



September 10, 2020
 Pennsylvania Solid Waste Advisory Committee (SWAC)
 Rachel Carson State Office Building,
 400 Market Street,
 Harrisburg, PA 17101

RE: MAX Environmental, proposed waste delisting

Dear Members of the Solid Waste Advisory Committee:

As residents living near the MAX Environmental Bulger facility, we are highly concerned that consideration is being given to proceed with the proposal that would allow MAX to reclassify its sludge waste from hazardous to non-hazardous.

We hope you will consider the following prior to making your decision.

- According to a recent US Environmental Protection Agency (EPA), Region 3, RCRA Corrective Action document about Max Environmental, ***“The Pennsylvania Department of Environmental Protection (PADEP) has directed remediation of releases from the Facility under existing state environmental authorities. PADEP, however, did not seek authorization to implement the Resource Conservation and Recovery Act (RCRA) Corrective Action program. Therefore, EPA is required to evaluate the facility and issue a determination for required remediation under RCRA.”***

The document further indicates, that the EPA has issued a Statement of Basis and draft RCRA Correction Action Permit for remediation at Max’s Yukon facility which is subject to ***“EPA Corrective Action requirements for investigation and remediation of past chemical releases from the Facility.”*** A public comment period is currently open until October 10, 2020 during which time the US EPA will be considering all comments received before making a decision.

In fact, the document indicates, ***“EPA may modify its proposed decision and draft RCRA Corrective Action Permit based on comments received during the public comment period.”***

We believe it would be inappropriate for this Committee (SWAC) to render any decision on the proposed MAX Environmental delisting petition until AFTER the EPA has closed its official comment period and issued a final decision.

- **Max Environmental has a long history of non-compliance with the DEP**, discharging a wide array of contaminants that include not only fecal chloroform, ammonia, hexavalent chromium but arsenic and strontium as well, into the waters of the Commonwealth in repeated violation of their NPDES permit. They may have changed their name and ownership over the years but they continue to have difficulty keeping in compliance with state and federal regulations. This rule change will serve to make it easier for this repeat violator to do business in PA, but does not serve to protect public health or the environment. The Little Raccoon Run stream runs adjacent to Max in our small, rural town of Bulger, Washington County. Many of us rely on well water as our only source of fresh water. **We have serious concerns for our health and wellbeing should any regulating or monitoring of Max’s waste be weakened by a decision from this Committee.**

- **Given the alarming findings with regard to residential water contamination and the lack of DEP's ability to provide oversight of the oil and gas waste industry in the recent PA Attorney General Grand Jury Report, combined with MAX company officials, earlier this year, claiming that 75% of their accepted wastes comes from the oil and gas industry, how can people living near a Max facility, trust that their water wells will not be contaminated? Will this Committee require that water wells near the Bulger facility be tested prior to allowing this rule-making change as well as continuously to ensure the health and safety of the residents?**
- **Because there is no requirement in Act 13 for the oil and gas industry to provide the public the names of proprietary chemicals used in the fracking process, how can members of the Committee be certain that the data contained within the delisting petition is comprehensive and includes all the chemicals in the sludge?**
- **Again, given that 75% of MAX's client list is in the oil and gas industry, we find it puzzling that the MAX delisting petition does not provide any data on radioactivity present in the sludge? Will the Committee recommend testing for radioactivity including Tenorm prior to approval?**
- **Will the Committee require continuous testing to know that the slurry remains unchanged over time given the incoming waste is largely from hazardous Marcellus waste?**
- **Given the current Covid 19 pandemic, DEP offices remain closed and documents unattainable to the general public. Despite the invitation to participate online, many residents, including the local municipality, who are directly impacted by allowing this very consequential rule change, have not been made aware of the meeting, including the host Township of Smith. This leaves the public at a severe disadvantage. DEP does not have necessary documents posted on their website for the public to view prior to making intelligent comments for the Committee.**

We believe that declassifying sludge that is created after collecting runoff from existing waste at Max Environmental facilities could pose a hazard to communities. Declassifying the waste from Hazardous to Non-Hazardous would mischaracterize a waste stream created from a cocktail of wastes of many industries, most recently from Tenorm or radioactive waste of the Marcellus shale industry.

As we understand it, Advisory Committees such as SWAC are not authorized to approve or disapprove a regulation, however, the Committee's advice can ensure that regulations provide clear, reasonable requirements that can be readily implemented to protect public health and conserve and maintain the Commonwealth's natural resources. We also understand that this committee may provide meaningful comments, as well as supporting data and information, for PA DEP to consider during the rulemaking process.

As of today, this Committee does not have a full complement of data. It cannot fully address the public's concerns. It does not have EPA's final determination for Max's required remediation under RCRA. Therefore, we respectfully request a **Committee decision be tabled** until more applicable facts have been fully researched.

Sincerely,
Residents of Robinson and Smith Township

Cathy Lodge
Chris Lodge
Brenda Vance
Nolan Vance
Tom Paskutis

November 5, 2020

Pennsylvania Solid Waste Advisory Committee (SWAC)
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Email to: Laura Henry, Committee Liaison, lahenry@pa.gov

RE: Request to rescind the vote taken on the MAX Environmental hazardous waste delisting petition during the SWAC September 10, 2020 meeting for failure to take public comment before voting/adjourning

Dear Chairwoman Michele Nestor and the Solid Waste Advisory Committee:

Several irregularities occurred while Ms. Nestor was not present. The record needs to be corrected.

