

**BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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In the Matter of the TITLE V AIR QUALITY
OPERATING PERMIT

Issued to Hyland Facility Associates
to operate a solid waste landfill
located in Angelica, New York

Permit No. 9-0232-00003/00012
Facility DEC ID: 9023200003

By the New York State Department of
Environmental Conservation

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**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO ISSUANCE
OF THE TITLE V OPERATING PERMIT FOR THE
HYLAND FACILITY ASSOCIATES LANDFILL
IN ANGELICA, NEW YORK**

I. INTRODUCTION

Pursuant to the Clean Air Act § 505(b)(2) and 40 C.F.R. § 70.8(d), Gudrun Scott (“Petitioner”), for herself and on behalf of Concerned Citizens of Allegany County (CCAC) as an addendum to the earlier filed Petition of Fred Sinclair, CCAC President, hereby petitions the Administrator of the United States Environmental Protection Agency (“EPA”) to object to the Title V Operating Permit for the Hyland Facility Associates Landfill (“the landfill”).

Petitioner is a resident of Allegany County, New York who breathes the air downwind from the landfill. Petitioner also visits, shops, and recreates in the Town of Angelica. Petitioner timely filed a comment on the proposed permit in June 2013. CCAC is an Allegany County citizens group that has actively participated in DEC proceedings concerning the landfill.

In her comment, Petitioner complained that the landfill was accepting large quantities of Marcellus Shale drill cuttings and other drilling wastes from Pennsylvania, that reportedly, Pennsylvania landfills were not permitted to accept. Upon information and belief, the drill cuttings were being classified as Beneficial Use Determination (BUD) material and used for daily cover. Petitioner's concern was that such Marcellus drilling wastes and drill cuttings contained sufficient levels of Radium to over time inject radon into the gas collection system, which would then discharge the Radon and its progeny into the air without treatment. DEC placed no limits on the quantities of drill cuttings because they were treated as BUD). DEC never responded to her concern in any reports on the permit, nor in the permit itself.

II. DESCRIPTION OF PROPOSED OPERATIONS:

(1) Hyland Facility Associates (Hyland) is proposing an increase in the annual waste disposal limit from 312,000 tons per year (tpy) to 465,000 tpy at the Hyland Landfill located in Angelica, New York. The proposed rate increase will result in the landfill being filled approximately seven (7) years sooner in the year 2025.

(2) The proposed increased waste placement rate results in a maximum increase of the landfill gas generation rate of about 574 cubic feet per minute. This additional volume of gas will be controlled by the existing open flare.

(3) The proposed project was evaluated to determine applicability with 6NYCRR Part 231-8. It was determined the proposed project is a major modification for greenhouse gas (GHG) emissions.

(4) The Department has determined the Best Available Control Technology (BACT) for GHG emissions from the Hyland Landfill includes:

(a) Implementation of the New Source Performance Standards (NSPS) 40 CFR 60 Subpart WWW collection and control requirements of landfill gas emissions 5 to 15 years sooner than previously required;

(b) Early implementation of the National Emission Standard for Hazardous Air Pollutants (NESHAP) Part 63 Subpart AAAA including the startup shutdown and malfunction (SSM) plan; and

(c) Extended operation of the landfill gas collection and control system beyond

the NSPS closure requirement of less than the 50 Mg per year NMOC generation rate. This may result in operation of the collection and control system many years beyond the NSPS requirements

II. BASIS OF OBJECTION

Under the Clean Air Act, EPA is required to regulate emissions of hazardous air pollutants. EPA's Initial List of Hazardous Air Pollutants with Modifications includes Radionuclides (including radon). Although EPA has established a pCi/m² limit for Radon emitted from mining operations, it has failed to require landfills to either monitor or control radon emissions. Consequently, efforts by citizens in New York to make NYDEC establish monitoring and controls has been unavailing because, as one DEC ALJ wrote, (paraphrase here) "There is no requirement for DEC to consider Radon from landfills because EPA doesn't." In Petitioner's view, both DEC and EPA are evading the requirements of the Clean Air Act and need to establish a monitoring and control program.

Petitioner respectfully directs the Administrator's attention to the article [Effect of Biogas Generation On Radon Emissions From Landfills Receiving Radium-Bearing Waste From Shale Gas Development](#), by Gary R. Walter , Roland R. Benke & David A. Pickett, in the June 2012 Journal of the Air & Waste Management Association, 62:9, 1040-1049, DOI:10.1080/10962247.2012.696084. The article is available in the EPA library at hero.epa.gov.

