CONTRACT WAS NOT TO BE RENEWED, BECAUSE THEY SPECIFICALLY TOLD HER NOT TO RENEW HIS CONTRACT AND IT WAS DONE BEHIND THE BOARD’S BACK, WE DID NOT KNOW IT WAS DONE AND IT WAS NOT SUPPOSED TO BE HAPPEN.”

IT WAS MR. ASHLEY'S OPINION THAT THE CONTRACT OF THE DIRECTOR OF FINANCE SHOULD HAVE COME TO THE BOARD FOR ITS APPROVAL.

MS. EDWARDS ADMITTED THAT THERE HAS BEEN INTERMINGLING OF THE AFFAIRS OF THE AUTHORITY WITH THE "ENTITIES" BOTH FINANCIALLY, HUMAN AND PHYSICAL RESOURCES.

SHE SAID:

"IT HAS OPERATED AS ONE ENTITY AND IN SOMES INSTANCES AND IN SOME INSTANCE (SIC) AS SEPARATE AND DISTINCT ENTITY (SIC)."

DESPITE PRIOR KNOWLEDGE OF FREQUENT FIRES AT THE RIVERTON DISPOSAL FACILITY NSWMA HAD NO MECHANISM ON SITE TO PUT OUT A FIRE BUT FOR ONE PUMP ACQUIRED IN 2014, THE PURPOSE OF WHICH WAS TO FILL FIRE TRUCKS. THE AUTHORITY INVESTED IN THE ACQUISITION OF ONE WATER TRUCK.

IT WAS MS. EDWARDS' EVIDENCE THAT ONCE THERE IS A DETERMINATION THAT THE FIRE IS A NATIONAL EMERGENCY, THE ODPEM "TAKES RESPONSIBILITY FOR THE MANAGEMENT OF THE FIRE."

MS. EDWARDS EXPLAINED:

"...AND THE NSWMA AND JAMAICA WOULD BE AWARE THAT THIS FIRE WAS PROBABLY THREE TIMES THE SIZE OF ANY OTHER FIRES WE HAVE HAD AT THE DISPOSAL FACILITY."

MS. EDWARDS ADMITTED THAT THE RIVERTON DISPOSAL FACILITY WAS POSSESSED OF “VERY LITTLE” FIRE FIGHTING CAPABILITY AND AS A PRECAUTION AGAINST FIRES AND THE SPREAD OF FIRES THE ED SAID THAT THE RIVERTON DISPOSAL FACILITY WAS DIVIDED INTO FIVE CELLS PLUS THE TYRE CELL. THE CELLS WERE CREATED IN “12/13 SOME TIME AFTER HURRICANE SANDY.”

IN DESCRIBING HOW THE CELLS WERE CREATED SHE SAID:

“YOU ESSENTIALLY CUT ROADWAYS BETWEEN THE – WITHIN THE DISPOSAL SITE SO THAT A VEHICLE CAN ACCESS THIS AREA SO YOU ESTABLISH DESIGNATED AREAS. ...SO THERE ARE FIVE DESIGNATED AREAS WITH ROADWAY BETWEEN THEM THAT THE WASTE IS TAKEN TO...SO THE ROADWAYS ARE ESTABLISHED ON TOP OF WASTE THAT IS THERE ALREADY,....SO THAT TRUCKS CAN DRIVE ON TOP OF THE DIRT.”

THE PUBLIC DEFENDER UNDERSTOOD THAT THE IDEA WAS TO USE ONLY ONE AREA AT A TIME FOR THE DISPOSAL OF WASTE.

THE CUTTING OF THE ROADWAYS WAS ALSO TO CREATE ACCESS TO OTHER AREAS OF THE SITE. THIS WAS ALSO TO ALLOW FOR THE COVERAGE OF THE “ENTIRE AREA” AND THEN ONLY UTILIZE ONE AREA AT A TIME FOR THE DISPOSAL OF WASTE.

FURTHER, MS. EDWARDS SAID:

“SO IF THERE WAS A FIRE AT THAT AREA IT WOULD NOT EASILY GET TO THE REST OF THE DISPOSAL SITE.”

MRS EDWARDS EXPLAINED THAT AT THE TIME OF THE MARCH 2015 FIRE GARBAGE WAS BEING ‘TIPPED’ ON ONE CELL, THREE WERE UNCOVERED AND ONE COVERED.

ON HER ACCOUNT THE FIRE STARTED IN ONE OF THE THREE UNCOVERED CELLS AND QUICKLY SPREAD TO ALL THE OTHERS. AT THE TIME THE FIRE STARTED ONLY ONE CELL WAS COVERED.

WHEN ASKED HOW IT WAS THAT SHE ENSURED THAT ONLY ONE CELL WAS BEING USED AT ANY GIVEN TIME, SHE EXPRESSED HERSELF:

“BY THE PRESENCE OF PERSONS AT THE DISPOSAL SITE. THE LANDFILL MANAGER, THE LANDFILL SUPERVISOR, THE LANDFILL ATTENDANTS, PERSONS WHO WE CALL SPOTTERS ARE EMPLOYED AND WORK ON A 24 HOUR BASIS....SO THERE ARE PERSONS WHO WORK AT THE DISPOSAL SITE ON A 24 HOUR BASIS AND THEIR JOB IS TO DIRECT THE TRUCKS AS TO WHERE TO GO AND DISPOSE OF THE WASTE ON ANY GIVEN OCCASION.”

MR. STEVE ASHLEY, HOWEVER, OFFERED A DIFFERENT ACCOUNT. HE STATED THAT THOUGH THERE WAS AGREEMENT THAT THE RIVERTON DISPOSAL FACILITY WAS TO BE DIVIDED INTO FIVE CELLS EACH CELL WAS NOT MAINTAINED AND GARBAGE WAS DUMPED ON ANY CELL THROUGHOUT THE ENTIRE PERIOD THAT HE WAS CHAIRMAN.

THE THEN CHAIRMAN EXPLAINED THAT A PART OF THE FIRE SUPPRESSION STRATEGY WAS THE CUTTING OF ROADS THROUGH THE GARBAGE. THE ROADS DEMARCATED ONE CELL FROM THE

OTHER. MR. ASHLEY EXPLAINED THAT ROADS WERE CUT IN BETWEEN THE MOUNDS OF GARBAGE. HE WENT FURTHER TO SAY:

“WE STARTED IT, AS A MATTER OF FACT, AFTER THE FIRST MAJOR FIRE WE GOT SOME MONEY AND DECIDED TO COVER MOST OF THE LANDFILL. “

THIS MONEY WAS FROM THE MINISTRY OF FINANCE. HE CONTINUED:

“....AND WE COVERED MOST OF THE LANDFILL AND STARTED CREATING THESE CELLS; I THOUGHT EVERYTHING WAS IN GOOD SHAPE BUT I COULD NOT AFFORD TO GO DOWN THERE EVERY DAY. BUT I HAD TO GO DOWN THERE A YEAR LATER AFTER THAT AND EVERYTHING WAS BACK TO NORMAL, UNFORTUNATELY.”

MR. ASHLEY EXPLAINED FURTHER:

“THEY STARTED THROWING THE GARBAGE INTO THE ROADS THAT WERE CUT.”

HE EMPHASISED THAT ONCE THE CELLS WERE BUILT THE ROADS WHICH DEMARKED THE CELLS WERE “FILLED WITH GARBAGE AGAIN.”

CONTINUING, MR. ASHLEY SAID:

“....THEY KEEP COVERING AND THEY KEEP THROWING THE GARBAGE ON WHAT IS COVERED. AND I WAS VERY UPSET AND YOU WILL PROBABLY SEE A LETTER I SENT TO THE E.D. WHEN I WENT DOWN THERE ON MY OWN AND SAW THAT THEY HAD GONE BACK TO NORMAL AND I DON'T KNOW WHAT THEY WERE DOING ALL

ALONG, EVEN THOUGH WE HAD MADE THAT DECISION THAT THE CELLS SHOULD HAVE BEEN MADE AND IT SHOULD HAVE BEEN MAINTAINED. BUT THEY SAID THEY HAD NO FUNDING.”

IT WAS MANAGEMENT WHO SAID THEY HAD NO FUNDING TO MAINTAIN THE CELLS WHICH WERE CREATED.

IN FURTHER CLARIFYING THE MATTER OF THE CELLS AND HOW THEY WERE KEPT MR. ASHLEY EXPLAINED THAT ON THE MORNING OF THE MARCH 2015 FIRE HE REACHED THE RIVERTON DISPOSAL SITE BEFORE THE FIRE BRIGADE AND IT WAS HIS OBSERVATION THAT:

“IT WAS OBVIOUS THAT THE CELLS WERE NOT MAINTAINED, AND THE GARBAGE WAS THROWN ALL OVER THE PLACE RATHER THAN BEING COMPACTED.”

HE AGREED THAT:

“...AS A CONSEQUENCE IT WAS THEREFORE EASIER FOR THE FIRE TO SPREAD FROM ONE LOCATION TO THE OTHER...”

