



Problem

DEC Commissioner Erin Crotty initiated a new policy that will eventually eliminate 76 Environmental Monitor positions at DEC. Environmental Monitors currently provide independent oversight of facilities, sites or regulated activities that have the potential to cause damage to the public health and/or the environment if not properly constructed, operated or implemented. Examples of facilities with environmental monitors are landfills and incinerators which, due to their size or other circumstances of concern, justify the presence of an environmental monitor. All Environmental Monitors are highly trained professionals that protect your land, air and water by implementing Environmental Conservation Law.

Background

Environmental Monitors oversee construction and waste disposal operations; review and approve construction certifications on behalf of the Department; review permit applications and modifications, Operation & Maintenance Manuals, landfill closure reports, and Phase I and II reports; provide case referrals for Notices of Violation and develop Orders on Consent; provide expert testimony on behalf of the Department at administrative, civil and criminal proceedings; approve field changes to approved plans and reports; issue approvals for each solid and/or hazardous waste stream that is to be accepted at a facility; as well as maintain and facilitate communication between the department and the facility. In addition to providing these oversight responsibilities, the monitors answer phone calls from the public and respond to complaints regarding these sites in order to "enhance the health, safety and welfare of the people of the state and their overall economic and social well being".

DEC Staff included a permit condition requiring Waste Management to pay for two DEC employees with Civil Service protection to oversee compliance at the Landfill. This condition is a common component of MSW landfill permits in New York State. The Commissioner revised the condition after the public hearing, calling the change 'non-substantive,' and failed to provide public notice in advance of making this dramatic change in the permit and policy. The Commissioner instead allowed Waste Management to hire its own contractor to monitor compliance, ensure public health and protect the environment.

DEC's new policy on environmental monitors will allow the Applicant to procure a suitable entity (e.g., an environmental consulting firm or environmental engineering firm) to arrange for or perform the environmental monitoring services. DEC staff would then need to increase the oversight of the monitoring services provided by the third party firm as opposed to performing the actual monitoring services.

"But who is to guard the guards themselves?" Environmental Monitors require oversight and proper management. DEC's new policy will reduce effectiveness of the environmental monitoring by having the third party firm hired, paid and fired directly by the facility, albeit with DEC's approval. These third party environmental "watchdogs" will not bite the hand that feeds them. The State's watchdogs protect our air and water and land. Will the polluter's hired lapdogs do the same?

Resolution

The Commissioner should reconsider the "Towpath" ruling, which will in no way serve the best interests of the citizens of New York State or the environment. DEC's mission is to protect public health of it's citizens and the environment of New York State.