

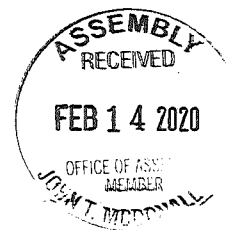
## OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation  
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FEB 11 2020

Honorable Neil Breslin  
New York State Senate  
Capitol Building  
172 State Street, Room 430C  
Albany, NY 12247

Honorable John T. McDonald III  
New York State Assembly  
Legislative Office Building, Room 417  
Albany, NY 12248



Dear Senator Breslin and Assemblyman McDonald:

Thank you for your recent correspondence regarding the Dunn Construction and Demolition Debris Landfill (Dunn) located in the City of Rensselaer and in the Town of East Greenbush. I appreciate your continued engagement on this issue and for conveying the environmental and public health concerns expressed by your constituents. I share those concerns and frustrations regarding Dunn's operations, and that is why we have continued to require Dunn to implement ongoing improvements and measures at the facility. DEC will continue to uphold our responsibility to ensure Dunn's operations do not have a negative impact on the surrounding communities. The health, safety, and quality of life of the residents of the City of Rensselaer and the Town of East Greenbush, including the children and staff at the Rensselaer Public Schools campus, is DEC's first and foremost priority.

As you are aware, DEC has held Dunn's operators accountable for violations of applicable state law and regulations and we will continue to rigorously monitor the landfill. In addition to partnering with New York State Department of Health (DOH), DEC has formally requested that the New York State Office of the Attorney General represent the interests of DEC and work with DEC in its ongoing investigations to hold Dunn accountable for any conduct that adversely impacts the community and to ensure the protection of public health and the environment in the City of Rensselaer and the Town of East Greenbush to the fullest extent. DEC has also advised Dunn that its ability to continue operating at this location depends on successful containment of site-generated odors generated as a result of their operations.



Department of  
Environmental  
Conservation



To assist in addressing concerns raised by your constituents, I wanted to provide you with the most up to date information on our enforcement efforts to date, as well as future plans regarding the operations and conditions at Dunn, including air quality monitoring and potential new rulemaking.

#### Odor Investigation and Abatement

DEC has taken swift action to address community concerns regarding odors generated by Dunn, undertaking a comprehensive investigation of complaints of odors emanating from Dunn. For DEC's decision-making to be guided by the best available science, DEC continually refines and reevaluates its investigation in order to maximize the accuracy and reliability of the resulting data. New information continues to be compiled daily. To summarize DEC's efforts on odor abatement:

- In April 2019, DEC initiated active odor monitoring by installing four hydrogen sulfide (H<sub>2</sub>S) Acrulog pole-mounted samplers around Dunn's perimeter that detect H<sub>2</sub>S odors by sampling and recording H<sub>2</sub>S data continuously over 10-minute averages, 24 hours per day, 7 days per week in non-winter months. Our review of the sampling data indicates that higher detections of H<sub>2</sub>S coincided with the operational issues at Dunn that were appropriately addressed. DEC will continue to actively monitor the results and will take action if values are elevated.
- Since early July 2019, DEC has conducted daily neighborhood odor checks at strategic locations in the communities surrounding Dunn, including at the Rensselaer Public Schools campus and on Partition Street, to allow DEC to record and quickly respond to any actual or potential violations or other concerns. DEC will continue to conduct daily neighborhood odor checks.
- DEC ordered Dunn to retain a full-time environmental monitor for Dunn. Since July 12, 2019, the monitor, fully paid for by Dunn, has been employed by DEC and has been at Dunn full-time, 40-hours per week. The monitor's duties include observing facility operations daily, conducting supplemental odor checks of the surrounding neighborhoods, maintaining field notes, responding to complaints, and assisting DEC as directed.
- On October 4, 2019, DEC issued a modification to Dunn's solid waste permit to require the operators to construct, operate, and maintain an enhanced active gas collection system for the control of odors, which are expected to commence by June 1, 2020 or sooner.
- In the event that Dunn is unable to control odors, DEC has put Dunn on notice that DEC is prepared to commence action that would prevent Dunn from

continuing to accept drywall, which, when reacted with sulfate-reducing bacteria, can generate hydrogen sulfide gas.

- DEC has also established a 24-hour hotline for residents of the City of Rensselaer and the Town of East Greenbush to report any suspected violations or other concerns relating to Dunn. The number is (518) 292-0449. In the event a member of the community experiences a significant odor event related to Dunn, he or she is encouraged to call the hotline in lieu of, or in addition to, using the "ItStinks.org" website. The website has been in use by members of the public for the past several months, but it only posts anonymous complaints, which prevents DEC from following up with the complainants for additional information.

#### Air Quality Monitoring

In response to the concerns from the public regarding air quality in the neighborhoods surrounding Dunn and at the Rensselaer Public Schools campus, DEC installed a trailer at the campus in July 2019 to take continuous samples of air particulate matter of 10 micrometers or less in diameter (PM<sub>10</sub>). The PM<sub>10</sub> concentration level is appropriate under these circumstances. To date, the data collected by the trailer show PM<sub>10</sub> concentrations to be consistently lower than current measurements across the Hudson River in the City of Albany and well below the National Ambient Air Quality Standard.