WHEN ASKED WHETHER THE CREATION OF THE CELLS WAS A REQUIREMENT OF THE NEPA PERMIT MR. ASHLEY DID NOT ANSWER THE QUESTION PUT TO HIM, BUT RESPONDED BY SAYING THAT CELLS ARE USED “...ALL OVER THE WORLD.”

MONEY WAS PROVIDED BY THE MINISTRY OF FINANCE FOR THE COVERING OF THE CELLS IN THE LATTER PART OF 2012 TO 2013. FOR THIS REASON, IT SEEMS, THERE WAS NO FIRE IN THE YEAR 2013.



MR. PETER KNIGHT, THE CHIEF EXECUTIVE OFFICER OF NEPA WAS CLEAR, IN THAT, THOUGH CONDITION 8 (SEE NEPA'S CONDITIONS PGS 39 – 46) OF NEPA'S ENVIRONMENTAL PERMIT REQUIRED THE NSWMA TO WORK IN ONE PARTICULAR CELL AT A TIME, INSTEAD:

“.. THEY WERE WORKING ALL OVER.”

MR. KNIGHT EXPLAINED THAT WORKING IN A SPECIFIC LOCATION AT A TIME GIVES: “BETTER CONTROL” AS THE SOLID WASTE IS CONTAINED TO A SPECIFIC LOCATION AROUND WHICH A BARRIER IS ERECTED. HE WENT ON TO SAY THAT CONTAINING SOLID WASTE IN A SPECIFIC LOCATION MAKES THE OPERATION MORE MANAGEABLE, ESPECIALLY IN THE EVENT OF A FIRE AS THE FIRE COULD BE BETTER CONTAINED IN THAT SPECIFIC LOCATION.

THE CHIEF EXECUTIVE OFFICER OF NEPA WAS UNHESITATING IN HIS EVIDENCE THAT NSWMA DID NOT COMPLY WITH THAT CONDITION OF THE PERMIT, THAT IS, THE CREATION AND MAINTAINANCE OF CELLS.

MR. KNIGHT IN HIS EVIDENCE IDENTIFIED THAT THE GREATEST SAFE GUARDS OF PUBLIC HEALTH AND THE ENVIRONMENT ARE:

“OPERATING IN MANAGEABLE AREA, IN THE DEDICATED CELL;”

“ COMPACTING AND COVERING THE WASTE;“

“CONDUCT OF INTERNAL MONITORING;”

“THE USE OF A VENT PIPE TO RELEASE GASES IN THE SOLID WASTE;”

“NO BURNING ON THE SITE;”

IT WAS MR. KNIGHT'S UNAMBIGUOUS EVIDENCE THAT THERE WAS LITTLE CONTROL AND POLICING OF THE DISPOSAL FACILITY.

MS. EDWARDS DESCRIBED HOW UNDER HER TENURE THE CELLS WERE USED:

“SO YOU TIP HERE FOR A MONTH, NEXT MONTH YOU GO TO THE OTHER PLACE AND ALLOW THIS ONE TO SETTLE BECAUSE IT HAS NOT BEEN COVERED AND WE GO AROUND LIKE THAT EVERY MONTH WE ARE MOVING.”

THE ROTATION OF CELLS OCCURRED “LITERALLY AS THE NEED ARISES.” MS. EDWARDS EXPLAINED THAT DURING THE SUMMER CHRISTMAS AND ANY PERIOD DURING WHICH THERE WAS SOME NATURAL DISASTER THERE WERE LARGE VOLUMES OF GARBAGE THAT WERE TIPPED FROM ONE CELL TO THE OTHER.

ON THE OTHER HAND, SPECIFIC CONDITION 8 OF THE ENVIRONMENTAL PERMIT MANDATED THE DESIGNATION OF ACTIVE AND DORMANT CELLS, QUARTERLY ROTATION OF THE USE OF CELLS AND THE SEPARATION OF DIFFERENT TYPES OF GARBAGE. FROM MS. EDWARDS' OWN MOUTH THIS CONDITION WAS IGNORED UNDER HER MANAGEMENT.

IN RESPECT OF CONDITION 15 OF THE ENVIRONMENTAL PERMIT TO INFORM NEPA OF THE REACTIVATION OF A CELL MS. EDWARDS ANSWERED THAT THIS CONDITION WAS NOT FULFILLED AS:

“...THERE REALLY WAS NO DORMANT CELL.”

SPECIFIC CONDITION 15 REQUIRED THE NSWMA TO “...NOTIFY THE MANAGER, ENFORCEMENT BRANCH, ...THE PLANNED ACTIVATION OF A DORMANT CELL AT LEAST TWO (2) WEEKS PRIOR TO THE ACTIVATION OF THE DORMANT CEL.”

WHEN MS. EDWARDS WAS ASKED ABOUT STEPS TAKEN BY THE NSWMA TO SAFEGUARD PUBLIC HEALTH, AS STATUTORILY REQUIRED BY THE PROVISIONS OF THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITYACT, SHE SAID:

**“I KNOW YOU SPOKE ABOUT FIRE AS A PART OF PUBLIC HEALTH, BUT PUBLIC HEALTH FOR US AT THE NSWMA IS THE EXPOSURE OF THE CITIZENS AT HOME TO FLY NUISANCE AND HEALTH RELATED ISSUES AS A RESULT OF GARBAGE COLLECTED. SO WE HAVE BEEN – OUR PRIMARY FOCUS IS TO REMOVE THE WASTE FROM THE INDIVIDUALS HOME TO THE DISPOSAL SITE AND TO SPREAD AND COMPACT THE WASTE AT THE DISPOSAL SITE.”**

THE ED CONFIRMED THAT, UNDER HER STEWARDSHIP, NSWMA’S PRIMARY PUBLIC HEALTH CONCERN WAS THE MERE REMOVAL OF GARBAGE FROM HOMES AND FROM COMMUNITIES TO A CONFINED LOCATION.

THOUGH THERE WAS NO SUPPORTING DOCUMENTATION IT WAS MS. EDWARDS’ EVIDENCE THAT THERE WAS AGREEMENT BETWEEN THE BOARD AND MANAGEMENT OF THE NSWMA THAT THE REMOVAL OF GARBAGE FROM THE HOMES AND COMMUNITIES WAS THEIR PRIORITY. AS A CONSEQUENCE AND FOR A NUMBER OF REASONS, THE CONDITIONS IMPOSED BY NEPA WERE NOT ADHERED TO.

## **NEPA'S PERMITS/CONDITIONS**

ON JULY 25, 2004 NEPA ISSUED AN ENVIRONMENTAL PERMIT TO THE MINISTRY OF LOCAL GOVERNMENT WHICH WAS NOT ACTED UPON.

IN 2012 THE NSWMA WAS FORCED TO APPLY FOR AN ENVIRONMENTAL PERMIT WHEN NEPA BROUGHT COURT PROCEEDINGS AGAINST IT FOR OPERATING A WASTE DISPOSAL FACILITY WITHOUT THE REQUIRED PERMIT. THE APPLICATIONS FOR 2 ENVIRONMENTAL PERMITS WERE MADE IN THE YEAR 2012 AND GRANTED IN 2014. PERMIT NUMBERED 2012-02017 EP-00176 RELATED TO HAZARDOUS WASTE STORAGE, TRANSPORTATION, TREATMENT AND DISPOSAL. THE SECOND PERMIT 2012-02017 EP 00145 WAS FOR THE OPERATION AND MANAGEMENT OF THE SOLID WASTE TREATMENT AND DISPOSAL FACILITY.

**MS. EDWARDS' WAS EXPLICIT WHEN SHE SAID:**

**“THE APPLICATION CAME AS A RESULT OF NEPA TAKING US TO COURT BECAUSE WE WERE OPERATING WITHOUT A PERMIT.”**

ACCORDING TO THE ED THE COURT ACTION BROUGHT AGAINST NSWMA WAS: “RIGHT AFTER THE 2012 FIRE. I THINK IT WAS.”

THE NSWMA HAD OPERATED FROM ITS INCEPTION IN 2002 TO APRIL 2014 WITHOUT AN ENVIRONMENTAL PERMIT FROM NEPA.

FOR THESE GREAT MANY YEARS, NSWMA, UNDER ADMINISTRATION AFTER ADMINISTRATION ACTED CONTRARY TO THE PROVISIONS OF LAW.

WHEN ASKED WHY IT WAS THAT THE NSWMA HAD NOT APPLIED FOR AN ENVIRONMENTAL PERMIT MS. EDWARDS SAID THAT THE AUTHORITY SUSPECTED THAT IT COULD NOT MEET NEPA'S CONDITIONS:

**“...SO THEY DIDN'T APPLY IT IS BETTER THEY DIDN'T HAVE A PERMIT THAN APPLY AND IN BREACH.”**

THE ED WENT FURTHER TO SAY:

“WE WERE FORCED TO APPLY FOR THE PERMIT AND HAVING APPLIED WE INDICATED – WE ALSO INDICATED IN WRITING AND IN MEETINGS THAT WE KNEW WE WOULD HAVE A CHALLENGE MEETING THE REQUIREMENTS BECAUSE OF ONE, OF THE EXISTING CONDITIONS OF THE DISPOSAL SITES, AND TWO, THE RESOURCE CONSTRAINTS THAT WE WERE WORKING WITH.”