Respectfully submitted,

/s/

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Re: permit ID# 9-0232-00003/0012
PETITION TO RECONSIDER ISSUANCE OF THE HYLAND FACILITY ASSOCIATES
ARTICLE 19 AIR POLLUTION CONTROL –TITLE V PERMIT

Submitted by:
CONCERNED CITIZENS OF ALLEGANY COUNTY – CCAC 03/21/16

The Concerned Citizens of Allegany County (CCAC) does hereby submit this comment and request for reconsideration of issuance and further, reopening of the permit submission for cause under 6NYCRR 201-6.4 (i) item K ii on page 7 of the permit whereby, CCAC asserts that “the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.”

The following points support these positions:

- 1) In the Responsiveness Summary To Comments during the permit process for expansion, submitted by David Denk DEC Regional Permit Administrator, it is stated on page 11 that:
“other wastes from gas drilling operations such as equipment and piping which contains pipe scale; residues from the processing of flowback water, production brine or other drilling or production wastes, and bulk liquids of any kind are restricted from disposal at solid waste landfills in New York State. “
The manifest and compiled reports of waste deposited at Hyland show that Hyland has received from the Marcellus Gas fields : 233 gallons of Basic Sediment, 3,486 gallons of Drilling Fluid Waste, 18,690 gallons of Produced Fluid, 8,378 gallons of Flowback Produced Sand. These are the “other wastes from drilling operations” which DEC states are not allowed o be deposited at Hyland. Most of this unauthorized disposal took place prior to any radioactivity monitors being in place and test data shows these wastes to contain elevated levels of radioactivity. It is a material mistake, backed

by inaccurate assumption and statement, to exclude radioactive stack releases from regulation and monitoring under this discharge permit.

- 2) It is further documented, as time, testing and experience handling this waste stream progresses, that RADON is not treated by the combustion process and after being concentrated in the landfill gas collection system is discharged from a point source being the stacks of the generators or the flares. No calculations or data is presented by DEC supporting the conclusions that the emissions and especially the expanded daily stack emissions, to be permitted, are within established state or federal guidelines for emission of radioactivity. This coupled with an apparent lack of understanding by DEC of how thick the deposits of the 65,981 tons of shale drill cuttings are, and how they are mixed or covered within the landfill, our supposition is that DEC has no data or accurate calculation of how much Radon is being produced and released to the environment or what the effect will be over time. CCAC therefore requests that a collection system and end point testing program (stack) and ground points at the site be implemented to provide the accurate information as basis for permitting /controlling emission discharge, and in addition, that such a point of discharge monitoring program be included as part of any eventual permit requirements.
- 3) Under Compliance Certification Item # 1-19.2 Monitoring Record Keeping/Maintenance Procedures the Monitoring Description (6) page 24 of the Permit conditions, includes requirements for monitoring pollutant releases through the co-gen engines however, they do not include Radon or radium progeny. One solution to begin mitigation of the impacts from radioactive waste air emissions would be to eliminate additional sources being allowed into the landfill. Second, it is recommended that an intensive testing and investigative process characterizing what is there, how it is heating up, paths of migration and developing a long term understanding of how they will affect emissions.
- 4) Emerging data and understanding of the interaction of Radium and radon in gas indicates that the infrastructure, collecting ,handling and combusting the landfill gas will accumulate scale including deposits of radium and the

radium progeny of lead and polonium. The landfill infrastructure will exhibit radioactivity that will increase in intensity. Over time it would follow that there will be an increase in hazard and radioactivity of end point emissions.

Attached is the- E-42 Task Force Report, Review of TENORM in THE Oil and Gas Industry, please read the entire report as it supports our conclusions in many instances, however specifically:

Page 19 (Scale) , page (26) Landfill Disposal), pages 28-29 (Site Considerations), pages 30-31 (Potential Radon Concerns), page 39 (Quantification and Characterization of Pb-210, Po210 and Radon) Directly support the CCAC petition to reconsider the permit and consider the quantification and control of radioactive emissions.

In many instances there is the tendency to expedite waste disposal and related permits at the cost of environmental protection, public health and safety. CCAC requests that DEC stop and test, analyze, properly characterize the waste stream, and know what the radioactive air emissions from Hyland are now, may become, and how the increased daily emissions will impact our locale.

Respectfully

Frederick Sinclair, Chairman
Concerned Citizens of Allegany County
CCAC