#### Partnership with the Department of Health (DOH)

DEC has been working with DOH who has analyzed DEC's Acrulog monitor data and has indicated that the levels are unlikely to result in any long-term health effects. However, sporadic odors may be noticeable and could in some individuals trigger temporary symptoms. If you receive notice of residents experiencing headaches, nausea, throat irritation, or similar symptoms and they attribute such short-term symptoms to the operations or conditions at Dunn, please notify DEC's Region 4 Office. DEC will also continue to partner with DOH to analyze the data from the air quality particulate monitoring, the results of which are expected to be available later this month.

If any of the results indicate imminent danger to the health or welfare of the residents of the City of Rensselaer or the Town of East Greenbush, DEC will take immediate abatement action to the fullest extent permitted by law.

#### Operations

In addition to the daily neighborhood odor checks, DEC staff maintains active inspections at Dunn to ensure that its operations remain in compliance with applicable laws and regulations, and its permit. For instance, DEC monitors the water quality in the Quackenderry Creek, adjacent to Dunn, based upon surface water samples collected at

two locations each calendar quarter. Based upon our sampling information, the data suggests no evidence of groundwater or surface water impacts attributable to Dunn.

In addition, as a result of the DEC-initiated permit modification, Dunn is obligated to adequately cover all waste at the end of each operational day for the purpose of further improving odor controls and to mitigate the possibility of blowing waste and litter. Since an offsite dust event on April 3, 2019, DEC does not have a record of any dust or waste blowing offsite. In the event your constituents notify you of any issues with dust or waste blown offsite, please direct them to DEC's Region 4 Office.

### Enforcement

To date, DEC entered into three Orders on Consent with Dunn:

- In August 2018, Dunn entered into an Order with DEC that assessed a civil penalty and required the operator to fund environmental benefit projects for the benefit of the Rensselaer Public School campus and local community and to implement a Schedule of Compliance, including site stabilization, dust control, haulage-way improvements, and additional dust mitigation measures such as hydro-mulching, fencing, street sweeping, and truck washing after DEC commenced an enforcement action against Dunn for numerous violations. In coordination with the City of Rensselaer, the environmental benefit projects under this Order are being invested in the construction of a new playground, stormwater improvements to the roadway and parking area leading from Sixth Street to The Hollow and Quackenderry Creek, and tree plantings and other stormwater improvements along Partition Street.
- In October 2018, DEC staff observed violations regarding the soil component of the facility's single composite liner system. Dunn applied for a variance from the regulatory requirements for soil permeability, which DEC denied. Accordingly, DEC and Dunn entered into an Order in February 2019 and required the operator to implement a liner enhancement plan subject to the technical review and approval of DEC.
- On April 3, 2019, dust from the wind-sided slopes of the mine migrated off-site, impacting the Rensselaer Public School campus and neighboring properties. DEC immediately commenced an enforcement action before securing an Order in June 2019. In addition, the Order required Dunn to hire a full-time on-site monitor, to submit a revised dust control plan to minimize the risk of any future dust events and construct a soil berm along the northern and northeastern perimeter to provide an additional visual, odor, dust, and noise buffer Rensselaer Public School campus.

In total, DEC has assessed civil penalties in the combined amount of \$137,700 and has required Dunn to fund environmental benefit projects for the benefit of the City of Rensselaer and the Rensselaer Public School campus in the combined amount of \$225,000. DEC is taking further enforcement action regarding daily cover violations in late December 2019, with further updates expected shortly.

#### New Rulemaking

Pertinent to your letter dated December 27, 2019, please note that DEC is commencing a new rulemaking under the Part 360 series of DEC's regulations to impose new mandatory setbacks between solid waste management facilities to sensitive receptor sites, such as schools, hospitals, day care centers, and nursing homes due to the perceived risks and associated concerns that arise from the operations of such facilities. Because a rulemaking would have statewide significance, DEC is reviewing the matter closely.

#### Public Engagement

DEC is committing to keeping the residents of the City of Rensselaer and the Town of East Greenbush informed to the fullest extent possible regarding DEC's enforcement efforts, regulatory oversight, operational monitoring, and responses to health and environmental concerns. In addition to circulating Community Update newsletters throughout the communities, DEC and DOH will be hosting a Public Availability Session in the cafeteria at the Rensselaer Public School Campus on February 27, 2020 from 5:30 p.m. to 7:30 p.m. At the event, DEC and DOH professionals will be available in-person to answer any questions from the public. Community members are encouraged to attend and can arrive at any time during the evening.

DEC will continue to monitor Dunn's operations to ensure the surrounding communities and the environment are protected. We are fully committed to resolving any environmental and quality of life issues faced by your constituents and will take whatever actions necessary to ensure Dunn operates according to the spirit and letter of the law.

Please call me at (518) 402-8540 if you have any questions.

Sincerely,



Basil Seggos  
Commissioner