MR. KNIGHT WAS LUCID IN HIS UNDERSTANDING THAT THE NSWMA WAS NON COMPLIANT IN SEVERAL CONDITIONS OF THE PERMIT UNDER WHICH NSWMA OPERATED AND FAILED TO INTRODUCE ESSENTIAL STEPS REQUIRED BY THE ENVIRONMENTAL PERMITS THAT WOULD HAVE OFFERED THE PUBLIC SAFETY, PARTICULARLY FROM THE MANY FIRES.

MR. KNIGHT SAID:

“YES THE NSWMA HAS BEEN OPERATING WITHOUT AN ENVIRONMENTAL PERMIT.”

THIS WAS IN RESPECT OF THE PERIOD PRIOR TO APRIL 2014. THE PERMITS WERE APPLIED FOR IN 2012 AND GRANTED IN APRIL 2014.

PRIOR TO THAT, THERE WAS NO PERMIT AND NSWMA ACTED CONTRARY TO THE PROVISIONS OF LAW.

THIS STATE OF AFFAIRS EXISTED DESPITE THE FACT THAT AN ENVIRONMENTAL IMPACT STUDY,(DONE BY ENVIRONMENTAL SOLUTIONS IN THE 1990S) SET OUT IN PLAIN LANGUAGE HOW THE RIVERTON DISPOSAL FACILITY WAS TO BE OPERATED AND MANAGED, AND WAS A TECHNICAL ROAD MAP FOR THE CREATION OF A LANDFILL OVER TIME.

MR. KNIGHT EXPLAINED THAT NEPA PLACED NSWMA'S OPERATIONS ON A SPECIAL MONITORING LIST BECAUSE NEPA'S ASSESSEMENT WAS THAT THE NSWMA ACTIVITIES WERE '**HIGH RISK**' WITH INCALCULABLE POTENTIAL FOR NEGATIVE IMPACT ON THE ENVIRONMENT AND PUBLIC HEALTH. FIVE SECTIONS OF NEPA WERE INTIMATELY INVOLVED IN THE MONITORING OF THE PERMITS GRANTED TO NSWMA.

AFTER DIPLOMACY AND DIALOGUE FAILED TO ACHIEVE COMPLIANCE OR STEPS TOWARDS COMPLIANCE, ALL AVENUES OF PERSUASION EXHAUSTED NEPA TIGHTENED ITS MONITORING AND PREPARED A COMPLIANCE REPORT ON THE RIVERTON OPERATIONS. THREE FIELD VISITS WERE CONDUCTED, AND THE RIVERTON DISPOSAL FACILITY INSPECTED ON JULY 28, 2014, AUGUST 27, 2014 AND FEBRUARY 3, 2015. THE LEVEL OF COMPLIANCE WAS 50% IN JULY, 48% IN AUGUST AND 33% IN FEBRUARY, IN RELATION TO THE DISPOSAL FACILITY. IN RESPECT OF THE HAZARDOUS WASTE

STORAGE AND TRANSPORTATION COMPLIANCE WAS 64%, 53% AND 50% RESPECTIVELY FOR THE DATES PREVIOUSLY STATED.

THE LOW LEVELS OF COMPLIANCE ATTRACTED THE ISSUANCE OF ON-SITE BREACH NOTICES IN JULY 2014 AND AUGUST 2014, WARNING NOTICES, LETTERS AND EMAILS.

THE AREAS OF NON-COMPLIANCE WERE NOTED AS:

- “1. THE BUFFER ZONE EARMARKED IS INADEQUATE. SOLID WASTE IS DEPOSITED CLOSE TO THE BOUNDARIES OF THE PROPERTY.
2. SECURITY OF THE PROPERTY TO PREVENT UNAUTHORISED ACCESS OF INDIVIDUALS AND ANIMALS IS INADEQUATE. THE FINDINGS ARE THAT; SECURITY PERSONNEL ON DUTY ARE NOT ACTIVE ON THE DISPOSAL AREA, THE PRESENCE OF UNAUTHORISED SORTERS, THE DROP BAR WAS SHORT IN LENGTH AND THE WIRE FENCES WERE CUT DOWN.
3. AUTHORISED PERSONNEL ARE NOT ATTIRED IN PERSONAL PROTECTIVE EQUIPMENT
4. TIPPED MATERIAL IS NOT COVERED
5. TIPPED MATERIAL IS NOT COMPACTED IN SEVERAL AREAS
6. ABSENCE OF THE STIPULATED SIGNAGE
7. TYRES ARE NOT BALED AND STACKED
8. TYRE CELLS ARE NOT PROPERLY DEMARKED

9. SAFETY PROCEDURES ARE NOT MADE AVAILABLE TO ONSITE MEMBERS OF STAFF”

ADDITIONALLY, NEPA POINTED OUT THE DEFICIENCY OF NSWMA TO PROVIDE DOCUMENTATION RELATING TO SPECIFIC TERMS OF THE ENVIRONMENTAL PERMIT INCLUDING:

- INFORMATION ABOUT COVER MATERIAL
- CELL ROTATION SCHEDULE
- LANDSCAPE PLAN
- WATER QUALITY MONITORING PLAN
- AIR QUALITY MONITORING PLAN
- FIRE MONITORING AND PREVENTION PROGRAMME

TO NAME A FEW.

NEPA’S REPORT FOR THE PERIOD JULY 2014 – FEBRUARY 2015 CONCLUDED:

“IT IS EVIDENT THAT SUBSEQUENT TO THE RECEIPT OF THE PERMITS, THE NSWMA HAS ACHIEVED A VERY LOW LEVEL OF COMPLIANCE WITH THE CONDITIONS OF THESE PERMITS, DESPITE THE ENFORCEMENT EFFORTS UNDERTAKEN BY NEPA TO ACHIEVE COMPLIANCE. THE NON-COMPLIANCE WITH THE CONDITIONS DEFEATS THE UNDERLYING PURPOSE OF THESE PERMITS WHICH ARE AIMED AT MITIGATING NEGATIVE ENVIRONMENTAL IMPACTS.”

MS. EDWARDS ADMITTED THAT THE COMPLIANCE RATE WAS LOW. SHE DID NOT DISAGREE WITH NEPA’S ASSESSMENT. IN HER OWN WORDS SHE DESCRIBED THE SITUATION THUS:



“...THIS WOULD BE ABOUT 17 PER CENT COMPLIANCE WITH THE HAZAROUS WASTE PERMIT. WITH REGARD TO THE GENERAL WASTE MANAGEMENT...WE WERE WOEFULLY LACKING COMPLIANCE.”

SPECIFIC CONDITIONS 8, 9, 10, 11, 12, 13, 14, 15 AND 16 OF THE PERMIT RELATED TO THE USE AND MANAGEMENT OF THE CELLS.

IN ESSENCE, THESE CONDITIONS REQUIRED THE DESIGNATION OF ACTIVE AND DORMANT CELLS; QUARTERLY CELL ROTATION; THE COMPACTING OF WASTE DAILY; THE COVERING OF WASTE EVERY TWO WEEKS; MONTHLY REPORTS TO NEPA OF CELL COVERAGE; AND CELLS SHOULD REMAIN DORMANT FOR SIX MONTHS BEFORE REACTIVATION, UNLESS AUTHORISED BY NEPA.

THESE CONDITIONS WERE FLATLY IGNORED.

TO MEET NEPA’S COVERAGE REQUIREMENT, MS. EDWARDS PROPOSED THAT NSWMA WOULD SEEK FUNDING TO DO A “**ONE OFF**” COVERAGE OF THE ENTIRE DISPOSAL SITE AND AS SOON AS THAT WAS DONE NSWMA “...WOULD MOVE TO MONTHLY COVERAGE OF THE TIPPING PHASE THAT WE WERE WORKING ON FROM TIME TO TIME.”

THE COST TO COVER THE ENTIRE DISPOSAL FACILITY WAS ONE HUNDRED AND FIFTY FIVE MILLION DOLLARS (\$155,000,000.00). ON HER ESTIMATE FIFTY MILLION WAS NEEDED EVERY MONTH TO COVER TWENTY FIVE ACRES, THE APPROXIMATE AREA OF ONE CELL.

MS. EDWARDS WAS ADAMANT THAT:

**“ ...THERE WAS NO SENSE COVERING THE ACTIVE CELL ON A WEEKLY BASIS THAT YOU ARE WORKING ON, WHEN THE REST OF THE SITE IS EXPOSED. SO WE NEEDED TO COVER THE SITE AND THEN GO TO THE SITUATION WHERE YOU ARE MANAGING JUST THE CELL.”**

IT APPEARS FROM MS. EDWARDS’ EVIDENCE THAT IT WAS ALL OR NOTHING. THE RESULT BEING ALSO THAT BECAUSE NSWMA WAS NOT COVERING, IT MADE NO REPORT TO NEPA ABOUT ITS FAILURE TO COVER. INSTEAD, NSWMA’S STANCE WAS TO SUBMIT TO NEPA THE COST TO ACCOMPLISH THIS “ONE OFF” COVERAGE OF THE ENTIRE DISPOSAL FACILITY. MS. EDWARDS WENT ON TO SAY:

“WE DID NOT SUBMIT INFORMATION ON A MONTHLY BASIS, WE SUBMITTED ONE GENERAL INFORMATION ON WHAT WAS REQUIRED TO COVER THE DISPOSAL SITE BECAUSE WE WERE NOT DOING MONTHLY COVERAGE WE DID NOT SUPPLY THAT INFORMATION.”

