



SIERRA CLUB

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MEDIA RELEASE

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New Radium Analysis Filed in Lawsuit against Hakes Landfill Expansion

Sierra Club, People for a Healthy Environment, Inc. (“PHE”) and Concerned Citizens of Allegany County, Inc. filed an amended verified petition in Steuben County Supreme Court in Bath on Friday to update their legal challenge to the expansion of Hakes C&D Landfill in the Town of Campbell in Steuben County. The filing updated the lawsuit filed by the environmental groups and three individuals against the NYS Department of Environmental Conservation (“DEC”) and the Town of Campbell on April 9, 2019. The case had been on hold pending the issuance of the required permits by DEC, which occurred in December 19.

The groups filed a new affidavit by their expert Dr. Raymond Vaughan from Buffalo in support of the amended verified petition. Dr. Vaughan has performed new calculations to estimate the amounts of radium in the landfill. These calculations are based on his earlier calculations regarding the amount of radon in the landfill. Because radon is a breakdown product of radium, the radon estimates can form the basis of a radium calculation. Based on a comparison of the Hakes Landfill to another landfill where the amounts of radium in the waste are known, Dr. Vaughan calculates that the Hakes Landfill would need to contain about 2500 to 175,000 pCi/g radium in its waste to produce the ~1 million pCi/L of radon in its landfill gas that he has previously calculated is present in the landfill, based on the landfill’s leachate test results. The range of 2500 to 175,000 pCi/g radium is far beyond the Hakes Landfill’s nominal acceptance limit of 25 pCi/g.

“This does not mean that the Hakes landfill actually contains radium-bearing waste that approaches 2500 to 175,000 pCi/g radium,” said Vaughan. “How much radioactive waste is in the landfill is an open question that requires testing to answer. My rough calculation of radium in the landfill, like my earlier calculations of radon levels, are intended as a warning that low levels of radium in the Hakes landfill waste (less than 25 pCi/g) can’t be reconciled

with the intermittently high radon levels indicated by the Hakes leachate test results, and that DEC must investigate what is happening.”

The lawsuit alleges that DEC and the Town of Campbell violated the requirements of the State Environmental Quality Review Act (SEQRA) when they failed to take a hard look at the scientific evidence contained in the landfill’s leachate test results of significant levels of radium and radon in the landfill and failed to conduct further testing before approving the landfill expansion. The lawsuit also alleges that DEC and the Town of Campbell failed to mitigate the risks of the expansion.

The case, *Sierra Club v. DEC*, case no. E2019-0441CV, was electronically filed, and the papers are available on the NYS court system website. A new judge has been assigned to the case following the retirement of Justice Robert Wiggins at the end of December 2019. The new judge is Justice Patrick McAllister. The petitioners are represented by attorneys Richard Lippes from Buffalo and Rachel Treichler from Hammondsport.

“We expect Judge McAllister to agree that more testing should have been conducted before DEC and the Town of Campbell released their approvals of the Hakes landfill expansion project,” said Kate Bartholomew, chair of the Sierra Club Atlantic Chapter. “The neighbors of the landfill need to be protected from large scale releases of radon gas through the landfill’s flaring system. There is strong evidence in the landfill’s leachate test results that radon gas builds up in the air of the landfill and is emitted to the atmosphere through the flares. Because radon is not flammable, radon does not burn like the other gases being flared. Instead, it circulates in the atmosphere around the landfill, where people can breathe it in and where its radioactive breakdown products attach to the dust generated by the landfill.”

“Rather than investigate what is happening, DEC has chosen to stick its head in the mud,” Bartholomew said. “After the we filed our expert witness statements pointing out that the landfill’s leachate test results show very high levels of radon breakdown products in several of the test samples, instead of investigating, DEC removed the requirement that the landfill test its leachate for the radon breakdown products. In so doing, DEC has greatly lessened its ability to monitor radioactivity in the landfill

“Similar evidence of radium and radon is contained in the leachate test results of the Chemung County landfill,” said Gary McCaslin, President of People for a Healthy Environment, Inc. (“PHE”). “It is imperative that DEC investigate why the leachate test results at the two landfills in New York taking the greatest volume of drill cuttings from gas drilling operations in the Marcellus shale in Pennsylvania show evidence of high levels of radium and radon,” McCaslin said.

For copies of the permits issued by DEC on December 19, 2019, visit
<https://hakesexpansion.blogspot.com/>

For other materials about the case visit
<http://treichlerlawoffice.com/waste/hakes/index.html>