FOR IMMEDIATE RELEASE

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**Clean Air Action Network (CAAN) Sues Town of Moreau for Violating the State Environmental Quality Review Act**

**Sewage Sludge Biochar Plant would threaten public health**

**and safety, worsen local air pollution, and release**

**carcinogenic** “**forever” chemicals**

On September 26, the Clean Air Action Network of Glens Falls, Inc. (CAAN) filed an Article 78 Petition against the Town of Moreau Planning Board, Raymond Apy and Saratoga Biochar Solutions in Saratoga County Court. Saratoga Biochar proposes to manufacture an agricultural fertilizer from hundreds of thousands of tons of sewage sludge, which would be trucked in annually from Long Island, Metro-New York City, Western Connecticut and Massachusetts, and the Hudson Valley.

The Clean Air Action Network is filing this petition in response to the town planning board’s failure to follow the State Environmental Quality Review Act (SEQRA) in green-lighting the biochar factory. The area environmental organization is represented by Pace Environmental Litigation Clinic.

"Ensuring that state and local government agencies abide by the New York State Environmental Quality Review Act (SEQR) is crucial in preventing hasty and unsupported approvals of industrial facilities like this one. We hope that filing this Article 78 Petition will be the first step in holding the Town of Moreau Planning Board accountable and in keeping the community safe,” said Megan Gaddy, a third year Pace University law student and student intern at the Pace Environmental Litigation Clinic.

Saratoga Biochar has proposed to use pyrolysis to convert up to 720 tons of sewage sludge per day into a charcoal soil amendment called biochar. Pyrolysis is similar to combustion, only in the absence of oxygen. The company has stated that the facility it has proposed for Moreau could accept 15% of the state’s sewage sludge. The company intends to sell the biochar to farmers.

Neither Saratoga Biochar nor its parent company Northeastern Biochar have ever built or operated a biochar facility, or any other type of facility. This would be the first such plant to operate in the state.

Sewage sludge is what is left from processing sewage in wastewater treatment plants. Most residents of the town of Moreau rely on individual septic systems, rather than municipal sewer hookups, to manage their sewage and wastewater.

According to documents filed by Saratoga Biochar, its sewage sludge biochar plant would emit large quantities of potent greenhouse gases including carbon dioxide and nitrogen oxides, as well as other air pollutants.

When the company submitted a revised air permit application to the NYS DEC in June, it stated that the facility would release PFAS chemicals, a fact previously denied by Saratoga Biochar. The state of New York set its drinking water limit for PFAS chemicals at 10 parts per trillion, due to the serious health impacts of human exposure. Many community water supplies in the state already exceed this health standard.

Whenever sewage sludge has been tested, per- and polyfluoro alkyl substances (PFAS) “forever chemicals” are detected, generally at parts per billion levels. As a class, PFAS chemicals tend to be highly persistent in soil and water and in the bodies of humans and other animals.

PFAS in soil or water are taken up by plants. When people or other animals eat plants or animals contaminated with PFAS, these chemicals bioaccumulate in their bodies. Thus animals highest on the food chain, such as human beings, tend to have the highest PFAS levels. PFAS builds up over time because people and other animals do not have a mechanism for excreting or degrading PFAS, which are not found in nature.

PFAS exposure (confirmed with a blood test) has been linked to certain cancers, including kidney, liver, and testicular cancers, organ damage, disruption of thyroid function, infertility, low birth weight, and other serious health problems in lab animal studies, and in human health and epidemiological studies.

Moreau residents have pushed back against Saratoga Biochar’s proposal at town planning board meetings, at which more than 80 local opponents repeatedly filled the room. At the planning board’s public hearing in May, they shared their concerns about potential environmental, public health, quality of life, and public safety impacts from the proposed facility. Yet they had little success in persuading most members of the planning board to consider these risks.

“Who would have imagined that the town supervisor would welcome in a company like Saratoga Biochar that would threaten us with pollution, stench and noise, thus ruining our quality of life and negatively impacting our health?  All to make a product that may not even be safe for its intended purpose as a carbon fertilizer for agriculture,” said Mary Clear, a long-time Moreau homeowner whose residence is located near the proposed site of the sewage sludge biochar facility.

In March the planning board issued a Conditioned Negative Declaration for the project under the State Environmental Quality Review Act (SEQRA). In other words, the planning board ruled that the project would have no significant environmental impacts. In the ensuing months, the planning board received a variety of new information that many observers believe should have caused them to revise their Negative Declaration. This information included Saratoga Biochar’s admission that its facility would release PFAS into the air and that the sewage sludge would be trucked in from downstate and western New England. Concerns raised by residents include noise, odors, potential spills, the adequacy of emergency services, traffic impacts, and public health impacts. CAAN, through its Article 78 Petition, is requesting that the Court to declare the Conditioned Negative Declaration invalid for this reason.

If the town planning board, as lead agency, had given the project a Positive Declaration under SEQRA, Saratoga Biochar would have been required to produce an Environmental Impact Statement, detailing all the ways in which the project could impact the community and environment and considering alternatives to the proposed facility. When such an EIS is required, the public has multiple opportunities to challenge the findings and comment on their concerns. But in Moreau, this process was skipped because the planning board decided that such a project would have no “significant environmental impacts.”

“The interim planning board chair person told me that in his 18 years on the Moreau planning board, no applicant has ever been required to do an Environmental Impact Statement,” said Tracy Frisch, chair of the Clean Air Action Network. “Such a track record suggests that the planning board has not been using all the tools at its disposal to protect the best interests of the community. Not only is the planning board failing the people of Moreau; it is also breaking the law.”

Saratoga Biochar cannot begin construction until it receives solid waste and air permits for its biochar facility from the NY state Department of Environmental Conservation. After DEC deems Saratoga Biochar’s permit applications to be complete, if the state agency determines that the project conforms to pertinent environmental regulations, there will be a public comment period.

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