SPECIFIC CONDITION 35 MANDATING THE DEVELOPMENT OF A FIREFIGHTING AND EMERGENCY RESPONSE, A CRITICAL PLAN IT SEEMS, IF ONLY BECAUSE OF THE HISTORY OF FIRES, WAS FLATLY DISREGARDED. INDEED, MS. EDWARDS SAID THAT NO SUCH RESPONSE WAS PREPARED, AS THE NSWMA HAD ONE FROM 2007 AND THAT WAS THE S.O.P. FOR THE RIVERTON DISPOSAL FACILITY PLUS TWO FIRE WARDERS HAD BEEN EMPLOYED. IN ITS REPORT NEPA NOTED THAT NSWMA’S DOCUMENTATION ON THIS ISSUE WAS INADEQUATE AND RELATED TO A LANDFILL, AND NOT A GARBAGE COLLECTION SITE.

SPECIFIC CONDITION 21 RELATIVE TO THE BALING OF USED TYRES WAS IGNORED AS THE BALER WAS SIMPLY BROKEN. TYRES WERE THEREFORE NOT BALED AND NOT STACKED AS REQUIRED BY THE ENVIRONMENTAL PERMIT. ON MS. EDWARDS' EVIDENCE A FIRE IN THE TYRE CELL IN 2012 COST \$42,000,000.00 TO BE EXTINGUISHED.

THE SPECIFIC CONDITION 31 REQUIRING THE COLLECTION OF AIR EMISSIONS FOR THE PREPARATION OF THE EMISSIONS INVENTORY THAT WOULD FORM THE BASIS FOR THE PREPARATION OF THE AIR QUALITY MONITORING DUE ON JANUARY 15 2015 WAS NOT FORTHCOMING.

APART FROM THE LACK OF FUNDING, MS. EDWARDS OFFERED SEVERAL REASONS THAT PREVENTED THE NSWMA FROM COMPLYING WITH THE CONDITIONS OF THE ENVIRONMENTAL PERMITS. THESE RELATED TO THE PHYSICAL CONDITION OF THE DISPOSAL FACILITY WHICH IN HER ESTIMATION WAS ALREADY IN BREACH. MS. EDWARDS OPINED THAT NEPA'S REQUIREMENTS WERE "INAPPROPRIATE," "IMPRACTICAL," "VERY DIFFICULT," AND IN AT LEAST ONE CASE SHE REGARDED THAT NEPA WAS "BEING A LITTLE BIT DISINGENEIOUS." A TECHNICAL TEAM BETWEEN THE TWO ORGANIZATIONS WAS ESTABLISHED.

FINALLY, IN APRIL 2015 NEPA SUSPENDED BOTH PERMITS.

### **FUNDING**

ACCORDING TO MS. EDWARDS THE LACK OF ADEQUATE FUNDING WAS A MAJOR FACTOR IN THE OPERATION AND MANAGEMENT OF

THE RIVERTON DISPOSAL FACILITY. SHE ATTRIBUTED THAT TO NSWMA'S INABILITY TO COMPLY WITH NEPA'S CONDITIONS.

IN ANSWER TO A QUESTION, MS. EDWARDS EXPRESSED THE VIEW THAT IF ALL THE MONEY USED TO EXTINGUISH FIRES WERE ADDED UP AND GIVEN TO NSWMA IT COULD HAVE MET NEPA'S CONDITIONS:

**“IF WE HAVE GOTTEN THOSE MONIES UP FRONT”**

BUT SAID THAT THE AMOUNT WOULD HAVE BEEN INSUFFICIENT FOR THE ESTABLISHMENT OF A SANITARY LANDFILL.

MS. EDWARDS ALSO STATED THE LACK OF REGULATIONS PREVENTED THE NSWMA FROM DISCHARGING ITS STATUTORY MANDATE. THOUGH THE PRODUCTION OF THE DRAFT REGULATIONS WERE PROMISED TO THE PUBLIC DEFENDER FROM MAY 10 2015 THESE WERE RECEIVED ON JANUARY 28, 2016.

MS. EDWARDS WENT FURTHER TO EXPLAIN THAT WHILE SHE AGREED THAT THE LEGISLATION IS COMPREHENSIVE SHE INSISTED THAT THE FAILURE TO HAVE REGULATIONS PREVENTED THE NSWMA FROM CARRYING OUT ALL THE MANDATES OF THE ACT AND WHAT DID NOT COME WITH THE ACT WAS **“...THE RESOURCE.”**

MR. ASHLEY SAID:

‘THERE WERE A LOT OF CONDITIONS THAT WERE NOT MET AND WERE NOT SATISFIED.....BUT ONE OF THE REASONS FOR THAT IS “FINANCE”

THE LACK OF FINANCE AS TOLD TO THE PUBLIC DEFENDER WAS THE EXPLANATION OFFERED FOR THE FAILURE TO COVER THE GARBAGE, TO MAINTAIN THE CELLS, THE ROADS THAT SEPARATED ONE CELL FROM THE OTHER, TO ERECT SIGNS, TO SELF REPORT, AND JUST ABOUT EVERYTHING ELSE.

BOTH MS. EDWARDS AND MR. STEVE ASHLEY ADMITTED THAT THE AUDITORS COULD NOT GIVE “**CLEAN**” AUDIT STATEMENTS OF THE FINANCIAL RECORDS OF THE NSWMA FOR COUNTLESS YEARS.

UNDER MR. ASHLEY’S WATCH AS CHAIRMAN FROM DECEMBER 2011 – APRIL 2 2015, THERE WAS NO AUDITED STATEMENT FOR THE AUTHORITY. THIS WAS DESPITE HIS REQUEST FOR SAME FROM THE E.D. THE LAST AUDITED FINANCIAL STATEMENTS FOR MPM AND WPM WAS 2007. THE THEN CHAIRMAN ACCEPTED THAT THE AUDITED FINANCIAL STATEMENTS WERE “**NOT CLEAN**” OR EXPRESSED ANOTHER WAY WERE “**QUALIFIED.**”

MINUTES OF BOARD MEETINGS DEMONSTRATE THAT THE DIFFICULTIES THE AUDITORS FACED WERE MONUMENTAL INDEED INSURMOUNTABLE, IN THAT, THE NSWMA AND RELATED ENTITIES FAILED REPEATEDLY FOR SEVERAL YEARS, ADMINISTRATION AFTER ADMINISTRATION, TO PROVIDE PARLIAMENT WITH ANNUAL REPORTS AND AUDITED FINANCIAL STATEMENTS.

THE LAST AUDITED STATEMENT AND ANNUAL REPORT WERE TABLED IN PARLIAMENT OVER 10 YEARS AGO.

THE MINUTES SPEAK TO SEVERAL GRAVE PROBLEMS /WEAKNESSES WITHIN NSWMA RELATING TO ITS ACCOUNTING PROCEDURES AND

THE DISASTROUS CONSEQUENCES OF “QUALIFIED” FINANCIAL STATEMENTS.

AT THE BOARD MEETING OF MARCH 4 2015 THIS MATTER WAS AGAIN DISCUSSED AND ONE DIRECTOR NOTED:

“... THAT THE CHALLENGE WITH THE 2005 AUDIT WAS THAT IT WAS QUALIFIED-PWC HAD NOT EXPRESSED AN OPINION ON IT. HE ADDED THAT BASED ON THE MINUTES OF THE JANUARY MEETING, PWC HAS AGAIN INDICATED THAT ALL THE ACCOUNTS UP TO 2013 WILL BE SIMILARLY “QUALIFIED”.

THIS DIRECTOR WENT ON TO SAY:

“FOR MPM AND WPM THE LAST AUDITED STATEMENTS WERE FOR THE YEAR 2007: AND WERE ALSO QUALIFIED. SPM’S ACCOUNTS WERE AUDITED UP TO 2011 AND FOR NEPM THE LAST AUDITED STATEMENTS WERE FOR THE YEAR 2008. HE REITERATED THAT ALL THE ACCOUNTS WERE **QUALIFIED** AND **NO CLEAN ACCOUNTS** HAVE EVER BEEN RENDERED TO THE BEST OF HIS KNOWLEDGE.”