As an attendee of the September 10, 2020 virtual SWAC meeting, I am writing to request that the SWAC rescind its vote on proposed rulemaking for the MAX Environmental hazardous waste delisting petition and reconsider this vote at its next meeting due to several irregularities that occurred during the proceedings. Specifically, the SWAC voted to recommend to the Environmental Quality Board (“EQB”) proposed rulemaking for Max Bulger and Yukon hazardous waste delisting petition *before it gave the public the opportunity to provide comment on the delisting recommendation*. This seemed to be in direct conflict with what the citizens were told before the meeting. Folks interested in providing comments were asked to submit their comments to the Committee Liaison prior to the meeting and were told there would be an opportunity for them to provide oral comments at the September 10, 2020 SWAC meeting. And, in fact, just prior to the vote, Ms. Laura Henry, Committee Liaison, asked the Committee if they wanted to hear public comments before taking any action. However, a motion was made and seconded to “move the vote forward” and was followed by a roll call vote and then an adjournment of the SWAC portion of the September 10, 2020 joint meeting.

I have participated in public meetings held at local, county, state and federal levels – for years – in Pennsylvania, it is improper and out of order for a vote to be taken and meeting adjourned before the public comments are heard. What makes the September 10, 2020 SWAC meeting particularly troubling is the fact that Pennsylvania Department of Environmental Protection (PA DEP) staff properly registered two

citizen speakers and even asked the Committee if they wanted to hear from those speakers before any vote was taken. However, in Ms. Nestor's absence, the meeting Chair and the Committee decided to "move forward" the MAX Environmental delisting petition issue without hearing from the public. All public microphones during the virtual public meeting were muted by the host. Even after several members of the public typed their concerns into the "chat box" on the screen as part of the SWAC virtual meeting, those requests to be heard before the vote were ignored. The vote was then taken and moments later the SWAC portion of the meeting was adjourned – although such an adjournment was not expressly indicated on the posted meeting agenda. See

http://files.dep.state.pa.us/PublicParticipation/Advisory%20Committees/AdvCommPortalFiles/SWAC/2020/Sept10/SWAC-RFAC_AGENDA_9-10-2020.DOCX.pdf.

After adjourning the SWAC meeting, the committee began the Recycling Fund Advisory Committee (RFAC) meeting. It was only at the end of the RFAC meeting that my public comments were finally allowed to be presented (attached), as a citizen from Bulger, PA whose property and water sources could be affected by the MAX Environmental operations in my community. Following my comments, a Committee member asked a question about my reference to the federal investigation currently underway at the MAX Environmental Yukon facility. This Committee member was told by a PA DEP staff member that no comments could be heard or discussed as the SWAC portion of the meeting had been adjourned. Again, the proper notice of that adjournment had not been included on the posted agenda.

The September 10, 2020 irregular proceedings not only confused the SWAC members and frustrated members of the public who attended – and those who had properly registered to speak – but those irregularities may have risen to the level of violations of the Pennsylvania Sunshine Act (Open Meetings Law).

According to the Pennsylvania Office of Open Records, "The Pennsylvania Sunshine Act, 65 Pa.C.S. §§ 701-716, requires agencies to deliberate and take official action on agency business in an open and public meeting. It requires that meetings have prior notice, and that the public can attend, participate, ***and comment before an agency takes that official action.***" Pennsylvania Office of Open Records, "Pennsylvania's Sunshine Act (Open Meetings Law),"

<https://www.openrecords.pa.gov/SunshineAct.cfm> (emphasis added). Based on current Pennsylvania law and common sense, for a meeting to truly be considered inclusive, all actions taken by the voting body must be preceded by an open discussion, including public comments. Unfortunately, that did not happen during the September 10, 2020 SWAC meeting.

Furthermore, adjourning the SWAC meeting before the meeting ended as a whole appears to have been a departure from the long-standing practice of the combined SWAC and Recycling Fund Advisory Committee (RFAC) meetings. After a three-year review of the SWAC minutes from 2017 until the present, I could find no other reference in the official minutes of another example of SWAC adjourning their meeting before beginning the Recycling Fund Advisory Committee (RFAC) meeting. That same review of SWAC/RFAC meeting minutes from that same three-year period reveals that during the September 12, 2019 SWAC/RFAC meeting the minutes indicated the following, “A member of the audience questioned what staffing number was used at the 2005 baseline in Mr. DiGilarmo’s presentation, and how many total positions DEP has currently.” This is a clear example of the Committees allowing public comment during the meeting based on the topic on the floor rather than only at the end of the meeting. Additionally, this same meeting agenda showed no mid-meeting adjournment.

In yet another example of minutes from another SWAC/RFAC meeting on December 12, 2018, the following notation was included, “At 11:57 a.m., Ms. Nestor dismissed the committee for a recess to allow for the RFAC meeting. Ms. Nestor called SWAC back to order at 1:56 p.m.”

So, if past meetings included opportunities for public comment and a “recess” instead of a full adjournment of the SWAC meeting before the official Public Comment portion of the agenda, why the break in protocol during the recent September 10, 2020 meeting?

While Advisory Committees such as SWAC are not authorized to approve or disapprove a regulation, the Committee’s advice can ensure that regulations provide clear, reasonable requirements that can be readily implemented to protect public health and conserve and maintain the Commonwealth’s natural resources. It is understood that this committee may provide meaningful comments, as well as supporting data and information, for PA DEP and the Environmental Quality Board (“EQB”) to consider during the rulemaking process.

As of the September 10, 2020 meeting, SWAC did not have a full complement of data. It did not hear, consider, or address the public’s concerns. It does not have EPA’s final determination for the MAX Environmental sites’ required remediation under RCRA. Consequently, SWAC is unable to provide a fully informed recommendation to the EQB as is this Committee’s charge. The record of the SWAC meeting of September 10, 2020 is inaccurate. Without hearing from the public prior to voting on the delisting recommendation for the MAX Environmental Bulger site, I believe the Committee was derelict in their duties. As such, I respectfully request that the vote taken on September 10, 2020 be rescinded and the MAX Environmental

delisting petition be added to the next SWAC meeting and be reconsidered – this time with public comments before any vote is taken and the meeting adjourned.

