



RTENV.COM

The RT Review

**Providing Timely, Practical and Effective
Environmental and Energy Services Since 1988**

THE ENVIRONMENT AND PUBLIC HEALTH ARE IMPROVING

EPA recently released updated environmental and public health indicators in an online database, making information about the current and historical condition of the nation’s environment and human health more accessible to the public. This is an online update to EPA’s Report on the Environment. You can use the database to explore 85 individual indicators—on our air, water, land, human exposure, health, and ecological condition—using interactive graphs, tables, and maps, and download the data for each indicator.

The Report on the Environment facilitates tracking the state of the nation’s environment and human health over time. Indicators are developed using up-to-date information from EPA, other federal agencies, state agencies, and non-governmental organizations. The indicators are peer-reviewed to meet high standards for accuracy, representativeness, and reliability.

Examples of environmental and public health trends include:

- Nationwide, emissions of key air pollutants have decreased between 1990 and 2011. As a result, national average ambient air concentrations of the six criteria pollutants—carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide—decreased considerably.
- Total US emissions of major greenhouse gases (GHGs) associated with human activities increased by 6% from 1990 to 2013, but have decreased by 9% from their 2005 levels. Electricity generation continues to be the largest source of these emissions.

Between 2005 and 2012, the percentage of food with detectable pesticide residues has decreased. Also, poison control center reports show a 49% decrease in the rate of pesticide exposure incidents between 1998 and 2012.

(Environmental Resource Center – 7/27/15)

TABLE OF CONTENTS

Staff and Project News	2
Federal Updates	4-5
PA Updates	6
NJ Updates	7
Technology Updates	8-10
RT Energy News	13

LANDOWNERS EMERGE VICTORIOUS IN FEDERAL COURT OVER CHALLENGES TO WETLAND PERMITTING DECISIONS

Recent federal appeals decisions have proven that landowners can be successful in challenging permitting actions taken by the U.S. Corps of Engineers.

In *Lost Tree Village Corp. vs. United States*, 707 F.3d 1286, the Federal Circuit Court upheld the right of landowners to obtain relief at the end of the permitting process, if a permit for developing a property with wetlands is denied, and if, as a result of the denial, no valuable use of the property remains. This case involved a multi-million dollar award to the landowner/developer after a property parcel was left with no economic use subsequent to the Corps’ denial of the permit which was required to develop the parcel.

As was done in the *Lost Tree* case, it had typically stood that a landowner could only challenge a wetland decision after the permitting process had concluded, but the case discussed below shows that there are cases where it can be appropriate to challenge a decision at the beginning of the permitting process, before a landowner incurs the costs of permitting and endures the lengthy process. Government agencies often issue letters which provide direction and decisions regarding environmental issues, and these letters will often explicitly state that the agencies do not consider their instructions or decisions to be a “final actions.” They do this to prevent appeal, because only a final action is appealable under the law. However, the case below shows that there are times where actions are indeed final, despite explicit statements by government agencies that they are not.

Hawkes., Inc. vs. U.S. Army Corps of Engineers, 782 F.3d 994, an appeal in the Eighth Circuit Court, upheld that a landowner can obtain immediate judicial review of a “jurisdictional determination” (JD) made by the Corps. A JD is what determines official wetland boundaries that are subject to jurisdiction under the Clean Water Act and require a permit to alter and/or develop. If

the Corps issues a JD, the wetland cannot be developed until the property owner obtains a permit under the Clean Water Act. This case found that the issuance of a JD is, in fact, a “final agency action” and is therefore subject to legal challenge under the Administrative Procedure Act. Until this decision, the Corps did not consider issuance of a JD to be a “final agency action” and was therefore not subject to challenge once it was issued. The landowner was required to wait until the end of the permitting process to challenge any decisions made by the Corps.

The *Hawkes* decision disagreed with a prior court decision made by the Fifth Circuit in 2014, which indicated that JD’s were not final agency action and could only be challenged if a permit to develop the wetland area was denied. The *Hawkes* decision now considers JD’s a final action, and allows a landowner to challenge a JD in the beginning, before enduring the costly and lengthy process of obtaining the appropriate permits.

It is RT’s opinion that these court decisions were the right decisions. Too often, we are witness to situations where government agencies issue determinations and instructions to our clients which they do not consider to be “final actions.” This prevents our clients from being able to legally challenge certain issues that adversely affect, or sometimes completely eliminate the economic incentive for completing a project. We recently had a client in a situation where they had to challenge a regulatory agency over this exact “final action” issue. The agency indicated that decisions they made, and instructions they gave, were not “final actions.” Our client wanted to challenge these decisions, but first they had to challenge whether or not the decisions constituted a “final action.” Fortunately, this situation ended in favor of our client, but it definitely led to additional time and legal fees that would have otherwise been avoided.