ON A CLOSER EXAMINATION OF THE MINUTES SOME OF THE ISSUES WERE IDENTIFIED. IN REPORTING ON THE 2007 CONSOLIDATED ACCOUNTS THE AUDITORS NOTED IN THE MINUTES OF MARCH 4 THAT:

“THE CONSOLIDATED ACCOUNTS AND REGARDING THE FIXED ASSETS, THE AUDITORS WERE NOT ABLE TO VERIFY THE FIXED ASSETS FOR THE GROUP. HE NOTED THAT CERTAIN FIXED ASSETS WERE PURCHASED FOR WHICH THE AUDITORS WERE NOT ABLE TO

FIND SUPPORTING DOCUMENTATION: THUS THERE WERE UNABLE TO CONCLUDE WHETHER THE BALANCE BEING CARRIED FOR FIXED ASSETS WAS ACCURATE. “

IN RESPECT OF PAYABLES THE AUDITORS ADVISED THAT THEY:

“...WERE UNABLE TO FIND INVOICES OR SUPPORTING DOCUMENTATION FOR THE \$44M OF THE \$324M IN PAYABLES. IN ADDITION TO THIS THERE WAS A BALANCE OF \$71M FOR INVENTORY WHICH THE AUDITORS WERE ALSO UNABLE TO SUBSTANTIATE.”

THOSE MATTERS ABOVE ARE ONLY SOME OF THE ISSUES THE AUDITORS FACED.

A SIMILAR SITUATION EXISTED IN RESPECT OF THE REGIONAL COMPANIES. MPM CAME IN FOR MENTION IN THAT IT MAINTAINED NO PROPER FIXED ASSET REGISTER SO THE AUDITORS WERE UNABLE TO VERIFY THAT THE AMOUNT OF \$8.5M BEING CARRIED BY THE COMPANY WAS ACCURATE. THE AUDITORS COULD NOT SUBSTANTIATE THE AMOUNT OF \$9.6M IN PAYABLES.

THE AUDITORS WERE UNABLE TO SOURCE INFORMATION ON RELATED PARTY DISCLOSURES, SUCH AS KEY MANAGEMENT COMPENSATION AND PAYROLL TAXES; SO THOSE DISCLOSURES WERE MISSING FROM THE FINANCIAL STATEMENTS.

WHAT SEEM TO HAVE HAPPENED IS THAT THE NSWMA INSTEAD OF TAKING ON PARLIAMENT’S CLEARLY DEFINED CHARGE MERELY TOOK OVER THE COMPANIES THAT PRE-EXISTED NSWMA AND OPERATED ALL COMPANIES AS ONE, WITH THE VERY SAME

DIRECTORS, AND NOT AS SEPARATE COMPANIES INDIVIDUALLY REGISTERED UNDER THE COMPANIES ACT.

AS A RESULT RELATED PARTY RECEIVABLES WERE "...- MPM OWES THE NSWMA \$302M, WPM OWES \$268M, SPM \$235M AND PARKS \$79M."

MR. ASHLEY IN HIS ATTEMPTS TO EXPLAIN THE CRISS-CROSSING OF FINANCIAL TRANSACTIONS AND THE GENERAL UNHAPPY STATE OF AFFAIRS OFFERED:

"IF I CAN RECALL THE RESPONSES WERE SO RIDICULOUS THAT – THEY TRIED TO TELL US THAT THERE WERE SOME DIFFERENCES BETWEEN ONE COMPANY AND THE OTHER, AND THAT ONE COMPANY WOULD SPEND MONEY FOR THE OTHER COMPANY IT WAS A CONVOLUTED EXPLANATION." MR.ASHLEY EXPLAINED THAT HE DID NOT RECEIVE THIS ‘ CONVOLUTED ’ EXPLANTION IN WRITING.

HE WENT FURTHER TO SAY THAT FOR THE LAST FOUR YEARS: "... WE TRIED OUR BEST TO FIND A WAY TO DISAGGREGATE THIS THING OVER THE LAST FOUR YEARS AND WE WERE NEVER BEING ABLE TO DO IT."

IT WAS MR. ASHLEY’S OPINION THAT THIS WAS AS A RESULT OF THE ASSOCIATION BETWEEN THE ED AND THE DIRECTOR OF FINANCE, "...IT IS A SORT OF A LOCK-SHOP, IT IS IMPOSSIBLE TO GET INFORMATION."

THE MINUTES REVEAL THAT THERE WERE REAL DIFFICULTIES IN PAYING GARBAGE HAULAGE CONTRACTORS, THAT APPROXIMATELY \$200M WOULD BECOME PAYABLE BY THE NSWMA AS A RESULT OF



IDT AWARDS FOR WRONGFUL DISMISSALS FOR A PREVIOUS PERIOD; SOME LEGAL ISSUES AROSE OVER A PENSION FUND STARTED BY MPM, MILLIONS OF DOLLARS WERE OWED TO THE TAX ADMINISTRATION, NATIONAL HOUSING TRUST, FAILURE TO RECONCILE BANK STATEMENT FOR A GREAT MANY YEARS BACK TO 2009.

MS. EDWARDS CONCEDED THAT THERE WERE SERIOUS PROBLEMS SURROUNDING THE FINANCIAL STATEMENTS AND AUDITED ACCOUNTS. SHE EXPLAINED THAT SHE INHERITED THE SITUATION AND IN SO EXPLAINING, MENTIONED A MAJOR FIRE WHICH OCCURRED UNDER THE WATCH OF HER IMMEDIATE PREDECESSOR MRS. JOAN GORDON WEBLEY. ACCORDING TO MS. EDWARDS, QUITE A BIT OF THE RECORDS WAS DESTROYED BY THIS FIRE. SHE SAID:

“WHEN I GOT THERE, WE HAD JUST HAD A FIRE ON THE SECOND FLOOR OF THE BUILDING WHERE ALL THE ACCOUNTS AND ALL OF THE RECORD (SIC) WERE HELD, MAJOR FIRE THAT DESTROYED QUITE A BIT.”

MS. EDWARDS SAID THAT THE AUDITORS COULD NOT EVEN FIND AN OPENING BALANCE FOR THE YEAR 2007.

IN HER TESTIMONY, MS. EDWARDS EXPLAINED THAT HER PREDECESSOR MRS. JOAN GORDON WEBLEY TOLD HER THAT WHEN SHE (MRS. JOAN GORDON WEBLEY) TOOK OFFICE, ACCOUNTING DOCUMENTS WERE MISSING OR NOT AVAILABLE.

SUCH WAS THE STATE OF THE FINANCIAL AFFAIRS THAT THE AUDITORS FOUND IT NECESSARY TO ISSUE A **DISCLAIMER** ON ALL OF THE ACCOUNTS.

IT SEEMS TO HAVE BEEN A HISTORICAL PROBLEM, ONE WHICH APPEARED TO HAVE CHARACTERISED THE RUNNING OF THE NSWMA THROUGH SUCCESSIVE ADMINISTRATIONS.

MS. EDWARDS' PROPOSAL FOR RECTIFYING THE OBVIOUSLY UNDESIRABLE SITUATION WAS TO HAVE THE BOARD SIGN OFF ON THE "UNCLEAN" AND "QUALIFIED" FINANCIAL REPORTS AND THEREAFTER SEEK TO HAVE PARLIAMENT'S APPROVAL. THIS IDEA DID NOT FIND FAVOUR WITH THE MINISTRY WITH PORTFOLIO RESPONSIBILITY.

### **OPD'S COMPLAINANTS**

IT IS NO WONDER THAT SOME PERSONS TOOK TIME OUT TO RECORD COMPLAINTS WITH THE PUBLIC DEFENDER. BELOW IS A SUMMARY OF EACH COMPLAINT.

#### **COMPLAINT NO. 1**

THE COMPLAINANT IS AN ELDERLY MAN WHO RESIDES TO THE SOUTH OF THE RIVERTON DISPOSAL FACILITY IN GREGORY PARK IN THE PARISH OF ST. CATHERINE. ON A MORNING IN THE MIDDLE OF MARCH 2015 HE WAS AWAKENED TO AN UNUSUAL FOUL ODOUR. HE WENT OUTSIDE TO INVESTIGATE. THERE HE OBSERVED THAT HIS HOUSE AND COMMUNITY WERE COVERED IN THICK SMOKE AND A FOUL SMELL.

PERSONS IN THE COMMUNITY TOLD HIM THE SMOKE AND SMELL WERE COMING FROM THE RIVERTON CITY DUMP.

HE WAS FORCED TO SEEK MEDICAL CARE AS HE DEVELOPED A PERSISTENT AND EXCESSIVE COUGHING AND A SORE THROAT. THE COMPLAINANT FOUND IT DIFFICULT TO PAY FOR HIS MEDICAL EXPENSES. IT IS REPORTED THAT THE COST OF FILLING THE FIRST PRESCRIPTION WAS \$1,889.89. THIS COMPLAINANT WAS NOT ABLE TO BUY ALL OF THE MEDICATION PRESCRIBED AT THE SAME TIME.

HIS ILLNESS PREVENTED HIM FROM ENGAGING IN HIS EMPLOYMENT OF DRIVING HIS TRUCK AND AS RESULT HE LOST INCOME.