By not allowing the two properly registered citizen speakers to provide comments before the vote was taken to “move forward” the MAX Environmental delisting petition, SWAC failed to comply with Pennsylvania’s open meeting requirements and disenfranchised neighbors like myself who will be most impacted by a decision to delist hazardous waste at the MAX Environmental Bulger site. I fear that our public comments will only appear as part of the Recycling Fund Advisory Committee meeting rather than in the Solid Waste Advisory Committee meeting where it belongs for the Environmental Quality Board to consider. Please correct the record.

I look forward to your response to my request.

Respectfully submitted,

Cathy Lodge

257 Meinrad Drive

Bulger, PA 15019

tophcat@gmail.com

412-848-3936

Attachments – Cathy Lodge comments September 10, 2020

_ SWAC agenda September 10, 2020

From: [Griffin, Laura](#)
To: tophcat@gmail.com
Cc: [Henry, Laura](#); michele@nestorresources.com
Subject: RE: Request correction to the 9-10-20 SWAC meeting
Date: Friday, November 13, 2020 5:03:56 PM
Attachments: [DEP Regulatory Process Flow Chart.pdf](#)
[SWAC request to rescind 09.10.2020 vote.pdf](#)

Good afternoon, Cathy.

Thank you for your email concerning public participation during the Solid Waste Advisory Committee's (SWAC) September 10, 2020 meeting. The Pennsylvania Department of Environmental Protection (DEP) has reviewed your request to rescind the vote taken on the MAX Environmental hazardous waste delisting proposed rulemaking during the meeting (copy attached).

Regarding the applicability of Pennsylvania's Sunshine Act to DEP advisory committee meetings, DEP disagrees with the interpretation of the Sunshine Act included in your letter. Section 10.1 of the Sunshine Act ([65 Pa.C.S. § 710.1](#)) applies to public participation at meetings. However, the statute says that only a "board or council of a political subdivision or of an authority created by a political subdivision" is required to provide an opportunity to the public to participate at meetings. 65 Pa.C.S. § 710.1(a). Section 3 of the Sunshine Act ([65 Pa.C.S. § 703](#)) defines a political subdivision as "any county, city, borough, incorporated town, township, school district, intermediate unit, vocational school district or county institution district." Therefore, the Sunshine Act's requirement to provide the opportunity for public participation only applies to municipal entities and does not apply to DEP advisory committees.

However, I understand your concern that the SWAC did not hear your comments on this proposed regulation prior to the committee taking a vote. In this instance, DEP did provide your written comments to SWAC members prior to the start of the September 10, 2020 meeting. However, as you have pointed out, the practice of accepting public comments at the end of the SWAC meeting seems inconsistent with the intention that committee members consider public comments prior to the SWAC providing its advisory opinion to DEP. Going forward, DEP has instructed the SWAC to accept public comments at the beginning of their meetings to address this inconsistency.

I would note that there are several opportunities for the public to comment on a proposed regulation once the official rulemaking process starts, summarized here on DEP's website for [Public Participation in the Regulatory Process](#) and discussed more thoroughly below.

Written Comments on the Proposed Regulation

When the Environmental Quality Board (EQB) adopts a proposed regulation, the proposal is

published in the *Pennsylvania Bulletin*. Publication in the *Pennsylvania Bulletin* starts the formal public comment period. Comments submitted during the public comment period are included in the **formal public record** for the proposed regulation. The public can sign up for updates on proposed regulations through DEP's notification system, [eNotice](#), to track any proposed regulation's progress. Another option is to check the EQB 2021 meetings webpage periodically to see which proposed regulations the EQB is considering adopting (the link will be available in early 2021 on the [public participation](#) webpage).

Please note that DEP is required by law to respond to comments submitted on a proposed regulation during the public comment period, whether written comments or verbal testimony provided at public hearings. All comments received and DEP's responses are collected in a "comment and response" document, which is part of the final regulation package that is submitted to the EQB, IRRC, and the House and Senate Environmental Resources and Energy Committees.

Public Hearings on the Proposed Regulation

If this proposal is adopted by the EQB, DEP intends to schedule at least one public hearing during the public comment period to accept verbal testimony from the public. The date, time, and instructions on how to participate would be included in the proposal when it is published in the *Pennsylvania Bulletin*, as well as posted on DEP's Public Participation webpage referenced above.

Written Comments on the Final Regulation

The regulatory process also provides another opportunity to submit written comments if the EQB adopts a final regulation. The final regulation would then be submitted to the Independent Regulatory Review Commission (IRRC) for review and approval. When IRRC receives the final regulation, DEP notifies persons who submit formal comments on a proposed regulation during the public comment period. There is a 30-day period while IRRC is reviewing the regulation when the public has the opportunity to provide comments directly to [IRRC](#). The link to the specific location of the regulation on IRRC's website is included in the notification DEP sends to commenters.

In-Person Comment on the Final Regulation

Finally, the public may provide comments during IRRC's public meeting when IRRC considers whether to approve the final regulation. I would note that this is not currently an option because of COVID-19 restrictions, but IRRC's meetings should be open to the public again sometime in 2021.

Please let me know if you have questions on the regulatory process. I have also attached the flowchart outlining the process for developing an environmental regulation. DEP is at the very

first step of the proposed phase of the process, so there are many opportunities to provide comments should the EQB choose to proceed with this proposed regulation.

