

Bruner, Brandon (EEC)

From: Xyara Asplen <beedreamercreations@gmail.com>
Sent: Monday, November 21, 2016 7:16 PM
To: Cummins, Jeff (EEC)
Subject: Comments on Case No. DWM 160048

Dear Mr. Cummins,

I would like to submit my comments and concerns regarding the proposed Agreed Order between the Energy and Environment Cabinet and Advanced Disposal and its subsidiary Blue Ridge Landfill.

I grew up in Estill County, and still have deep roots in the community there, although I live across the line in Madison these days. Regardless of my own origin, though, the illegal disposal of radioactive fracking waste from out of state (or in state, for that matter) oil and gas operations is a serious issue not only for those most directly impacted, but for communities across Kentucky whose futures will be affected by the precedent set in this case.

First of all, I'd like to voice my lack of confidence in the risk assessment study this proposed Agreed Order is based upon, given that it was contracted and paid for by the landfill, and there's been no independent analysis or peer review. Advanced Disposal and its subsidiary stand to benefit from the conclusion (which I dearly hope is true, but hope only takes us so far) of 'no public health impact' from the disposal of the TENORMS relevant to this case--and so relying exclusively on these results is a shakier foundation than I believe forward action should be based upon.

Secondly, The proposed civil penalty of \$95,000 is grossly insufficient. Advanced Disposal, the parent company of Blue Ridge Landfill, is a multi-billion dollar corporation. Penalties must be significant enough to make clear that this sort of negligence cannot be absorbed as a cost of doing business. EEC is authorized to assess penalties of at least \$25,000 per load, versus the just over \$1,000 per load proposed in the Agreed Order, for a total of \$2,300,000 in penalties. It's appropriate to seek penalties at the higher end of this spectrum versus the spectacularly lower.

Furthermore, the Supplemental Environmental Projects proposed (the installation of radiation monitors at the landfill, and the contribution of funds to the Estill County School District for the monitoring and mitigation of naturally occurring radon) should be implemented in ADDITION to a civil penalty that reflects the impact on the community's time, distress, and reputation--not as an offset of such a small penalty. I also believe it would be a very good idea for a portion of the funds that go to the school district to be used to create an ongoing course in environmental studies at the High School level.

When I was reading through the proposed Agreed Order, and again at a presentation offered by state employees and organized by the Concerned Citizens of Estill County, it struck me as somewhat chilling that one of the considerations taken into account by the EEC in accepting a proposed Corrective Action Plan from Advanced Disposal is 'cost.' It seems to me that the cost of mitigating such gross negligence should be of minimal concern in relation to effectiveness--and (interestingly, contained within the same bullet point) 'community acceptance.' I wonder what constitutes 'community acceptance' in this context, and if I could be provided with clarifying examples? As part of this community, I most certainly do not accept this proposed Agreed Order as sufficient, and suspect that any Corrective Action Plans that result from it would be similarly problematic.

In this same vein, a stipulation of any acceptable Agreed Order should be that radiation monitoring records be made available to the public, and any amendment to the Corrective Action Plan involve a citizen comment period.

I'd also like to clarify that I believe the \$25,000 proposed penalty for future acceptance of unpermitted TENORM waste be per load received.

This issue is a timely one, and brings to the foreground many unclear questions regarding the disposal of oil and gas waste here in Kentucky. Especially as we're seeing the unwelcome prospect of high volume horizontal hydraulic fracturing in Kentucky, it's imperative that we have strong safeguards against negative impacts to community and ecosystem health as a result of the disposal of the waste products of this industry. The combination of these technologies may be relatively new, but we're entering an era where the data is now available, and Kentucky is in a prime position to take lessons that were unavailable to our neighboring states at the time of the industry's arrival. The arrival of illegal out-of-state fracking waste at our municipal landfills should serve as a canary in the coalmine for our regulatory agencies, and be taken as an opportunity to set a meaningful precedent to powerfully deter these issues in the future.

Thank you for your consideration.

Sincerely,
S. Xyara Asplen
554 Wolf Gap Rd
Berea, KY 40403