

The Committee to Preserve the Finger Lakes

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<http://preservethefingerlakes.org/>

February 11, 2016

Lindy Sue Czubernat
Division of Environmental Permits
NYSDEC
625 Broadway, 4th floor
Albany, NY 12233-1750

**Re: Comments on Administrative Renewal of Permit for
Lockwood Ash Disposal Landfill SPDES # NY0107069**

Dear Ms. Czubernat:

The Committee to Preserve the Finger Lakes ("CPFL") respectfully submits the following comments in opposition to the application of Lockwood Hills LLC ("Lockwood") to renew SPDES permit # NY0107069 for its Lockwood Ash Disposal Landfill ("Lockwood permit"), and in opposition to DEC's announcement that it plans to renew the Lockwood permit administratively.¹

DEC entered into a consent order with Lockwood Hills LLC on February 18, 2015.² The consent order indicates that there are significant problems with the landfill. The order states that DEC "has determined that groundwater at the site contains substances in excess of the duly promulgated water quality standards for, inter alia, total dissolved solids, boron, manganese, magnesium, iron, sodium and sulfate," and that DEC "believes that the Leachate Pond is a source of the substances and has contributed and continues to contribute to a contravention of duly promulgated water quality standards in violation of ECL § 17-0501 and 6 NYCRR § 360-1.14(b)(2). The order states:

It is the objective of this Consent Order for Lockwood Hills to eliminate the discharge of leachate to groundwater from the Leachate Pond and to provide for a satisfactory monitoring regime for groundwater impacted by the discharge. Towards those ends, Lockwood Hills shall perform the compliance requirements stated in this Consent Order and take such other and further steps necessary to attain the objectives of this Consent Order or as otherwise directed by the Department.

¹ Consolidated Public Notice For SPDES Permit Renewal, Environmental Notice Bulletin, January 13, 2016, http://www.dec.ny.gov/enb/20160113_spdes.html#info

² Case No. R8-2014071 0-47, *In the Matter of Violations of Articles 17 and 27 of the New York State Environmental Conservation Law by Lockwood Hills LLC*, Consent Order, February 18, 2015.

It is our understanding that DEC recently requested changes to Lockwood's proposed engineering plan to address problems with the groundwater discharges.

In view of these outstanding and uncorrected violations, any renewal of the Lockwood permit, administratively or not, would be in clear contravention of the requirements of the Environmental Conservation Law (ECL). ECL § 17-0701.3 provides that no SPDES permit "shall be issued by the commissioner or by his designated representative until the requirements of title 8 of this article and the regulations promulgated thereunder have been satisfied." ECL § 17-0701.5.a requires that, before issuing a SPDES permit, DEC shall determine "that the discharge from the outlet or point source or modified disposal system will not be in contravention of the standards, criteria, limitations, rules and regulations adopted or applied by the department." Pursuant to these provisions, a SPDES permit cannot be renewed if there are outstanding permit violations.³

For this reason, we request that DEC deny Lockwood's renewal application.

Thank you for your consideration.

Respectfully,



Peter Gamba, President
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³ See also Karl S. Coplan, "Of Zombie Permits and Greenwash Renewal Strategies: Ten Years of New York's So-Called 'Environmental Benefit Permitting Strategy,'" *26 Pace Envtl. L. Rev. J* (2005), available at <http://digitalcommons.pace.edu/lawfaculty/357/>.