Kind regards,
Laura

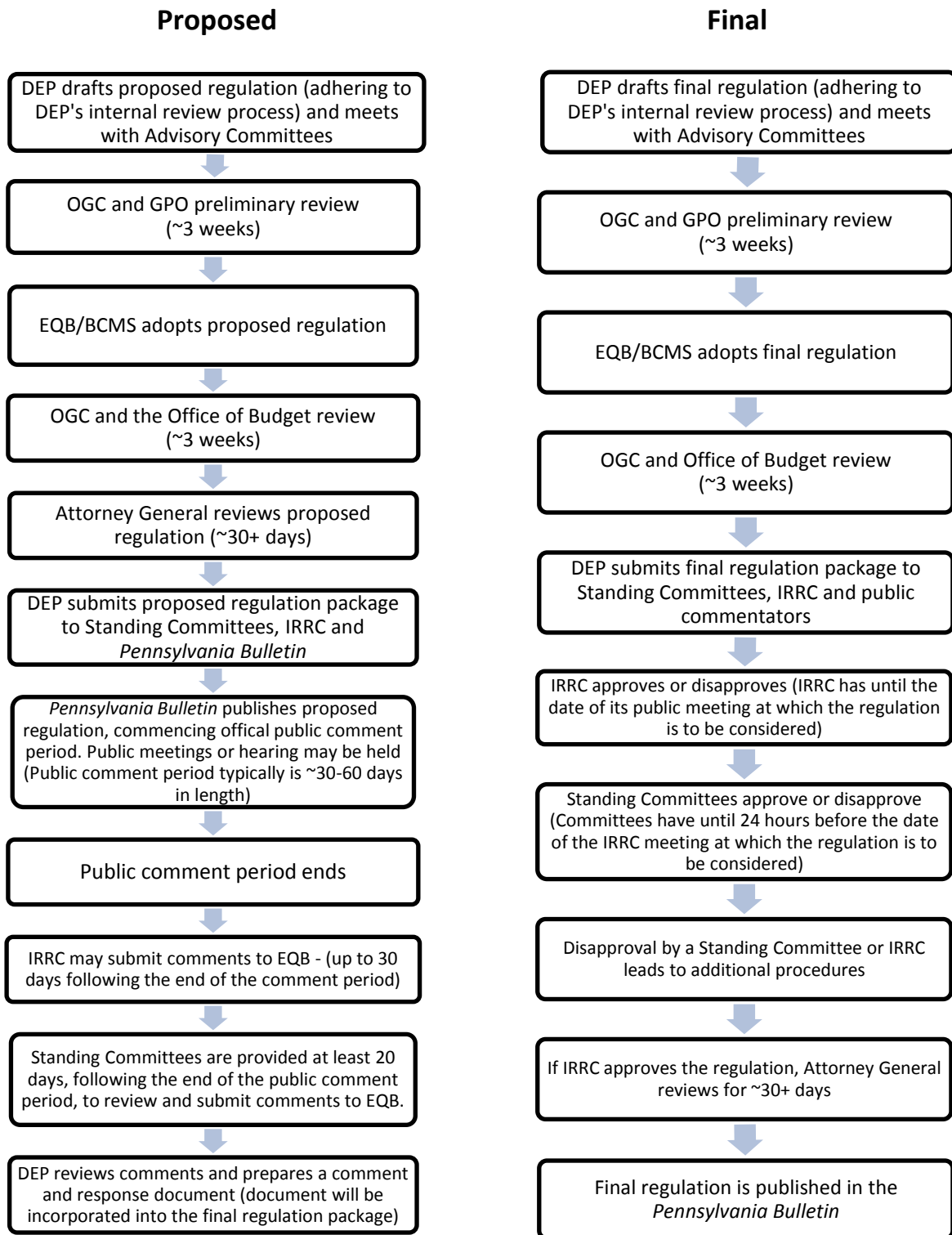
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Connect with DEP on: [Twitter](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#) | [Instagram](#)

In order to prevent the further spread of COVID-19, all DEP offices will remain closed until restrictions are lifted. In the meantime, I will be working remotely to continue the mission of the Pennsylvania Department of Environmental Protection and frequently retrieving emails. Thank you for your patience.

The DEP Regulatory Process

The following flowchart outlines the two-phase process for developing an environmental regulation.



EQB – Environmental Quality Board – a 20 - member panel responsible for promulgating most of DEP’s rules and regulations

BCMS – Board of Coal Mine Safety – 6 member Board responsible for promulgating DEP’s mine safety regulations

IRRC – Independent Regulatory Review Commission – Five-member panel responsible for providing independent oversight and review of agency regulations

Standing Committees – Senate & House Environmental Resources and Energy Committees

OGC – Office of General Counsel

GPO – Governor’s Policy Office

November 5, 2020

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Email to: Laura Henry, Committee Liaison, lahenry@pa.gov

RE: Request to rescind the vote taken on the MAX Environmental hazardous waste delisting petition during the SWAC September 10, 2020 meeting for failure to take public comment before voting/adjourning

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I have participated in public meetings held at local, county, state and federal levels – for years – in Pennsylvania, it is improper and out of order for a vote to be taken and meeting adjourned before the public comments are heard. What makes the September 10, 2020 SWAC meeting particularly troubling is the fact that Pennsylvania Department of Environmental Protection (PA DEP) staff properly registered two

citizen speakers and even asked the Committee if they wanted to hear from those speakers before any vote was taken. However, in Ms. Nestor's absence, the meeting Chair and the Committee decided to "move forward" the MAX Environmental delisting petition issue without hearing from the public. All public microphones during the virtual public meeting were muted by the host. Even after several members of the public typed their concerns into the "chat box" on the screen as part of the SWAC virtual meeting, those requests to be heard before the vote were ignored. The vote was then taken and moments later the SWAC portion of the meeting was adjourned – although such an adjournment was not expressly indicated on the posted meeting agenda. See

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<https://www.openrecords.pa.gov/SunshineAct.cfm> (emphasis added). Based on current Pennsylvania law and common sense, for a meeting to truly be considered inclusive, all actions taken by the voting body must be preceded by an open discussion, including public comments. Unfortunately, that did not happen during the September 10, 2020 SWAC meeting.

