

Fenimore landfill closer to state-ordered shutdown

Awaits Christie approval as Roxbury, DEP take landfill owners to court

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ROXBURY — The owners of Fenimore landfill experienced two setbacks Monday in their quest to stay in business while smelly and potentially toxic hydrogen sulfide emissions from their property continue to plague much of the township.

Friday, another battle looms in Morristown as the state Department of Environmental Protection has joined with the township in an effort to gain access to the landfill and take steps to control the emissions. Judge Donald S. Coburn will conduct the order to show cause hearing in Superior Court at 8:30 a.m.

Monday in Trenton, the state Assembly unanimously passed a bill designed to shut down Fenimore and similar landfills that fail to control hydrogen sulfide emissions and adhere to other regulations in the interest of public and environmental safety. The vote was 77-0 with one abstention — Assemblyman Anthony M. Bucco, who did so because he also serves as the township attorney.

Bucco's father, Sen. Anthony R. Bucco (R-Morris), sponsored the original bill aimed at closing Fenimore and is a co-prime sponsor of the amended bill that was passed.

Janet Lemma, a founding member of the Roxbury Environmental Action Coalition, a resident group that has been fighting to shut Fenimore down since late last year, made the trip to Trenton for the vote.

“It was absolutely a long and exhausting day but very well worth it,” she said, adding that the group is confident Gov. Chris Christie will sign the bill into law. “We’re hoping that the DEP will immediately start remediation or mitigation after the governor signs it.”

The governor's office did not immediately respond to inquiries about whether Christie plans to approve the bill or when he may do so.

Next steps

Lemma said that REACT will meet next week to discuss what steps it should take next. Last week, the group was awarded a \$5,000 grant from the New Jersey Highlands Coalition “to create an outreach and capacity-building campaign focusing on issues at the Fenimore Landfill,” according to a press release from the Boonton-based nonprofit organization.

The township municipal court also dealt a blow to Fenimore Monday when Judge Ira Cohen found Fenimore owners Strategic Environmental Partners LLC and manager Rich Bernardi guilty on 26 counts of violating the public health nuisance code. Cohen slapped both SEP and Bernardi with a maximum fine of \$1,000 for each count for fines totaling \$52,000.

SEP attorney Matthew Fredericks said Tuesday that his clients have taken every step they can to mitigate the emissions but that the township and DEP have blocked additional efforts he says could help.

Those steps include the application to the landfill of Posi-Shell, a spray-on stucco-like product or another foam-like substance Fredericks says the SEP engineer believes would be more effective. Fredericks said that SEP previously wanted to use Posi-Shell but was told by DEP that it could “exacerbate an already bad situation.”

Fredericks also produced correspondence warning SEP that use of the Rusmar foam, which it intended to so last week, “would risk enforcement action by DEP.” He also said that SEP was continuing to bring in 50 to 100 trucks a day filled with cover soil in the hopes of containing the gas.

Two conference calls this week with township and DEP authorities, Fredericks said, proved fruitless. He hopes to come up with a plan that would suit both sides before Friday’s hearing but doubts if his efforts will be accepted.

“It’s been made very clear that they do not want my clients to solve the problem,” he said. “They want to take it over and do it themselves.”

After SEP’s purchase of the long-dormant landfill in 2010, the DEP approved a plan in 2011 for SEP to cap the landfill and build a solar farm on the 103-acre property. In November of 2012, neighboring residents began to detect the rotten-egg odor of hydrogen sulfide coming from the landfill. Since then, the township and DEP have sought legal remedies to the problem. In recent weeks as detected levels of the gas have risen, township officials have developed an emergency plan to alert residents of emission spikes and provide for temporary housing options.

The landfill originally operated from the 1950s until it was shut down in 1979, but never properly capped.

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