- Justin R. Lauterbach, QEP
Vice President

RT STAFF AND PROJECT NEWS

DIRECTORY

Corporate Headquarters

215 West Church Road
King of Prussia, PA 19406
Phone: (610) 265-1510
FAX: (610) 265-0687

E-mail: RTENV@AOL.COM

World Wide Web: HTTP://RTENV.COM

**24 HOUR
URGENT LINE SERVICE
800-725-0593**

Gary Brown, P.E., President
Phone: (610) 768-0232

E-mail: GBROWN@RTENV.COM

Craig Herr, P.G.
Phone: (610) 265-1510 Ext. 215
Hydrogeology Group Manager
E-mail: CHERR@RTENV.COM

Walter Hungarter, P.E., Vice President
Phone: (610) 265-1510 Ext. 238
General Manager

E-mail: WHUNGARTER@RTENV.COM

New Jersey

Glennon C. Graham, Jr., P.G.
Phone: (856) 467-2276 Ext. 122
E-mail: GGRAHAM@RTENV.COM
Suite 306, Pureland Complex
510 Heron Drive, P.O. Box 521
Bridgeport, NJ 08014
Phone: (856) 467-2276
FAX: (856) 467-3476

Southwest Pennsylvania

Justin Lauterbach, Q.E.P., Vice President
E-mail: JLAUTERBACH@RTENV.COM
591 East Maiden Street
Washington, PA 15301
Phone: (724) 206-0348
FAX: (724) 206-0380

Regional Partners

Massachusetts

Andy Irwin
Phone: (508) 653-8007
FAX: (508) 653-8194

Michigan

Michael Carlson
Phone: (248) 585-3800
FAX: (248) 585-8404

North Carolina

Phil Rahn
Phone: (336) 852-5003

- Justin Lauterbach and Chris Blosenski are beginning the next phase of Act 2 Land Recycling work at the former site of the world's largest steel plant in Aliquippa. Prior phases of the project continue as long term redevelopment plans for the site become finalized.

- Maria Scudder and Erik Drew are working with Gary Brown and Craig Herr on a large redevelopment project in Phillipsburg, New Jersey. Additional recent tasks include evaluation of slabs for potential future use as a cap for foundry sand and focus was also made on slab bearing capacities, which appear substantial. The project has been expanded to include a parcel in adjacent Lopatcong Township.

- Chris Ward, LSRP, continues work on a large scale redevelopment of an industrial park in Kearny, New Jersey. Work at the site involves coordination with responsible parties to address historical placement of chromate deposits.

- Glenn Graham is undertaking work at two solar farms in New Jersey where historical environmental issues were addressed due to agricultural operations in one instance, and due to placement of asphalt millings at another site.

- Andrew Hally continues work on groundwater monitoring at a number of sites in New Jersey and Pennsylvania, including former service stations and at Act 2 Land Recycling sites.

- John Lydzinski and Craig Herr also prepared a Groundwater Monitoring Plan for a Vineland LSRP site where work has been delayed for a substantial number of years and now monitoring needs to get on track.

- Tony Alessandrini is working on a number of sites, overseeing asbestos containing material abatement, as well as mold issues of concern.

- Justin Lauterbach and Chris Blosenski are continuing work on permitting of several Marcellus gas gathering lines in Southwest Pennsylvania.

- James Sieracki and Chis Ward are using Rockware to show AOC locations of impacted soils at a former manufacturing facility in North Jersey.

RT is seeing increased demand for our services going into the fall. As always, we appreciate the opportunities that our clients give us to be of service.

Gary R. Brown, P.E.
President

**POWER SECTOR CO2 EMISSIONS HIT 27-YEAR LOW
AS NATURAL GAS USE SURGES**

According to a report released last week by the Energy Information Administration (EIA), monthly power sector carbon emissions reached a 27-year low in April of 2015. In that same month, natural gas was, for the first time, the leading source of American electricity. As the EIA puts it: "The electric power sector emitted 128 million metric tons of carbon dioxide (MMmt CO2) in April 2015, the lowest for any month since April 1988...Comparing April 1988 to April 2015 (27 years), natural gas consumption in the sector more than tripled.

(PIOGA eWeekly (8-10-15)/Pittsburgh Post-Gazette)

**RT'S 24-HOUR
URGENT HOTLINE
(800) 725-0593**

EPA UPDATES FEDERAL UNDERGROUND STORAGE TANK REGULATIONS

On July 15th, EPA published its final UST Regulations Update in the Federal Register. You can access this at the following link: <http://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf>

Among other aspects, the revisions strengthen the 1988 UST regulations by increasing the emphasis on properly operating and maintaining underground storage tank equipment. As an example, EPA now requires spill prevention equipment to capture drips and spills at the time that the delivery hose is disconnected from the fill pipe, but the older regulations did not require periodic testing at the equipment. Such testing is

now required. In addition, certain UST systems were deferred in the 1988 UST Regulations, but now there are updates included to current technology and codes of practices.