A MEDICAL REPORT FOR THE COMPLAINANT REVEALED THAT HE VISITED THE HEALTH CENTRE WITH A COMPLAINT OF A TWO DAY HISTORY OF DRY COUGH. HE WAS DIAGNOSED AS HAVING AN UNCONTROLLED BLOOD PRESSURE AND A COUGH SECONDARY TO POSSIBLE ACUTE VIRAL ILLNESS

## **COMPLAINT NO. 2**

A RESIDENT OF DUHANEY PARK KINGSTON 20, WHICH IS APPROXIMATELY 2KM NORTH OF THE RIVERTON DISPOSAL FACILITY. IN 2006 SHE WAS DIAGNOSED WITH SINUSITIS AND THEREAFTER HAD TO VISIT THE DOCTOR OFTEN TO SEEK TREATMENT FOR HER CONDITION. IN FEBRUARY OF 2010 SHE WAS AFFECTED BY A FIRE AT THE RIVERTON DISPOSAL FACILITY. SHE BECAME SICK AGAIN IN MARCH 2015 ON ACCOUNT OF THE SMOKE AND SMOG FROM THE RIVERTON DUMP. SHE EXPERIENCED

DISCOMFORT, FELT PAIN IN HER THROAT AND EAR AND HER EYES AND NOSE BURNED.

HER MEDICAL REPORT CONFIRMS A DIAGNOSIS OF SINUSITIS AND UPPER RESPIRATORY TRACT INFECTION.

### **COMPLAINT NO. 3**

ON MARCH 18, 2015 THIS COMPLAINANT, A MIDDLE AGED FEMALE, WAS OUTSIDE HER HOME AT NEW HAVEN, KINGSTON 20, WHEN SHE OBSERVED SMOKE IN THE COMMUNITY. SHE WENT ABOUT DOING HER HOUSEHOLD CHORES THEN SHE BEGAN TO COUGH AND SNEEZE AND DEVELOPED A RUNNY NOSE.

HER CONDITION PERSISTED DESPITE HER BEST EFFORTS TO FIGHT IT USING HOME REMEDIES. THIS COMPLAINANT'S CONDITION WORSENERED AND ULTIMATELY SHE SOUGHT MEDICAL CARE FROM A PRIVATE MEDICAL PRACTITIONER.

THE MEDICAL REPORT REVEALED THAT SHE HAD A PRE-EXISTING SINUS CONDITION AND ON THE DAY OF PRESENTATION SHE COMPLAINED OF SHORTNESS OF BREATH, SORE THROAT, AND A COUGH WITH PRODUCTIVE SPUTUM. SHE WAS DIAGNOSED AS HAVING AN UPPER AIRWAY IRRITATION, INFLAMMATION AND INFECTION SECONDARY TO INHALATION OF TOXIC VAPOURS.

THE DOCTOR OPINED THAT:

“... IN LIGHT OF THE POTENTIALLY POISONOUS NATURE AND THE UNCERTAIN COMPOSITION OF THE VAPORS (SIC) THE LONG TERM

EFFECTS OF THE TOXIC VAPORS (SIC) INHALED ARE UNDETERMINED AT PRESENT.”

#### **COMPLAINT NO. 4**

LIME EDGE DISTRICT MOUNT JAMES IN RURAL ST. ANDREW IS WHERE THE 59 YEAR OLD HOUSE WIFE COMPLAINANT RESIDES. ON MARCH 15, 2015 SHE SAW A MIST IN THE AIR AND ATTRIBUTED IT TO THE ONSET OF RAINFALL. HOWEVER, AFTER MIDDAY THE MIST THICKENED AND THE COMPLAINANT BEGAN TO SMELL SMOKE. HER SINUSES BECAME IRRITATED AND SHE SNEEZED AND COUGHED. HER FIVE YEAR OLD GRANDDAUGHTER BEGAN TO SNEEZE AND COUGH, AND DEVELOPED A RUNNY NOSE.

THE COMPLAINANT’S CONDITION GREW PROGRESSIVELY WORSE AND SHE HAD TO SEEK TREATMENT AT A HEALTH CENTRE HAVING LOST HER VOICE COMPLETELY. EVENTUALLY, SHE LEARNT THAT THE SMOKE WHICH CAUSED HER ILLNESS EMANATED FROM THE RIVERTON DUMP.

ACCORDING THE MEDICAL REPORT THE COMPLAINANT PRESENTED WITH A FIVE DAY HISTORY OF COUGH AND YELLOW SPUTUM WITH HOARSENESS OF VOICE AND SNEEZING. SHE WAS ASSESSED AS HAVING AN UPPER RESPIRATORY TRACT INFECTION AND TREATED WITH ANTIBIOTICS AND COUGH SYRUP.

#### **COMPLAINT NO. 5**

THIS 61 YEAR OLD COMPLAINANT HAS HAD A HISTORY OF ILLNESS RELATING TO SINUSITIS AND MIGRAINE HEADACHES. HE RESIDES IN

SEAVIEW GARDENS, KINGSTON FROM WHERE THE SMOKE AND SMOG FROM THE RIVERTON DISPOSAL FACILITY WAS PLAINLY WITHIN HIS SIGHT. BY MARCH 12, 2015 HIS ENTIRE HOUSE, YARD AND COMMUNITY WERE ENGULFED IN SMOKE. INITIALLY, HE BECAME STUFFY. HIS EFFORTS AT USING OVER THE COUNTER DRUGS PROVED FUTILE AS THE SYMPTOMS GREW PROGRESSIVELY WORSE. HE EXPLAINED IN HIS COMPLAINT TO THE OPD:

“MY HEADACHES BECAME MORE SEVERE, MY NOSE STARTED TO RUN, MY THROAT BECAME SORE, I HAS (SIC) PAIN IN MY JOINTS AND I DEVELOPED A HIGH FEVER.”

HE WENT TO THE HOSPITAL WHERE HE WAS TREATED AND GIVEN A PRESCRIPTION. WHEN HE RETURNED HOME THE SMOKE CONTINUED TO COVER DOWN HIS HOME, YARD AND COMMUNITY. THE SITUATION LASTED FOR TWO WEEKS.

ALTHOUGH HE FOLLOWED HIS DOCTOR’S ADVICE AND REMAINED INDOORS THE SMOKE PENETRATED HIS HOUSE AND HIS ILLNESS PERSISTED. IT WAS ONLY AFTER THE SMOKE CLEARED THAT HE STARTED TO RECOVER.

ACCORDING TO HIS MEDICAL REPORT THE COMPLAINANT PRESENTED WITH WEAKNESS, JOINT PAIN, A SORE THROAT AND HEADACHE. HE WAS ASSESSED AS HAVING A PHARYNGITIS AND SINUSITIS. ALTHOUGH HE WAS PRESCRIBED MEDICATION AND EXPECTED TO MAKE A FULL RECOVERY ACCORDING TO THE ATTENDING DOCTOR THE ILLNESS COULD BE RECURRENT.

## **COMPLAINT NO. 6**

THE COMPLAINANT HAS LIVED IN WASHINGTON GARDENS KINGSTON 20, SINCE HER BIRTH IN 1973 AND HAS ALWAYS HAD PROBLEMS WITH THE RIVERTON DISPOSAL FACILITY. AT THE AGE OF NINETEEN SHE WAS THE PRESIDENT OF THE CITIZENS ASSOCIATION AND PROBLEMS WERE EXPERIENCED WITH THE DUMP AT THAT TIME AND OVER THE MANY YEARS.

ON MARCH 10, 2015 SHE REPORTED: “THE DUMP BEGAN TO BURN.” IT CAUSED HER TO HAVE A DRY COUGH, RUNNY NOSE, SORE THROAT, SORE NECK AND SHE BECAME HOARSE. AS THE FIRE AT THE DUMP GOT WORSE AND THE SMOKE THICKENED SHE WAS FORCED TO ABANDON HER PROPERTY AND SOUGHT REFUGE AT A FRIEND’S HOME “...WHERE THE SMOKE PROBLEM WAS LESS SEVERE”.

SHE VISITED THE DOCTOR AS HER SYMPTOMS PERSISTED. ACCORDING TO HER MEDICAL REPORT SHE COMPLAINED OF A DRY COUGH AND POST NASAL DRIP, AND WAS DIAGNOSED AS HAVING ACUTE SINUSITIS. SHE WAS GIVEN TWO (2) DAYS SICK LEAVE AND PRESCRIBED MEDICATION.

THE COMPLAINANT LAMENTS THAT SINCE THAT TIME SHE HAS BEEN TRYING TO RENT THE SMALL SIDE OF HER HOUSE BUT PROSPECTIVE TENANTS LOSE INTEREST AFTER SEEING HER HOME’S PROXIMITY TO THE RIVERTON DISPOSAL FACILITY. THE GRAVAMEN OF THIS COMPLAINT IS THAT THE FREQUENT FIRES PREVENT HER FROM SECURING A TENANT AND THAT THE FIRES HAVE DEPRECIATED THE VALUE OF HOMES IN HER NEIGHBOURHOOD.

## **COMPLAINT NO. 7**

SINCE BIRTH THIS MALE COMPLAINANT HAS BEEN LIVING IN SEAVIEW GARDENS AND HAS EXPERIENCED FIRST HAND THE EFFECTS OF ONE FIRE AFTER ANOTHER AT THE RIVERTON DISPOSAL FACILITY. HE IS THIRTY FOUR YEARS OLD AND IS EMPLOYED AS A MEDICAL TECHNICIAN. ON MARCH 12, 2015 THE SMOKE CAME THROUGH A GAP IN HIS CLOSED WINDOWS AND ENVELOPED HIS ENTIRE HOME.

