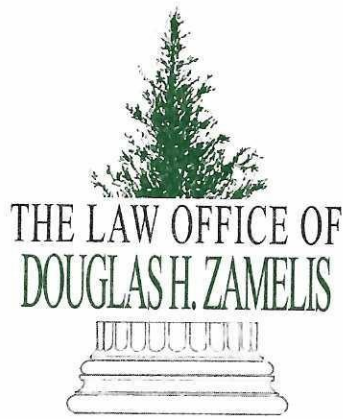




June 10, 2022

VIA USPS PRIORITY MAIL EXPRESS

Hon. Basil M. Seggos, Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233

Re: Denial of Seneca Meadows, Inc.'s Request for Modified Part 360 Permit

Dear Commissioner Seggos:

This correspondence presents proof that the New York State Department of Environmental Conservation is either unwilling or unable to regulate Seneca Meadows, Inc.'s solid waste management facility in the celebrated Birthplace of Women's Rights, Seneca Falls, and that the residents of Seneca County have been and continue to be deprived of their right to "clean air and water, and to a healthful environment" in violation of Article 1, Section 19 of the New York State Constitution. In light of ongoing violations of the Environmental Conservation Law and regulations, and because of continued non-compliance with its Part 360 solid waste management facility permit, your Department must deny the pending request of Seneca Meadows, Inc. ("SMI") to modify its Part 360 permit to allow it to operate beyond the current closure date of December 31, 2025.

In 2017, your Department renewed SMI's Part 360 Permit for a period of only 8 years instead of the 10 years requested, and imposed 7 new special conditions intended specifically to address an ongoing and steady stream of complaints from residents that odors from SMI's waste disposal operations were unreasonably interfering with the comfortable enjoyment of their life and property, on a regular basis. Just prior to that, the Town of Seneca Falls adopted Local Law # 3 of 2016 ("Local Law #3") requiring all waste disposal operations in Seneca Falls to cease by December 31, 2025. Not coincidentally, the 2007 Host Community Agreement between Seneca Meadows, Inc. and the Town of Seneca Falls likewise calls for SMI's landfill to cease operations by December 31, 2025. Therefore, the current Part 360 Permit, Local Law #3 of 2016, and the Host Community Agreement all contemplate, in unison, that SMI will cease waste disposal operations in Seneca Falls on or before December 31, 2025.

Pursuant to the New York Freedom of Information Law (“FOIL”), we obtained from your Department thousands of Odor Investigation Checklist reports (“Odor Complaint Reports”) prepared by SMI employees in response to citizen complaints lodged via its Telephone Hotline, and subsequently filed with your Department’s Region 8 staff. Odor Complaint Reports obtained from your Department confirm that **from February of 2018 through November of 2021, SMI employees responded to and confirmed citizen odor complaints approximately 452 times.** In other words, even after your Department modified SMI’s Part 360 Permit in 2017 to include the 7 new special conditions intended to control the persistent, pervasive and pernicious odors from SMI’s waste disposal operations, SMI’s operations continue to emit odors which unreasonably interfere with the comfortable enjoyment of life and property by Seneca Falls and Waterloo residents and businesses on an ongoing, regular, and routine basis.

Enclosed as Exhibit “A” please find copies of the approximately **452 Odor Complaint Reports prepared by and filed with your Department from 2018 to 2021 where SMI not only confirmed the citizens’ odor complaints, but also confirmed its waste disposal operations were the actual source of the odor, typically described as “Municipal Solid Waste” or “Landfill Gas”.** The sheer number of these Odor Complaint Reports, where SMI outright concedes it was the source of the odor, is *absolutely staggering* and confirms unquestionably that the 7 special conditions added in 2017 are ineffectual, and that your Department is either unwilling or unable to control or prevent unreasonable odors from adversely impacting the many residents and businesses Seneca Falls, Waterloo, and surrounding communities.