Over time, releases from piping and spills from overfills associated with deliveries have been realized to be more common problems than the integrity of the tank system itself. Data show that release detection equipment installed in most regulated tank systems is only detecting about 50% of the releases they were designed to detect. Most of these problems are associated with the improper operation and maintenance of the

underground storage tank system. Most states already run their own underground storage tank regulations and the states will have to make sure that their existing regulatory programs are in compliance with the new Federal UST revisions.

You can find out more information by going to USEPA's website at: www.epa.gov/oust/fedlaws/revregs.html

On the website, you can find a Regulatory Impact Analysis, Response to Comments and a summary level of comparison of the 1988 UST Regulations compared to the Final 2015 UST Regulations.

NEW OSHA RULE IN CONSTRUCTION – CONFINED SPACES!

Each year, an average of 6 fatalities and 812 injuries occur among construction employees working in confined spaces. OSHA estimates this rule will reduce the average number of fatalities and injured in construction confined spaces by 96% – a total of 785 injuries per year.

OSHA has issued its final rule on confined space work in the construction industry. Here's what you need to know:

Enforcement of the new Confined Spaces in Construction Standard, issued by the Occupational Health and Safety Administration (OSHA) on May 4, will be postponed until October 2, the agency announced on July 24th. Extension requests indicated that employers needed more time for training and acquiring the equipment necessary to comply with the standard.

Though the ruling will become **effective Aug. 3**, OSHA will not issue citations to an employer that is making good-faith efforts to fulfill training requirements and comply with the standard.

In general, the new rule requires employers to:

- Evaluate the jobsite to identify confined spaces
- Develop a written program and permitting system for permit-required confined spaces
- Control physical hazards and conduct monitoring for atmospheric hazards in confined spaces that are permit required
- Provide training for confined space entrants, attendants, supervisors and emergency duties.

Who is affected by the new rule? Several sectors of the construction industry, including work that involves:

- buildings
- highways
- bridges
- tunnels
- utility lines, and
- specialty construction.

For further information, please contact Larry Bily lbily@rtenv.com or Gary Brown gbrown@rtenv.com.

WASTEWATER

WHAT IS THE NAME OF YOUR WASTEWATER PERMIT?

(First - Fill in the Blanks)

**Second
Which State?**

1. S _____ P _____ D _____ E _____ S _____

A. - PA

2. N _____ J _____ P _____ D _____ E _____ S _____

B. - NY

3. N _____ P _____ D _____ E _____ S _____

C. - NJ

FEDERAL REGULATORY UPDATES

EPA PROPOSES TO EXPAND LIST OF TRI CHEMICALS

EPA is proposing to add 1-bromopropane to the list of toxic chemicals subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and Section 6607 of the Pollution Prevention Act (PPA) of 1990. 1-Bromopropane has been classified by the National Toxicology Program in their 13th Report on Carcinogens as “reasonably anticipated to be a human carcinogen.” EPA believes that 1-bromopropane meets the EPCRA section 313(d)(2)(B) criteria because it can reasonably be anticipated to cause cancer in humans. Based on a review of the available production and use information, 1-bromopropane is expected to be manufactured, processed, or otherwise used in quantities that would exceed the EPCRA section 313 reporting thresholds.

(Env. Resource Center – 4/20/15)

US SUPREME COURT OVERTURNS FEDERAL MERCURY RULE

In June, the US Supreme Court overturned the Federal Mercury Rule put forth by EPA. The key issue which led to the decision is that EPA did not appropriately consider the cost of the Rulemaking. The Rule was remanded to the Lower DC Circuit Court, which will decide how EPA must proceed.

(Pennsylvania Chamber Environmental Bulletin – 6/29/15)

EPA TO TAKE ACTIONS TO PROTECT BEES

There is significant environmental concern that bees and other pollinators are having reduced populations which is a concern from an environmental standpoint on a number of levels. EPA issued a National Pollinator Health Strategy on May 19th and EPA is accelerating a Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Registration review of a number of regulatory issues.

Focus is on mitigating the effect of pesticides on bees, among other items being evaluated. For more information, you can go to the Pollinator Research Action Plan (<https://www.whitehouse.gov/sites/default/files/microsites/ostp/Pollinator%20Research%20Action%20Plan%202015.pdf>)

OSHA'S CONFINED SPACES RULE IMPACTS HOME PERFORMANCE CONTRACTORS

ACHR News

The Occupational Safety and Health Administration (OSHA) has developed a new rule to protect workers in confined spaces, including residential attics and crawl spaces, that will impact the work of home performance contractors, notes the Building Performance Institute Inc. (BPI).