Furthermore, adjourning the SWAC meeting before the meeting ended as a whole appears to have been a departure from the long-standing practice of the combined SWAC and Recycling Fund Advisory Committee (RFAC) meetings. After a three-year review of the SWAC minutes from 2017 until the present, I could find no other reference in the official minutes of another example of SWAC adjourning their meeting before beginning the Recycling Fund Advisory Committee (RFAC) meeting. That same review of SWAC/RFAC meeting minutes from that same three-year period reveals that during the September 12, 2019 SWAC/RFAC meeting the minutes indicated the following, “A member of the audience questioned what staffing number was used at the 2005 baseline in Mr. DiGilarmo’s presentation, and how many total positions DEP has currently.” This is a clear example of the Committees allowing public comment during the meeting based on the topic on the floor rather than only at the end of the meeting. Additionally, this same meeting agenda showed no mid-meeting adjournment.

In yet another example of minutes from another SWAC/RFAC meeting on December 12, 2018, the following notation was included, “At 11:57 a.m., Ms. Nestor dismissed the committee for a recess to allow for the RFAC meeting. Ms. Nestor called SWAC back to order at 1:56 p.m.”

So, if past meetings included opportunities for public comment and a “recess” instead of a full adjournment of the SWAC meeting before the official Public Comment portion of the agenda, why the break in protocol during the recent September 10, 2020 meeting?

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As of the September 10, 2020 meeting, SWAC did not have a full complement of data. It did not hear, consider, or address the public’s concerns. It does not have EPA’s final determination for the MAX Environmental sites’ required remediation under RCRA. Consequently, SWAC is unable to provide a fully informed recommendation to the EQB as is this Committee’s charge. The record of the SWAC meeting of September 10, 2020 is inaccurate. Without hearing from the public prior to voting on the delisting recommendation for the MAX Environmental Bulger site, I believe the Committee was derelict in their duties. As such, I respectfully request that the vote taken on September 10, 2020 be rescinded and the MAX Environmental

delisting petition be added to the next SWAC meeting and be reconsidered – this time with public comments before any vote is taken and the meeting adjourned.

By not allowing the two properly registered citizen speakers to provide comments before the vote was taken to “move forward” the MAX Environmental delisting petition, SWAC failed to comply with Pennsylvania’s open meeting requirements and disenfranchised neighbors like myself who will be most impacted by a decision to delist hazardous waste at the MAX Environmental Bulger site. I fear that our public comments will only appear as part of the Recycling Fund Advisory Committee meeting rather than in the Solid Waste Advisory Committee meeting where it belongs for the Environmental Quality Board to consider. Please correct the record.

I look forward to your response to my request.

Respectfully submitted,

Cathy Lodge

257 Meinrad Drive

Bulger, PA 15019

tophcat@gmail.com

412-848-3936

Attachments – Cathy Lodge comments September 10, 2020

_ SWAC agenda September 10, 2020

Cathy and Chris Lodge
257 Meinrad Drive
Bulger, PA 15019
tophcat@gmail.com

October 14, 2021

Griff Miller, EPA Project Manager
miller.griff@epa.gov

RE: +Proposed RCRA Corrective Action - Cleanup Proposal for MAX Environmental Technologies in Bulger, PA - EPA ID: PAd059087072

Mr. Miller,

Max Environmental Services (Max)- formerly Mill Service straddles both Robinson and Smith Townships in Washington County, PA. It is located next to Little Raccoon Run and the Panhandle rail trail.

Bulger, a small rural town in Smith Township, is considered the host municipality based on Max's entrance and receives a host fee from Max based on the number of waste trucks into the facility.

Robinson and Smith Township residents, like all Pennsylvanians, have a right to clean air, pure water and to the preservation of the natural, scenic, historic and esthetic values of the environment. We live in a Commonwealth and therefore, the public natural resources are the common property of the people in Pennsylvania, so says, Article 1 §27 of the Pennsylvania Constitution.

Keeping this in mind, please accept these comments addressing the United States Environmental Protection's RCRA Corrective Action- Cleanup Proposal for Max Environmental Bulger Facility.

We appreciate and encourage corrective action by the United States Environmental Protection (EPA) in remediation of the Max-Bulger site.

The biggest ask, residents request is for Max to provide public water to residents ½ mile from the facility based on a 1990 promise.

Max, as you know, has been in our area since 1958. It apparently began its long history by illegally dumping Kolene drums at the Bulger facility in the early 1960's. Another burial of drums is described in a January 12, 1995 EHB Docket No. 92-106-MJ where a Compliance Panel revealed that in the early 1980's Max Bulger (then Mill Service) buried drums and failed to properly report the incident to the Pennsylvania Department of Environmental Protection (DEP, then DER) or to the EPA.

In 1995, Leon Kuchinski, Chief of the Division of Enforcement with the Department's Bureau of Waste Management who also served on the Compliance Panel which reviewed Mill Service's compliance history in connection with reinstating their state permits even after toxic buried drums were uncovered at the Bulger facility acknowledged **there is a long history of violations** at the Max facilities (even back in the 1990's).

At the time of the 1995 EHB Docket No. 92-106-MJ, Carl Spadaro was an engineer in the Department's Waste Management Section.

On October 19, 1990 residents of Bulger received a letter from the company's Vice President, Carl Bender. This letter appears to promise a public water supply to residents living ½ mile of the facility. This letter was shared with local officials in Smith Township and again resurfaced in 2007 when Max applied for another approval. Smith Township Board of Supervisors requested Max revisit providing public water for nearby residents in a letter dated March 16, 2007 to Max.

Max never addressed Township's concerns. Water was not provided to local residents living near a facility that has trouble staying in compliance with regulations. There are 7 homes in Smith Township and 2 in Robinson Township within ½ mile of the facility that are on well water. **Through EPA RCRA corrective action, it is requested that Max's 1990 promise of public water for residents within ½ mile be honored finally!**

Over the years residents of Robinson and Smith Townships are aware of Max's residual waste truck spills around the facility at State Road 980, Beech Hollow Road, Candor Road and on Bulger Candor Road where it meets Bulger Arch Road.

Heavy rainfall causes some basements along these roads to flood, potentially exposing residents to chemicals or waste from Max's truck spills.