Further direct proof that your Department is unwilling or unable to control or prevent SMI’s unreasonable odors from impacting Seneca Falls and Waterloo residents and businesses can be found in the Solid Waste Management Facility Daily Inspection Reports (“Daily Inspection Reports”) obtained from your Department pursuant to FOIL and enclosed as Exhibit “B”. These Daily Inspection Reports are Department records prepared and filed by the Department employee who serves as the Department’s On-Site Monitor at SMI’s landfill. Among the inspection items on the Daily Inspection Reports is item #8 which posits “Odors are effectively controlled so that they do not constitute a nuisance”, **but on each and every one of the Daily Inspection Reports since June 19, 2018, item #8 is checked by the Department’s On-Site Monitor as “NI”¹, meaning not inspected**, which is dubious because the notes accompanying the Daily Inspection Reports frequently confirm that the On-Site Monitor noted landfill odors beyond the landfill. On numerous occasions, the Department’s On-Site Monitor indicated that item #8 pertaining to odors was “NI” or not inspected, when on those very same dates, SMI’s employees were busy responding to citizen odor complaints in Seneca Falls and Waterloo, and documenting its landfill odors in the surrounding communities on Odor Complaint Reports². Several other crucial items on the Daily Inspection Reports are routinely checked “NI” or “Not Inspected”, calling into question the monitor’s reliability and utility.

¹

² For example: July 1, 2020; July 13, 2020; July 22, 2020; and March 19, 2021.

As you must be aware, 6 NYCRR Part 211.1 requires that:

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which . . . unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

As you also must surely know, 6 NYCRR 360.19(i) provides:

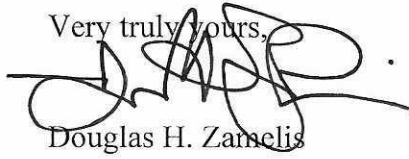
The owner or operator of a [permitted solid waste management] facility must ensure that odors are effectively controlled so that they do not constitute a nuisance as determined by the department.

The Odor Complaint Reports from 2018 through 2021 prepared by SMI itself and enclosed as Exhibit “A” establish conclusively and beyond cavil that SMI’s landfill has been and remains in regular and continued violation of the ECL, 6 NYCRR Part 360, its Part 360 Permit, and 6 NYCRR Part 211.1. The Daily Inspection Reports prepared by your Department’s On-Site Monitor, along with your Department’s paralysis and inaction after its monthly receipt of hundreds of confirmed Odor Complaint Reports, clearly demonstrate that your Department is unable or unwilling to regulate SMI in a manner such that SMI’s persistent, pervasive and pernicious odors don’t regularly and unreasonably impact the residents and businesses of Seneca Falls, Waterloo, and surrounding communities. Your Department is turning a blind eye to the blatant and obvious public nuisance created by SMI, and your Department is shamefully complicit in allowing this ongoing public nuisance to exist and continue.

Because SMI is in violation of the ECL, 6 NYCRR Part 360, its Part 360 Permit, and 6 NYCRR Part 211.1, the Department cannot lawfully grant SMI’s pending application to modify its part 360 Permit, as to do so would be arbitrary and capricious not to mention immoral, and would deprive the residents of Seneca Falls and Waterloo of their right to “clean air and water, and to a healthful environment” in violation of Article 1, Section 19 of the New York State Constitution.

Based on the conclusive documentary evidence enclosed herewith, your Department must deny SMI’s request to modify its part 360 solid waste management facility such that its landfill, already the tallest topographical feature in Seneca County, will cease waste disposal operations by December 31, 2025. The good people of Seneca County have shouldered the burden of the state’s solid waste management plan for many years, and any determination by your Department to allow Seneca Meadows, Inc. to continue its waste disposal operations in Seneca Falls beyond December 31, 2025 will be countered with fierce and relentless community resistance. The time has come, Commissioner Seggos, to put this ugly nuisance and painfully embarrassing debacle to a long awaited and overdue end.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Zamelis', written over the typed name.

Douglas H. Zamelis

cc:

Hon. Kathy Hochul, Governor (w/o enclosures)
Hon. Letitia James, Attorney General (w/o enclosures)
New York Inspector General (w/o enclosures)
Hon. Pamela Helming (w/o enclosures)
Hon. Jeff Gallahan (w/o enclosures)
Finger Lakes Times (w/o enclosures)
Rochester Democrat & Chronicle (w/o enclosures)
Syracuse Post Standard (w/o enclosures)
Albany Times Union (w/o enclosures)
New York Times (w/o enclosures)

Enclosures are available upon request