Routine tasks such as installing spray-foam

insulation in attics or installing plumbing in a crawl space will require documented safety plans, and in some cases stationing an additional person outside the space to grant access. Effective August 3, 2015, the rule now specifies that crawl space and attic work spaces have had recent fatalities.

(IAQA Digest – 7/15/15)

EPA'S CURRENT FOCUS

Current EPA areas of focus include:

- An EPA advisory panel making recommendations for lead water service line replacements.

- Guidance outlining state authority at closed hazardous waste landfills.

- Continued EPA and court action on Authorities related to establishing a conductivity TMDL

- Potential EPA Standards related to Cyanotoxins in water

- Revised Landfill Methane New Source Performance Standards

- Revision of the Small MS4 General Permit, 12 years after an adverse Rulemaking

- Issuance of supplemental information on the proposed Landfill Methane Air Policy

For more information, you can subscribe to INSIDEEPA.COM.

DELAWARE RIVER BASIN COMMISSION PROPOSES SINGLE PROCESS REVIEW AND EDUCATION OF PROJECTS PROCESS

A Notice was recently issued of the proposed Rulemaking for Public Hearing Procedure Provisions by the Delaware River Basin Commission (DRBC). The DRBC is a federal interstate compact agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. A public hearing was scheduled to occur after which the new process is expected to go forward. The purpose of the new program called “One Process/One Permit” is to eliminate unnecessary effort, not to change the technical review process. The full review would still include a project review for all applicable standards and rules. Authorities for implementing the DRBC programs would not change. For more information you can go to the DRBC website at <http://www.state.nj.us/drbc/>

CURRENT NESHAP/EPA REGULATION MAY CAUSE ASBESTOS EXPOSURE

According to the Office of Inspector General (OIG), The U.S. Environmental Protection Agency (EPA) has an inadequate policy in place that allows the release of asbestos-contaminated water into the wastewater stream and soil.

The EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP), first issued in 1973, includes a provision that still permits the demolition of structurally

FEDERAL UPDATES

- New Federal UST Regulations, pg. 3
- DRBC Single Process Review, pg. 4
- Protecting Bees, pg. 4
- Selenium Update, pg. 5

unsound buildings without first removing asbestos products often resulting in impacted runoff and contaminated soil. “Demolitions may be releasing potentially harmful amounts of asbestos into the environment,” said Mr. Michael Wilson, toxicologist who facilitated the June 16, 2015 OIG Report No. 15-P-0168. Mr. Wilson also stated, “The amount of asbestos released into runoff wastewater can often exceed the legally reportable quantity.”

The demolition of older structures becomes particularly dangerous if microscopic asbestos fibers are disturbed. An exposure can lead to serious asbestos-related health issues such as mesothelioma, asbestosis or lung cancer. The report is based on the EPA's Alternative Asbestos Control Method (AACM) experiments from 2005 to 2011 that included demolition procedures and collection of data on the release of asbestos into the environment. It also was based on buildings that were constructed with asbestos cement products and asbestos-containing joint compound. Both building materials were common in new construction before 1980.

Mr. Wilson also said, “The result of the demolitions likely would violate the EPA's Comprehensive Environmental Response, Compensation and Liability Act if the reportable quantity of asbestos was released”.

Public Health Risk Needs Reassessment

Mr. Wilson believes the EPA should reassess the public health risk from the contaminated wastewater caused by the demolitions. The OIG Report prepared four (4) recommendations:

1. Conduct an evaluation of the potential public health risk posed by the release of asbestos fibers through the untreated discharge of runoff wastewater during Asbestos NESHAP 40 CFR § 61.145(a)(3) demolitions of structurally unsound buildings in imminent danger of collapse.

2. Issue a technical report that is available to the public and details the findings of the evaluation done in response to Recommendation 1 (above).

3. Implement actions needed as a result of the technical report in a timely manner, and include regulatory reviews or reviews that respond to the report's findings.

4. Consult and communicate with other EPA offices to share and discuss information about the outcomes of the OAR evaluation; and share any process, enforcement or regulatory changes.

Asbestos was a common building material throughout much of the 20th century.

FEDERAL REGULATORY UPDATES (Continued)

Asbestos is known for its uncanny ability to strengthen building materials, insulate and fireproof buildings at a reasonable cost. However, research proven it also was harmful, becoming a serious health risk as it became airborne. The EPA and its regulations are credited for the dramatic decline in the use of asbestos products in commercial and residential construction over the last 40 years.