HE AWOKE AND WAS UNABLE TO BREATHE. THIS COMPLAINANT PANICKED AND BEGAN SHOUTING:

“I CAN’T BREATHE I CAN’T BREATHE.”

HE USED HIS ASTHMA PUMPS TO NO AVAIL. HE THEN LOST CONSCIOUSNESS.

THE COMPLAINANT WAS RUSHED TO A PRIVATE DOCTOR WHO IMMEDIATELY HAD HIM TAKEN BY AMBULANCE TO THE UNIVERSITY HOSPITAL OF THE WEST INDIES.

IN HIS REPORT TO THE OPD THE COMPLAINANT EXPLAINED THAT HE WAS ADMITTED TO THE INTENSIVE CARE UNIT WHERE HE WAS A PATIENT. HE RECOUNTED THAT HIS LUNGS COLLAPSED AND THAT HE WAS PLACED IN A MEDICALLY INDUCED COMA. ACCORDING TO HIM:

“MY LUNGS WERE COLLAPSED AND INFECTED.”



HE WAS TREATED AND PLACED ON A WARD TO RECOVER BEFORE BEING DISCHARGED. BECAUSE THE SMOKE PERSISTED IN SEAVIEW GARDENS THE COMPLAINANT HAD TO RELOCATE TO CLARENDON TEMPORARILY. ALTHOUGH HE WAS GIVEN SEVEN DAYS PAID SICK LEAVE, HE HAD TO TAKE ANOTHER THREE DAYS UNPAID LEAVE WHICH RESULTED IN LOSS OF INCOME. HE IS UNABLE TO PAY THE BILL AT THE UNIVERSITY HOSPITAL.

ACCORDING TO THE MEDICAL REPORT THE PATIENT UPON ARRIVAL WAS NOTED TO HAVE LABOURED BREATHING AND UNRESPONSIVE WITH A REPORTED GLASCOW COMA IN THAT HE DID NOT OPEN EYES, VERBALIZE/ MAKE SOUNDS, NOR DID HE RESPOND TO STIMULI. HE WAS DIAGNOSED AS ASTHMATICUS WITH TYPE II RESPIRATORY FAILURE PRECIPITATED BY ATYPICAL PNEUMONIA. HE WAS TREATED IN THE INTENSIVE CARE UNIT FOR THREE DAYS AND WAS DISCHARGED TO THE MAIN MEDICAL WARD ON DAY 4 FOR POST ADMISSION.

### **COMPLAINT NO. 8**

THIS COMPLAINANT IS AN ELDERLY AND COMPLETELY BLIND MAN. HE LIVES IN GREATER PORTMORE, ST. CATHERINE WHICH IS LOCATED SOUTH OF THE RIVERTON DISPOSAL FACILITY. ON MARCH 15, 2015 HIS NOSTRILS BEGAN TO BURN AND HE DEVELOPED A DRY COUGH. HIS NEIGHBOUR TOLD HIM THAT HE SAW A LOT OF SMOKE THAT SEEMED TO HAVE BEEN COMING FROM THE DIRECTION OF THE RIVERTON DISPOSAL FACILITY.

HE HAD TO ATTEND THE GREATER PORTMORE MEDICAL CENTRE WHERE RECEIVED MEDICAL TREATMENT. HIS MEDICAL REPORT STATES THAT HE PRESENTED WITH A HISTORY OF DRY COUGH AND CHEST CONGESTION CAUSED BY SMOKE IN THE AREA. HE WAS DIAGNOSED AS HAVING A POSSIBLE SMOKE INDUCED ALLERGIC RHINITIS AND WAS PRESCRIBED MEDICATION.

### **COMPLAINT NO. 9**

THIS COMPLAINANT IS A FEMALE VENDOR WHO SELLS IN DOWNTOWN KINGSTON. SHE LIVES AT FERRY DISTRICT, ST. ANDREW WHICH IS CLOSE TO THE BORDER WITH ST. CATHERINE. A BRONCHITIS PATIENT OF MANY YEARS, SHE SAYS THAT SHE IS AFFECTED BY EVEN SMALL FIRES LIT BY NEIGHBOURS.

ON SATURDAY MARCH 14, 2015 SHE OPENED HER DOOR TO LEAVE FOR WORK WHEN SHE NOTICED THAT THICK SMOKE BLANKETED THE COMMUNITY. THIS PREVENTED HER FROM LEAVING THE HOUSE AND BY NIGHTFALL SHE FELL ILL AS HER THROAT BEGAN TO HURT AND SHE BECAME HOARSE. SHE HEARD ON THE RADIO THAT THE SPANISH TOWN HEALTH CLINIC WAS OPEN; SO SHE PUT ON A DUST MASK AND USED A WET TOWEL TO LEAVE HOME TO GO THERE. ON HER JOURNEY MANY PERSONS RIDICULED HER.

SHE WAS TREATED AT THE HEALTH CENTRE AND RETURNED HOME. ACCORDING TO HER MEDICAL REPORT SHE VISITED THE HEALTH CENTRE COMPLAINING OF PAIN IN SWALLOWING FOR ONE DAY AND A COUGH PRODUCING WHITE SPUTUM. THE COMPLAINANT WAS

DIAGNOSED AS HAVING PHARYNGITIS POSSIBLY SECONDARY TO SMOKE INHALATION.

**COMPLAINANT NO. 10**

THIS FEMALE COMPLAINANT IS A RESIDENT OF DUHANEY PARK, KINGSTON 20. IN MARCH 2015 SHE FELL ILL AS A RESULT OF THE SMOKE FROM THE FIRE AT THE RIVERTON DISPOSAL FACILITY. SHE SOUGHT MEDICAL ATTENTION DUE TO HER ILLNESS AND THE DOCTOR PRESCRIBED MEDICATION. BASED ON RECEIPTS PROVIDED, IT IS EVIDENT THAT SHE SPENT A GREAT DEAL OF MONEY ON MEDICATION. NO MEDICAL REPORT HAS BEEN PROVIDED DUE TO HER INABILITY TO PAY FOR IT.

**COMPLAINT NO. 11**

THIS SEVENTY SEVEN YEAR OLD COMPLAINANT HAD NEVER BEEN AFFECTED BY ASTHMA. HOWEVER, ON MARCH 14, 2015 SHE WAS GETTING READY FOR CHURCH WHEN SHE BEGAN TO HAVE SHORTNESS OF BREATH AND WHEEZING. SHE SOON REALIZED THAT IT WAS THE SMOKE WHICH HAD ENGULFED HER COMMUNITY WHICH WAS CAUSING HER TO WHEEZE AND HAVE SHORTNESS OF BREATH.

UPON VISITING THE DOCTOR SHE WAS IMMEDIATELY NEBULISED AND GIVEN MEDICATION TO HELP HER COPE WITH THE WHEEZING. SHE NOW HAS TO USE AN INHALER AND TAKE THE MEDICATION PRESCRIBED FOR HER. NO MEDICAL REPORT IS AVAILABLE.

### **COMPLAINT NO. 12**

THIS COMPLAINT IS A RESIDENT OF SOUTH CAMP ROAD IN KINGSTON AGED 52 YEARS. ON MARCH 16, 2015 SHE SAW SMOKE COVER DOWN HER COMMUNITY AND BECAUSE SHE IS ASTHMATIC SHE TOOK ACTION TO PREVENT THE SMOKE FROM ENTERING HER HOUSE. DESPITE CLOSING HER WINDOWS AND DOORS THE SMOKE INVADED HER HOUSE. HER EYES AND NOSE BECAME RUNNY AND HER THROAT BECAME SORE ACCOMPANIED BY WHEEZING.

THE SMOKE PERSISTED FOR DAYS AND SHE WAS FORCED TO GO TO THE KINGSTON PUBLIC HOSPITAL WHERE SHE WAS ADMITTED. THE COMPLAINANT WAS TREATED AT THE HOSPITAL FOR TWO DAYS BEFORE BEING DISCHARGED. SHE NARRATED THAT, IN HOSPITAL SHE WAS PUT ON THE “DRIP” AND WAS NEBULIZED CONTINUALLY.

AFTER HER DISCHARGE SHE STILL WAS EXPOSED TO THE SMOKE AND HAD TO BE TAKING MEDICATION TO ALLEVIATE THE SYMPTOMS. NO MEDICAL REPORT IS AVAILABLE.

### **COMPLAINT NO. 13**

THIS COMPLAINANT OWNS AND OPERATES A BUSINESS IN NANSE PEN, KINGSTON 11. DUE TO THE SMOKE CAUSED BY THE RIVERTON DUMP FIRE IN MARCH 2015, HE WAS FORCED TO CLOSE HIS BUSINESS FOR THREE DAYS.

