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September 10, 2012

Mr. Daniel Lapato, Deputy Secretary for External Affairs

Pennsylvania Department of Environmental Protection

Special Deputy Secretary for External Affairs
16th Floor, Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Dear Mr. Lapato:

I wish to thank you for our telephone discussion on September 5, 2012 on two environmental concerns. The first concern was the significant and numerous issues of using gas drilling brines on public areas regarding the concerns stated by the Harvard Law School Emmett Environmental Law & Policy Clinic dated November 16, 2011 correspondence on General Permit WMGR064. The detail on this particular concern on gas drilling wastewater was detailed in my email dated September 6, 2012.

The objective of this correspondence is to summarize specific correspondences and emails on concerns regarding the Hazleton Creek Properties site (HCP) that have not been addressed by the Pennsylvania Department of Environmental Protection (PADEP) although one of the more serious concerns is approaching two years since first commented on. As stated in the telephone conversation please consider this a correspondence from a concerned citizen and licensed professional geologist to be logged in and addressed.

PADEP has stated that some of my concerns have been addressed during the Save Us From Future Environmental Risks (SUFFER) discussions in Harrisburg although none of these possible resolutions has been discussed with myself as the author of these concerns. Please note that members of SUFFER are copied on this correspondence. The objective is to continue to inform these residents on any actions to get my concerns addressed and do not believe my concerns were part of the SUFFER discussions. I will continue to technically assist residents as they request and note that I have not been retained for past or any current litigation from these environmental groups. The PADEP statement that these issues are settled is not true and would be glad to discuss any concerns in my letters and emails.

Please note that the possible technical concerns on inaccurate use of statistical calculations and sampling concerns continue to have impact on the environment even after late 2010 when these concerns were noted to Harrisburg PADEP. The continued “beneficial reuse” of tons of various waste streams with possible high lead (and other contaminant levels) is being utilized for filling unlined former deep and surface mining areas, and at former landfills likely having hazardous wastes.

The following correspondences and emails that have not been addressed are listed in bullet format for easy reference for resolution by Harrisburg staff. These have been categorized in four general areas to make resolution easy and several specific emails may have several topics. Some of these have significant technical concerns and some include simple "yes/no" questions. These may refer to other emails and correspondences that had not been addressed for over a year based on litigation rationale. The litigation is now over and should not prevent these technical concerns from being addressed.

**MARCELLUS BENEFICIAL REUSE ISSUES:**

 January 16, 2011 correspondence

 February 20, 2011 email

 May 4, 2012 email

 June 8, 2012 email

These address the potential use of Marcellus cuttings at HCP and other Pennsylvania sites, the draft sampling and analysis plan for Marcellus cuttings specifically related to HCP, and the recent approvals and letters on Marcellus cuttings stated to be going to HCP and possibly other Act 2 sites. Verbal response from PADEP has indicated that no Marcellus cuttings are going to the HCP site despite contradictory information in the PADEP files.

**BACKGROUND CONCERNS:**

 September 23, 2010 correspondence: statistical and sampling concerns on determining background. Provides comparison with expected background concentrations and typical lead cleanup values used by PADEP and USEPA.

 January 14, 2011 correspondence: additional comments on statistics and sampling based on additional RTK information.

 February 20, 2011 email: sampling concerns at HCP regarding OSHA qualifications and noted hazardous materials on-site.

This may be the most significant issue as waste still goes to the HCP site possibly based on inaccurate calculations of concentration limits for lead and possibly other contaminants. PADEP has been given opportunity to discuss any possible mistakes in my calculations and evaluations over this almost two year period but has failed to do so.

**FLY ASH/FLUE GAS DESULPHURIZATION (FGD) MATERIAL CONCERNS:**

 January 26, 2011

 June 23, 2011

Original concerns submitted during the Public Comment period regarding WMGR 125 were not addressed adequately and are suspected not even addressed by PADEP personnel considering unidentified author information received during a January 2011 Right To Know Request.

**ENHANCED GROUNDWATER MONITORING PLAN**: It should be noted that even getting an answer on the existence of a final copy of this significant monitoring plan took over a year with one copy apparently in Harrisburg and none in the Pottsville or Wilkes Barre offices. Significant issues may still exist as defined by former technical reviewers although this appears to have been legally settled in the eyes of Harrisburg DEP Attorneys.

 December 29, 2010 correspondence. Same concerns with the exception that the location and title of the Final Enhanced Groundwater Monitoring Plan that was reviewed in Northeast Regional Office during 2012.

 March 13, 2012: email SRBC and PADEP summary. Simple question on identity of the PADEP licensed professional geologist that concurred that the SRBC withdrawal would not have an effect on the as-built HCP detection groundwater monitoring system at the HCP sites.

The resolution of the above referenced correspondences and emails should address all my comments submitted as concerned citizen of the Commonwealth. Considering my retirement after 30 years of PADEP service, including position at the Hazardous Sites Cleanup Program since its inception, and being a 20 year member of the PADEP Regional Emergency Response Team since its inception, this has been the most difficult site to get any information or resolution in my experience.

Thank you for your attempts to get these technical concerns addressed in a reasonable time-frame. If you should have any questions please feel free to contact me at (570) 290-0347 or email at mellow5n2@aol.com.

Sincerely,

John S. Mellow

Cc:

 Carol Martienssen (email)

 Ann Marie Shelby (email)

 Joseph Murphy (email)

 Robert Gadinski (email)

 Senator Yudichak (email)