EPA Disagrees with OIG Findings

The EPA responded to the report by disagreeing with the OIG findings, believing the AACM experiments did not provide an appropriate basis for comparison. EPA stated, "We disagree with the recommendations in this draft report...However, we share the OIG's concern regarding the potential for asbestos exposure," wrote Janet G. McCabe, EPA acting assistant administrator, in an accompanying attachment to the report. "We recognize asbestos as a known human carcinogen, and note that there is no known safe level of exposure to asbestos."

Ms. McCabe stated the original NESHAP regulation was last amended in 1990, and a variety of work practices have been developed to prevent contamination of nearby properties. She also admitted a lack of clarity in the amendment, "These documents are disparate and dated, and we believe could be reviewed, revised and consolidated into a single guidance document," she wrote.

The EPA stated we intend to take the following actions, which also address the OIG's concerns raised in their report:

- Assemble a team of experienced asbestos experts from the TRW, OECA, OSWER, OGC, on scene coordinators (OSC) and asbestos inspectors (AI) to advise and assist OAR in producing an updated consolidated guidance document which has practical application to the regulated community.
- Review rule applicability regarding containment of asbestos-contaminated waste materials at demolition sites (including, but not limited to, asbestos in demolition water).
- Identify, review and revise as appropriate, the pertinent existing guidance documents.
- Collect, review, and compile existing work practices into a set of implementation guidelines for containment of asbestos-contaminated waste materials, and materials contaminated by asbestos during the demolition process.
- Collect and review existing applicability determinations issued by regional offices and headquarters that have a bearing on this issue.
- Identify and review existing sampling and analysis methods that are applicable to asbestos in various media, and incorporate into the guidance as appropriate.
- Consolidate relevant materials into a single set of guidance materials.
- Implement guidance via outreach to local

and state agencies and regional offices through team meetings, monthly RAC/NAC group meetings, technical conferences and symposia, and / or web-based platforms. Our anticipated milestones are to initiate the above in March 2015 and finish within a year (or by April 2016).

OIG response to the above EPA actions are: "We accept these proposed alternatives and agree that the agency's proposed actions to review, revise and consolidate its existing Asbestos NESHAP guidance may address the issue of mitigating future releases of asbestos-contaminated runoff wastewater into the environment during subsequent Asbestos NESHAP demolitions. In addition, we believe the new guidance should address how it applies to former imminent collapse Asbestos NESHAP demolition sites."

For more information regarding this article, a copy of the OIG report including EPA's response can be found at:

<http://www.epa.gov/oig/reports/2015/20150616-15-P-0168.pdf>, or you can contact Mr. Tony Alessandrini at RT Environmental at 856.467.2276, ext 110 or by email at talessandrini@rtenv.com.

REQUEST FOR SCIENTIFIC VIEWS: DRAFT RECOMMENDED AQUATIC LIFE AMBIENT WATER QUALITY CHRONIC CRITERION FOR SELENIUM-FRESHWATER 2015

The Environmental Protection Agency (EPA) is opening the comment period for the Agency's draft recommended aquatic life water quality chronic criterion for selenium in freshwater. EPA released a previous draft entitled "External Peer Review Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater, 2014" for public comment on May 14, 2014. EPA received scientific views from the public and stakeholders, and convened a contractor-led expert external peer review. EPA considered the results from the expert peer review and scientific views and comments from the public and stakeholders to develop the current draft document, which is now available for comment. Following closure of this public comment period, EPA will consider scientific views from the public on this draft document as well as any new data or information received. EPA will then publish Federal Register notice(s) announcing the availability of the final selenium criterion.

Information on the Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater 2015

EPA prepared a draft aquatic life criterion document for selenium based on the latest scientific information and current EPA policies and methods, including EPA's Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic

Organisms and Their Uses (1985) (EPA/R-85-100) and Guidelines for Ecological Risk Assessment (1998) (EPA/630/R-95/002F). Toxicity data and other information on the effects of selenium were obtained from reliable sources and subjected to both internal and, in some cases, external peer review. EPA considered public comments previously collected in response to EPA's 2004 notice of availability (published on December 17, 2004 at 69 FR 75541) and new toxicity data for selenium developed in response to those comments (EPA-822-F-08-005) in the development of the external peer review draft criterion document. EPA also considered information submitted in 2014 during the external peer review and public comment on the "External Peer Review Draft," including additional toxicity data, in developing the current draft criterion.

The draft criterion has four elements (Table 1), consisting of two fish tissue-based and two water column-based elements. The draft criterion document contains a recommendation that states and authorized tribes adopt into their WQS a selenium criterion that includes all four elements. Because fish tissue-based concentration is a more direct measure of selenium toxicity to aquatic life than water column concentrations, EPA recommends that fish tissue elements be given precedence over the water column elements when both types of data are available, except in certain situations.