THE CLOSURE OF THE BUSINESS WAS NECESSARY AS THE SMOKE RESULTED IN THE EMPLOYEES FALLING ILL. MANY OF HIS STAFF

COMPLAINED OF FEELING ILL, INCREASED SINUSITIS AND ONE MEMBER OF STAFF SUFFERED AN ASTHMA ATTACK.

ALTHOUGH THE BUSINESS WAS CLOSED HE WAS OBLIGED TO PAY HIS STAFF WHILST NOT EARNING REVENUE, AS THEY WERE NOT ABLE TO TRANSACT BUSINESS WITH CUSTOMERS. HE THEREFORE SUFFERED FINANCIAL LOSS.

THE OPD HAS NOT BEEN FURNISHED WITH PROOF OF LOST INCOME OR MEDICAL REPORTS.

### **FINDINGS**

1. THE ALLEGATION OF LACK OF RESOURCES HAS NOT BEEN MADE OUT IN THAT THE BILLIONS OF DOLLARS PROVIDED FOR THE RIVERTON AND OTHER DISPOSAL SITES HAVE NOT BEEN ACCOUNTED FOR NOR HAVE THE EARNINGS OF THE PARKS AND MARKETS.
2. THE NSWMA OPERATED WITH IMPUNITY, IN THAT, IT DISREGARDED / IGNORED THE TERMS AND CONDITIONS OF NEPA'S ENVIRONMENTAL PERMITS AND MADE LITTLE EFFORT TO BE COMPLIANT ALWAYS RAISING ISSUES AS TO WHY IT COULD NOT COMPLY.
3. THE NSWMA FAILED TO FULFILL ITS LEGAL DUTY TO SAFEGUARD PUBLIC HEALTH OF JAMAICANS. FROM INCEPTION TO 2014 IT OPERATED AND MANAGED THE RIVERTON DISPOSAL FACILITY WITHOUT AN ENVIRONMENTAL PERMIT CONTRARY TO

THE PROVISIONS OF THE NATURAL RESOURCES CONSERVATION AUTHORITY ACT.

4. THE NSWMA ACTED AT LARGE WITHOUT ANY OR ADEQUATE SENSE OF FIDELITY OR UNDERSTANDING OF THE ENABLING LEGISLATION AND DEMONSTRATED NO, OR SCANT APPRECIATION FOR THE CONSTITUTIONAL PROVISIONS GUARANTEEING PERSONS A HEALTHY AND PRODUCTIVE ENVIRONMENT FREE FROM THE THREAT OF INJURY OR DAMAGE FROM ENVIRONMENTAL ABUSE AND DEGRADATION OF THE ECOLOGICAL HERITAGE AND REPEATEDLY VIOLATED THE PROVISION OF THE CHARTER.
5. THE EXECUTIVE DIRECTOR ALSO, IT SEEMS, OPERATED AS AN EXECUTIVE CHAIRMAN OF THE BOARD WITHOUT SUFFICIENT/IF ANY CHECK AND BALANCE.
6. NSWMA MANAGED ITS FINANCIAL AFFAIRS WITHOUT A SENSE OF DUTY AND ACCOUNTABILITY TO THE PEOPLE OF JAMAICA.
7. IT HAS NOT SUBMITTED TO PARLIAMENT NEITHER ANNUAL REPORTS NOR AUDITED FINANCIAL STATEMENTS IN OVER 10 YEARS.
8. THE NSWMA HAS BREACHED SECTION 3 OF THE PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY ACT.

9. THE COSTS OF PUTTING OUT THE FIRES OVER THE VERY MANY YEARS FAR EXCEED THE COST OF ESTABLISHING A SANITARY LANDFILL SO URGENTLY NEEDED.
10. UNDER MS. JENNIFER EDWARDS' LEADERSHIP/STEWARDSHIP THE AUTHORITY IGNORED OR DISREGARDED OR FAILED TO APPRECIATE THE ABSOLUTE NECESSITY FOR OBSERVING ALL NEPA'S CONDITIONS.
11. THE CREATION AND MAINTAINANCE OF CELLS, IS AN EFFECTIVE MEANS OF REDUCING THE POSSIBILITY OF FIRES, THE COST OF WHICH IS MANAGEABLE AND WITHIN BUDGET.
12. THAT THE FINANCIAL RESOURCES OF THE NSWMA WERE MANAGED WITH FAR LESS CARE THAN WAS REQUIRED IN THE MANAGEMENT OF PUBLIC FUNDS. THE AUTHORITY BREACHED MANY BASIC AND ESTABLISHED ACCOUNTING PRACTICES TO GOVERN ITS RESOURCES.
13. DESPITE THE WIDESPREAD AND FREQUENT FIRES THE NSWMA DID NOT HAVE A FIRE SUPPRESANT SYSTEM BUT RELIED EXCLUSIVELY ON THE FIRE DEPARTMENT AS FIRST RESPONDERS.
14. THE NSWMA'S ATTENTION TO "PUBLIC HEALTH" OF JAMAICANS RELATED SOLELY TO THE REMOVAL OF GARBAGE FROM HOMES AND COMMUNITIES.

15. THERE EXISTS AT RIVERTON A MULTITUDE OF MINI DUMPS OF VARIOUS SIZES AND MATERIAL DISPERSED ALL OVER.
16. A REPORT ON RIVERTON WOULD NOT BE COMPLETE WITHOUT MENTIONING THE EXISTENCE OF PERHAPS THE LARGEST PIGGERY IN THE COUNTY, IF NOT THE ISLAND, CREATING A STENCH WHICH IS AS OFFENSIVE AS IT IS INVASIVE.
17. IT WAS NOT PARLIAMENT’S INTENTION THAT GARBAGE TRUCK AFTER GARBAGE TRUCK SHOULD ATTEND ON THE DISPOSAL SITE AND DEPOSIT THE GARBAGE AND REPEAT THAT ACTION TO THE EXTENT THAT SECTIONS OF THE RIVERTON DISPOSAL SITE IS NOW “OVER 80 FEET ABOVE SEA LEVEL” AS TOLD TO THE PUBLIC DEFENDER.
18. PARLIAMENT’S INTENTION WHEN ENACTING THE NSWMA REMAINS UNREALISED, UNFULFILLED.
19. NEPA WAS SLOW TO ACT AND STARTED TO PURSUE NSWMA AFTER THE PERMITS WERE ISSUED.

## **RECOMMENDATIONS**

1. THAT PERSONS WHO HAD TO RECEIVE MEDICAL ATTENTION AS A DIRECT RESULT OF THE MARCH 2015 FIRE BE IDENTIFIED AND MONITORED BY THE MINISTRY OF HEALTH, TO DETERMINE THE LONG TERM EFFECTS, IF ANY, AT NO COST TO SUCH PERSONS.



2. ANY PERSON APPOINTED, EMPLOYED OR OTHERWISE ENGAGED TO MANAGE PUBLIC BODIES OUGHT TO BE POSSESSED OF THE NECESSARY FORMAL TRAINING, EXPERIENCE AND DEMONSTRABLE EXPERTISE BEFORE SUCH APPOINTMENT IS MADE.
3. PUBLIC BODIES SHOULD MAKE PUBLIC THEIR QUARTERLY REPORTS AND HALF YARLY REPORTS WHICH ARE PREPARED FOR THE MINISTRY WITH RESPONSIBILITY.
4. THAT THE CONDITIONS STIPULATED BY NEPA IN ITS ENVIRONMENTAL PERMIT AND ALL OTHER MATERIAL LEGISLATION BE STRICTLY ADHERED TO.
5. THE NSWMA TAKES LEGAL ADVICE ON ITS FUNCTIONS, ORGANIZATIONAL AND OPERATIONAL STRUCTURE FROM THE ATTORNEY GENERAL AND STEPS BE TAKEN TO FULFILL PARLIAMENT'S MANDATE.
6. THAT A FORENSIC AUDIT BE CONDUCTED ON THE ACCOUNTS OF THE NSWMA AND ITS AFFILIATE ENTITIES/SUBSIDIARY COMPANIES.
7. THE CONTRACTOR GENERAL INVESTIGATES THE CIRCUMSTANCES UNDER WHICH THE NSWMA HAS COME TO BE INDEBTED TO FORMER EMPLOYEES IN A SUM IN EXCESS OF \$200,000,000.00 AS A

RESULT OF IDT AWARDS ARISING FROM DISMISSALS IN A PREVIOUS PERIOD.

8. THE CONTRACTOR GENERAL ALSO INVESTIGATES THE ALLEGATIONS RAISED BY MEMBER OF PARLIAMENT MR. DESMOND MCKENZIE NOW MINISTER OF LOCAL GOVERNMENT, IN PARLIAMENT, THAT THE CONTRACTORS ENGAGED BY NSWMA ARE PEOPLES NATIONAL PARTY LOYALISTS.

FINALLY, THE PUBLIC DEFENDER NOTES THAT SEVERAL OF THE SHORTCOMINGS DISCLOSED IN THE INVESTIGATIONS HAVE SINCE BEEN ADDRESSED FOLLOWING THE CHANGES WHICH WERE IMPLEMENTED IN THE AFTERMATH OF THAT MARCH 2015 INFERNO.



**ARLENE HARRISON HENRY**

**MARCH 2016**