It has been said that Max provides water to at least one of the homes near the facility. But, why not all those within the ½ mile radius of the facility's site? **Through EPA RCRA corrective action, it is requested that Max's 1990 promise of public water for residents within ½ mile be honored finally!**

Additionally, throughout the company's disposal history there have been a variety of issues from spontaneous combustion of alumina waste as seen by DEP in 2011 to an open fly ash pit that had ash swirling in the air at the facility that I witnessed during a site tour with Max's Carl Spadaro and Ken Interval in 2016.

Many violations to Max's state permits resulted in Consent Orders, Consent Assessment of Civil Penalties and Agreements, Opinions and RCRA Corrective Action.

To name a few, below are the dates of such documents:

- May 24, 1985
- January 12, 1995
- February 5, 1999
- September 11, 2006
- January 27, 2012
- February 9, 2012
- April 17, 2013
- February 3, 2014
- April 6, 2018

In 2011 Carl Spadaro left DEP to join Max. Residents like myself felt betrayed and that our DEP contact person on Max issues was no longer working on the side of protecting our health, safety and environment.

Also in 2011, Max sought approval from DEP to begin accepting Marcellus shale waste at the Bulger facility.

This company, which has never been able to stay in compliance, was requesting permission to dispose of another kind of waste stream, one that has TENORM or radioactive material in it. Those of us on well water became extremely worried.

We have been repeatedly told that trucks entering the facility visit a radiation detection monitor. This is of little comfort as it is easy to drive around it or dilute a load and return with more trucks. **The result is the same, radioactive material is laid to rest in Bulger! There is no check for radium 226 or 228 in any residents' well water, groundwater, surface water, leachate or effluent testing that residents have been able to find. Where is our protection?**

Over the years, Max has shown an inability to stay in compliance, yet it continues to obtain DEP and local approvals. Below are several years of DEP violations even with Consent Orders and Agreements in place. This is not a complete list, there are more unfortunately.

December 9, 2011

- DEP “observed several bags of ‘alumina’ waste spontaneously combusting with a visible flame on Impoundment No. 1” during an inspection.
- Subsequent inspections later that month revealed the “alumina waste emitting strong ammonia odors sufficient to cause eye and throat irritation” with a “potential to create a danger to the public health, safety or the environment.”

August 12, 2014

- Person or municipality has violated Act 97, Department regulation, order, or term of permit.
- Handles solid waste contrary to rules and regulations, or orders of the Department, or any permit condition, or in any manner as to create a public nuisance.
- Person or municipality operates a facility without a permit.

July 20, 2017 NPDES

- Failure to monitor pollutants as required by the NPDES permit,
- Violation of effluent limits in Part A of permit,
- Failure to properly operate and maintain all facilities which are installed or used by the permittee to achieve compliance

April 6, 2018

- Documentation of claims that materials are not solid wastes or are conditionally exempt. Fee paid.

June 29, 2018 NPDES

- Violation of effluent limits in Part A of permit, with civil penalties!

The most recent notice of violations occurred in July 13, 2021 with the following violations:

- Person or municipality has violated Act 97, Department regulation, order, or term of permit.
- Handles solid waste contrary to rules and regulations, or orders of the Department, or any permit condition, or in any manner as to create a public nuisance.
- Person or municipality operates a facility without a permit.

September 10, 2020 Max petitioned DEP's Solid Waste Advisory Committee (SWAC) to de-list part of its waste stream. Max requested reclassifying its waste from hazardous to non-hazardous.

It should be noted that SWAC members consist primarily of individuals in the solid waste industry. During the meeting several members needed to recuse their vote as their companies also had a petition to de-list a waste stream before the boards.

I attended the September 2020 SWAC meeting. I was very disappointed and angry at the procedural error that occurred during the public meeting.

SWAC voted to move Max's petition on to the Environmental Quality Board (EQB), closed the meeting and opened their Recycling Committee meeting and then took public comments.

My comments pointed to resident's concerns that declassifying sludge created after collecting runoff from the existing cocktail of wastes at Max could pose a hazard to the community. **We feel that declassifying the waste from Hazardous to Non- Hazardous would mischaracterize a waste stream created from many wastes of many industries, most recently the Tenorm or radioactive waste from the Marcellus shale industry.**

Max admits that 75% of their waste now comes from the Marcellus shale industry. The 2020 PA Attorney General Grand Jury Report sighted DEP's lack of ability to provide oversight of the oil and gas industry waste stream.

Max's petition requests even less oversight by DEP. Yet, Max has never been able to stay in compliance consistently over the years of operation with existing DEP regulations. AG Josh Shapiro's findings concern residents living near Max's residual waste landfill in Bulger where 75% of the waste accepted at the landfill comes from the oil and gas industry waste stream.

My September 2020 SWAC comments were not made part of the record for the EQB to consider. September 21, 2021 EQB approved Max's request to de-list.

November 2020, Max began the application process for yet another landfill at the Bulger site. Landfill #3 (LF3) is proposed for the eastern side of the property adjacent to Little Raccoon Run, close to the Panhandle rail trail and next to the Robinson Township line.

Max's 2021 revised application submitted for LF3 shows a footprint adjustment which appears to place part of the new landfill on top of Impoundment 1.

Will this create a vertical waste increase in the area of overlap?

Can the Impoundment 1 cap support the activity associated with constructing LF3 on top of it? 6

Local residents are frustrated with Max. We don't want another landfill which probably will not stay in compliance with state approved permits or local approvals.

We are concerned for our health, safety and environment. We encourage Max to be good neighbors and honor promises of public water made in 1990 to those living ½ mile from the site.

EPA involvement is a welcomed relief. DEP does not seem capable of making Max get or stay in compliance.

We appreciate and encourage corrective action by the EPA in remediation of the Max-Bulger site.