The available data indicate that freshwater aquatic life would be protected from the toxic effects of selenium by applying the following four-element criterion:

1. The concentration of selenium in the eggs or ovaries of fish does not exceed 15.8 mg/kg, dry weight;
2. The concentration of selenium (a) in whole-body of fish does not exceed 8.0 mg/kg dry weight, or (b) in muscle tissue of fish (skinless, boneless fillet) does not exceed 11.3 mg/kg dry weight;
3. The 30-day average concentration of selenium in water does not exceed 3.1 µg/L in lotic (flowing) waters and 1.2 µg/L in lentic (standing) waters more than once in three years on average;
4. The intermittent concentration of selenium in water does not exceed

more than once in three year average.

You can find more information in the 7/27/15 Federal Register.

**VISIT OUR
WEB PAGE!
WWW.RTENV.COM**

PA UPDATES

WAVE OF LARGE PIPELINE PROJECTS EXPECTED IN MARCELLUS SHALE REGION

According to the Pennsylvania Independent Oil and Gas Association, a wave of projects is expected in the Marcellus Region. Information is that over the next three years, there could be about 17 pipeline projects which could ship up to 17.3 cubic feet per day of natural gas from Pennsylvania, West Virginia and Ohio to end users. Much of the gas is expected to go eastward to New England and the Mid-West, with expanded potential for shipments to Eastern Canada and the South. New pipeline infrastructure is in high demand.

(PIOGA E-Weekly – 6-15-2015)

PENNSYLVANIA HAZARDOUS WASTE TRANSPORTERS, HAVE YOU UPDATED YOUR CONTINGENCY PLAN?

As of August 2013, Transporters of hazardous waste in Pennsylvania were required to develop and implement a contingency plan to deal with emergencies affecting the environment, public health and safety resulting from an incident while transporting hazardous waste. Sources at the PA DEP have indicated that there are instances where a transporter of hazardous waste will submit for their permit renewal and the contingency plan has not been updated to the August 2013 requirements. Not having an updated contingency plan can delay issuance of your permit renewal.

PA DEP's "Guidelines for Development and Implementation of a Contingency Plan for the Transportation of Hazardous Waste" can be found on the Department's website at: <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-96435/2510-FM-BWM0318.doc> which includes a Sample Contingency Plan.

Key elements of the plan include the notification procedures and information necessary for emergency reporting, a list of agencies to be notified (if a release occurs, you are also required to notify the affected municipality), a list of emergency coordinators, a list of emergency response contractors, and emergency equipment. The Contingency Plan must be present on the transportation vehicle to provide information and direction to the driver during an emergency. It is noted that "protective clothing, including a filter mask or gas mask and a first aid kit with eyewash apparatus must

be carried on a transport vehicle. Absorbent material or mats must also be carried on the transport vehicle when liquids are transported."

The Contingency Plan will also document communication systems, routine decontamination procedures and the employee training program. The plan needs to be reviewed by the transporter and updated as necessary.

RT recommends that transporters of hazardous waste develop and implement these plans prior to their next permit renewal to prevent potential delays with issuance of the new permit. If you have questions related to the Transporters Contingency Plan, please contact Walter H. Hungarter, III, P.E. Vice President of RT at 610-265-1510 extension 238 or by email at whungarter@rtenv.com.

PA ENVIRONMENTAL RULES CHANGING FOR GAS, OIL WELLS

The Department of Environmental Protection called those changes the most significant in the final draft of proposed rules it released in August.

"These amendments reflect a balance between meeting the needs of the industry and the needs of public health and the environment; all while enabling drilling to proceed," said department Secretary John Quigley, who promised more regulatory changes soon.

Industry and environmental advocates complained that the proposed noise limits were too vague to include in well permits. The DEP said centralized tanks for wastewater from wells could be governed by existing residual waste permit rules.

The most recent changes also clarify unclear language in the last draft. Drillers that pollute drinking water supplies will have to restore them to a higher standard. Playgrounds whose presence near a well would trigger extra requirements in a permit do not include those privately operated by a restaurant or day care center. One-year drilling permits can be renewed only once, for two years, before a company needs to start over on the application process.

"We are confident this will be approved," Quigley said of the proposal that requires OKs from the Environmental Quality Board and the Independent Regulatory Review Commission next year.

The four-year rewrite of rules meant to protect land, water and air around drilling and fracking sites has been divisive as it

PA UPDATES

- Wave of Large Pipeline Projects, pg. 6
- Transporters, Your Contingency Plan Update?, pg. 6
- Gas, Oil Well Rules Update, pg. 6
- Beaumont Pond Restoration, pg. 11

stretched between two administrations and sought to regulate both conventional drilling and the growing exploration of deep shale. Governor Tom Wolf, who took office this year and appointed Quigley, revamped the advisory boards that review the rules. The department then made enough changes to the draft rules that it required a second round of public comment.

Quigley acknowledged that the newly formed Conventional Oil and Gas Advisory Committee already has said it won't give its blessing to the rules covering shallow wells.

Deputy Secretary Scott Perry said he expects more changes to this draft as it goes before the two advisory boards.

A separate process to write stronger public health rules for the industry is starting now, Quigley said.

- Read DEP's new release:

<http://www.portal.state.pa.us/portal/server.pt/community/newsroom/14287?id=20809&typeid=1>

- Summary of changes to draft-final regulation (<http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/TechnicalAdvisoryBoard/2015/September%202/Summary%20of%20Changes%20Subchapter%20C%20Draft%20Final%20Regulation.pdf>)

- Draft-final Chapters 78 (conventional operations) and 78a (unconventional operations) (<http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/TechnicalAdvisoryBoard/2015/September%202/DraftFinal%20Chapter%2078%20and%2078a%20Annex%20A.pdf>)

- DEP's Chapter 78 rulemaking information page (http://www.portal.state.pa.us/portal/server.pt/community/public_resources/20303/surface_regulations/1587188)

(PIOGA/Pittsburgh Tribune – Review – 8/12/15)

**VISIT OUR
WEB SITE
WWW.RTENV.COM**

NJ UPDATES

MOLD PROTECTED LUMBER GAINS POPULARITY AMONG BUILDERS

Home and Land Development Corp. is a leading developer of commercial and residential properties in Monmouth County, New Jersey. According to Eco Building Products, Inc., the developer has joined a growing number of architects and builders now behind a "defensive building movement" that includes specifying Eco Red Shield Advanced Framing Lumber. The product's patent-pending technology wards against mold, fire, wood-rot decay, and insects. Eco says mold is a hot topic in the building industry, with all ends of the market seeking to avoid lawsuits related to faulty material, especially mold-contaminated lumber.

(IAQA Digest – 6/3/15)

CLEANER AIR COMING TO THE NEW JERSEY SHORE

A proposed natural gas pipeline through the Pinelands moved an important step closer to approval with the issuance Friday by the Pinelands Commission staff of a "Certificate of Filing" to South Jersey Gas.

The certificate "is necessary to allow any state, county, or municipal agency to review and act on the proposed development application," Charles Horner, director of regulatory programs for the commission, said in a letter Friday to South Jersey Gas.

"We will follow the process laid out in the certificate as we move toward completion of the project," Robert Fatzinger, senior vice

president of engineering services and system integrity for South Jersey Gas, said in a statement.

Construction permits would still have to be obtained from the local municipalities but no further public hearings or commission or board action would be required, officials said.

In late July, the BPU endorsed changes to the planned pipeline, which would run through Upper Township in Cape May County, Maurice River Township in Cumberland County, and Estell Manor in Atlantic County.

The project would convert the B.L. England Generating Station at Beesleys Point in Upper Township from the use of coal to natural gas.

The 24-inch pipeline would run along the shoulder of Route 49 from Maurice Township through about 10 miles of forest area, and then along Route 50 to Tuckahoe Road and an Atlantic City Electric right-of-way to the B.L. England plant.

(By Edward Colimore, Philadelphia Inquirer – 8-16-15)

Moving the pipeline forward heralds a new era for clean energy at the New Jersey Shore. Atlantic City Electric originally had a coal-fired generating station in Deep Water, New Jersey and another in Atlantic City. As the area grew, the Beasley's Point Generating Station, a coal-fired power plant was built in the 1960s. In its day, the power plant was considered "something extra",

NJ UPDATES

- Mold Protected Lumber, pg. 7
- Cleaner Air at the Shore, pg. 7

because the company took the time to have a swimming pool right on the Great Egg Harbor Estuary, as well as a golf course. Although the plant was expanded in the area where the swimming pool was located, the golf course continues in operation to this day. This is the first connection of the plant to a natural gas pipeline, given the abundant supplies of natural gas heralds a new era in gas fired power plants and gives a new lease on life to the Beasley's Point Generating Station.

Most environmentalists and environmental managers have never believed that adding pipelines down alongside state highways carries any significant environmental impact, and environmentalists who have opposed the gas pipeline don't say much about how NJDEP heavily regulated the Beasley's Point Generating Station during its time of coal-fired power production, when DEP did an excellent job of making sure that some of the cleanest coal available in the United States, such as that from the Powder River basin in Wyoming, was only burned at the plant. Clean natural gas and lower emissions is an important step forward for shore residents as well as the state of New Jersey.

- Gary Brown

WHO DOES THE CLEANUP?