Respectfully submitted,

Cathy Lodge- tophcat@gmail.com

Along with Robinson and Smith Township residents:

Brenda and Nolan Vance- blvance71@yahoo.com

Amy Shuler- Amyschulershaw2@gmail.com

Tom Pascutic- tompas1993@hotmail.com

Pam and Charles Dove- midov1@windstream.net

Pamela and Raymond Scruppi- pammypresley@gmail.com

Tracey Kampion- kampion@yahoo.com

Dave and Jan Thomas- jthomas2007@windstream.net

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EPA ECHO
EPA Envirofacts
Permits, Licensing, and Certification
The PA Code

Violation Details for Inspection ID: 3235042

Facility: [MILL SVC BULGER PLT \(547451\)](#)
 Program: Residual Waste

Disclaimer: The dollar amounts listed below are for the entire related enforcement, and may encompass many sites/facilities. The *Total Amount Collected* may or may not be related to the *Penalty Amount Assessed*, depending on how your program or regional office records payments in eFACTS. For questions regarding payments or penalties, please contact your [DEP Regional Office](#).

Violation ID	Date	Violation Description														
926539	07/13/2021	Person or municipality has violated Act 97, Department regulation, order, or term of permit. Resolution: PA Code Legal Citation: 35 P.S. 6018.610(9) : PA Code Website Violation Type: Environmental Health & Safety														
Related Enforcements																
<p>Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Enforcement ID: 396636</td> <td style="width: 50%;">Penalty Final Date:</td> </tr> <tr> <td>Enforcement Type: Notice of Violation</td> <td>Penalty Amount Assessed:</td> </tr> <tr> <td>Date Executed: 08/17/2021</td> <td>Total Amount Due:</td> </tr> <tr> <td>Taken Against: MAX ENV TECH INC</td> <td>Total Amount Collected:</td> </tr> <tr> <td>On Appeal? N</td> <td>Penalty Status:</td> </tr> <tr> <td>Enforcement Status:</td> <td></td> </tr> <tr> <td colspan="2"># of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4</td> </tr> </table>			Enforcement ID: 396636	Penalty Final Date:	Enforcement Type: Notice of Violation	Penalty Amount Assessed:	Date Executed: 08/17/2021	Total Amount Due:	Taken Against: MAX ENV TECH INC	Total Amount Collected:	On Appeal? N	Penalty Status:	Enforcement Status:		# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4	
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Enforcement Type: Notice of Violation	Penalty Amount Assessed:															
Date Executed: 08/17/2021	Total Amount Due:															
Taken Against: MAX ENV TECH INC	Total Amount Collected:															
On Appeal? N	Penalty Status:															
Enforcement Status:																
# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4																

Violation ID	Date	Violation Description														
926538	07/13/2021	Handles solid waste contrary to rules and regulations, or orders of the Department, or any permit condition, or in any manner as to create a public nuisance. Resolution: PA Code Legal Citation: 35 P.S. 6018.610(4) : PA Code Website Violation Type: Environmental Health & Safety														
Related Enforcements																
<p>Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Enforcement ID: 396636</td> <td style="width: 50%;">Penalty Final Date:</td> </tr> <tr> <td>Enforcement Type: Notice of Violation</td> <td>Penalty Amount Assessed:</td> </tr> <tr> <td>Date Executed: 08/17/2021</td> <td>Total Amount Due:</td> </tr> <tr> <td>Taken Against: MAX ENV TECH INC</td> <td>Total Amount Collected:</td> </tr> <tr> <td>On Appeal? N</td> <td>Penalty Status:</td> </tr> <tr> <td>Enforcement Status:</td> <td></td> </tr> <tr> <td colspan="2"># of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4</td> </tr> </table>			Enforcement ID: 396636	Penalty Final Date:	Enforcement Type: Notice of Violation	Penalty Amount Assessed:	Date Executed: 08/17/2021	Total Amount Due:	Taken Against: MAX ENV TECH INC	Total Amount Collected:	On Appeal? N	Penalty Status:	Enforcement Status:		# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4	
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Taken Against: MAX ENV TECH INC	Total Amount Collected:															
On Appeal? N	Penalty Status:															
Enforcement Status:																
# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4																

Violation ID	Date	Violation Description														
926537	07/13/2021	<p>Person or municipality operates a facility without a permit.</p> <p>Resolution:</p> <p>PA Code Legal Citation: 35 P.S. 6018.610(2) : PA Code Website</p> <p>Violation Type: Environmental Health & Safety</p> <hr/> <p style="text-align: center;">Related Enforcements</p> <hr/> <p>Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.</p> <table border="0" style="width: 100%;"> <tr> <td>Enforcement ID: 396636</td> <td>Penalty Final Date:</td> </tr> <tr> <td>Enforcement Type: Notice of Violation</td> <td>Penalty Amount Assessed:</td> </tr> <tr> <td>Date Executed: 08/17/2021</td> <td>Total Amount Due:</td> </tr> <tr> <td>Taken Against: MAX ENV TECH INC</td> <td>Total Amount Collected:</td> </tr> <tr> <td>On Appeal? N</td> <td>Penalty Status:</td> </tr> <tr> <td>Enforcement Status:</td> <td></td> </tr> <tr> <td colspan="2"># of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4</td> </tr> </table>	Enforcement ID: 396636	Penalty Final Date:	Enforcement Type: Notice of Violation	Penalty Amount Assessed:	Date Executed: 08/17/2021	Total Amount Due:	Taken Against: MAX ENV TECH INC	Total Amount Collected:	On Appeal? N	Penalty Status:	Enforcement Status:		# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4	
Enforcement ID: 396636	Penalty Final Date:															
Enforcement Type: Notice of Violation	Penalty Amount Assessed:															
Date Executed: 08/17/2021	Total Amount Due:															
Taken Against: MAX ENV TECH INC	Total Amount Collected:															
On Appeal? N	Penalty Status:															
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# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4																

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eNotice
EPA ECHO
EPA Envirofacts
Permits, Licensing, and Certification
The PA Code

Violation Details for Inspection ID: 3223891

Facility: [MAX ENV TECH INC YUKON FAC \(250198\)](#)

Program: WPC NPDES

Disclaimer: The dollar amounts listed below are for the entire related enforcement, and may encompass many sites/facilities. The *Total Amount Collected* may or may not be related to the *Penalty Amount Assessed*, depending on how your program or regional office records payments in eFACTS. For questions regarding payments or penalties, please contact your [DEP Regional Office](#).

Violation ID	Date	Violation Description	
924186	07/19/2021	NPDES - Violation of effluent limits in Part A of permit	
		Resolution: Addressed Through Enforcement	
		PA Code Legal Citation: 25 Pa. Code 92a.44 : PA Code Website	
		Violation Type: Environmental Health & Safety	
		Related Enforcements	
		Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.	
		Enforcement ID: 396636	Penalty Final Date:
		Enforcement Type: Notice of Violation	Penalty Amount Assessed:
		Date Executed: 08/17/2021	Total Amount Due:
Taken Against: MAX ENV TECH INC	Total Amount Collected:		
On Appeal? N	Penalty Status:		
Enforcement Status:			
# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 4			
Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.			
Enforcement ID: 400290	Penalty Final Date:		
Enforcement Type: Consent Assessment of Civil Penalty	Penalty Amount Assessed: 28500		
Date Executed: 12/30/2021	Total Amount Due: 19000		
Taken Against: MAX ENV TECH INC	Total Amount Collected: 9500		
On Appeal? N	Penalty Status:		
Enforcement Status:			
# of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 3			



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FAX: (412) 854

INDUSTRIAL WASTE DISPOSAL
Since 1957

October 19, 1990

Thomas and Louise Paskutis
RD 1, Box 221
Bulger, PA 15019

Dear Mr. and Mrs. Paskutis:

Mill Service, Inc. has applied to the Pennsylvania Department of Environmental Resources for a permit to site a new hazardous waste landfill and to expand the existing waste treatment capabilities at its Bulger Plant. As part of the landfill siting requirements, Mill Service must demonstrate the ability to provide an alternative water supply of like quantity, yield and quality to all properties within 1/2 mile of the facility which are currently served by private water supplies. According to our records, you currently own property within 1/2 mile of the facility which is served by a private water supply.

In order to establish your water supply needs and be certain that they are fully served, I have enclosed a brief questionnaire. Please complete the questionnaire to the best of your ability and return it to Mill Service in the enclosed envelope. If you require assistance in completing the questionnaire or have any questions, please contact Laurie Crawford at 412/343-4900.

Thank you for your cooperation

Sincerely,

A handwritten signature in cursive script that reads "Carl F. Bender".

Carl F. Bender, P.E.
Vice President - Engineering

CFB/mab

Enclosure

Smith Township Supervisors

Washington County, Pennsylvania

Thomas A. Schilinski
Chairman

Joseph T. Murray
Secretary

William Latkovic
Vice Chairman

TOWNSHIP BUILDING
Phone 724-947-9456
Fax 724-947-2715

March 16, 2007

Henry A. Springer, Jr., P.E.
Vice-president of Compliance and Engineering
MAX Environmental Technologies, Inc.
233 MAX Lane
Yukon, PA 15698

SUBJECT: MAX Environmental Technologies

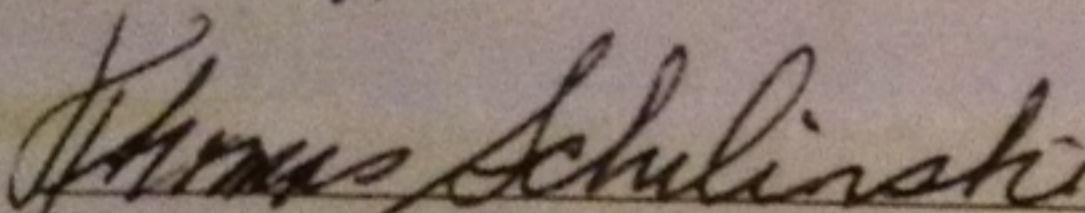
During the Public meeting held on March 29, 2006, concerning the proposal to re-close Impoundments 1 and 1A in Bulger, the issue of providing water to a few residents along Candor Road was discussed.

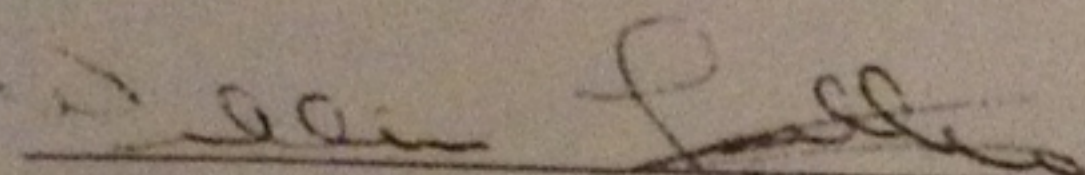
Several residents have approached the Township concerning a tap in to the line servicing the Bulger Plant. These residents have reported cistern problems and a need to have water hauled in weekly. One resident contacted PA American Water and was told it would cost \$58,000 to provide water to their residence.

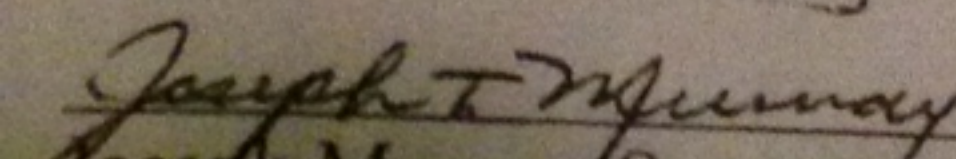
Attached is a copy of a letter dated October 19, 1990 from Mr. Carl Bender concerning providing water to residents within 1/2 mile of the facility.

We are requesting that MAX Environmental re-visit this issue and let us know if this can be accomplished.

Sincerely,


Thomas Schilinski, Chairman


William Latkovic, Co-Chairman


Joseph Murray, Secretary