A. NJ LSRP Program	1. Volunteer
B. Ohio Voluntary Action Program	2. Remediator
C. PA Act 2 Land Recycling Program	3. Responsible Party

TECHNOLOGY UPDATES

RESEARCH BRIEF 244: SWITCHGRASS AND BACTERIA WORK TOGETHER TO REMOVE PCBs FROM SOIL

Researchers at the University of Iowa Superfund Research Program (SRP) Center have found that switchgrass, a plant native to central North America, can effectively remove polychlorinated biphenyls (PCBs) from contaminated soil. When PCB-degrading bacteria is added, removal of PCBs from the soil can increase further. This phytoremediation method may be an efficient and sustainable strategy to removing PCBs from hazardous waste sites. For more information, see http://tools.niehs.nih.gov/srp/research-briefs/view.cfm?Brief_ID=244.

(Tech Direct – 5/1/15)

OHIO EPA UPDATES KEY GUIDANCE MANUAL

Chapter 3 of the Ohio Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring (TGM): Characterization of Site Hydrogeology has been revised and updated. The April, 2015 revision has been posted final on the Ohio EPA Division of Drinking and Ground Waters webpage at:

http://epa.ohio.gov/Portals/28/documents/TGM-03_FinalApril2015.pdf

The TGM identifies technical considerations for performing hydrogeologic investigations and ground water monitoring at potential or known ground water pollution sources. The purpose of the guidance is to enhance consistency within the Agency and inform the regulated community of the Agency's technical recommendations and the basis for them.

ETHANOL REFINING RELEASES MORE POLLUTANTS THAN PREVIOUSLY THOUGHT AT ONE REFINING

Ethanol fuel refineries could be releasing much larger amounts of some ozone-forming compounds into the atmosphere than current assessments suggest, according to a new study that found emissions of these chemicals at a major ethanol fuel refinery are many times higher than government estimates.

New airborne measurements downwind from an ethanol fuel refinery in Decatur, Illinois, show that ethanol emissions are 30 times higher than government estimates. The measurements also show emissions of all volatile organic compounds (VOCs), which include ethanol, were five times higher than government numbers, which estimate emissions based on manufacturing information. VOCs and nitrogen oxides react with sunlight to form ground-level ozone, the main component of smog.

If emissions at the more than 200 fuel ethanol refineries in the US are also being

underestimated, these plants could be a higher source of VOC emissions than currently thought, according to the new findings accepted for publication in the *Journal of Geophysical Research: Atmospheres*, a publication of the American Geophysical Union.

Ethanol, a renewable transportation fuel made from corn, constitutes approximately 10% of the fuel used in gasoline vehicles in the US, according to the new study. The renewable fuel standard mandating the use of ethanol and other renewable fuels aims to reduce greenhouse gas (GHG) emissions and petroleum imports, while encouraging development and expansion of the US renewable fuels sector, according to the EPA.

The new study is one of the first and most detailed investigations of emissions from ethanol fuel refining, according to its lead author Joost de Gouw, a scientist at the Cooperative Institute for Research in Environmental Sciences at the University of Colorado Boulder and NOAA's Earth System Research Laboratory in Boulder, Colorado. Information about the refining process is one piece of examining the entire lifecycle of ethanol fuel emissions, from growing the corn used to make the fuel to the effect of emissions on urban air quality, he said.

"Over the past decade, because of the renewable fuel mandate, we have added 10% of ethanol to all the gasoline that is sold in the US and so the question is: what does that do to the environment," de Gouw said. "That is a very complicated question and it has many different aspects. One of the aspects is the air-quality implications and, to get at them, we have to know what are the emissions associated with producing ethanol and using ethanol. That is where this study fits in."

To make the measurements they report, de Gouw and his colleagues flew an airplane downwind of an Archer Daniels Midland ethanol refinery, the third largest producer of fuel ethanol in the US, and took air-quality readings at three different distances from the plant. The researchers used those to calculate emissions of various gases, including VOCs, nitrogen oxides, and sulfur dioxide.

They then compared their findings with government emissions estimates from 2011. Emissions of sulfur dioxide and nitrogen oxides—compounds generated by the coal-burning plant—were in-line with government estimates, but emissions of VOCs, including ethanol, were higher than government estimates. De Gouw said the VOC emissions are likely generated by the refining process, not the coal burning that powers it.

The researchers also used government estimates and ethanol production numbers from the Renewable Fuels Association to analyze emissions from all fuel ethanol

TECHNOLOGY UPDATES

- Large Scale Soil Reuse in Massachusetts, pg. 9
- Homes Were Too Tight, pg. 9
- NY Brownfield Underutilized Definition, pg. 9
- Historic Fill in Massachusetts, pg. 10
- RT Pop Quote Answers on pg. 10

refineries in the US and compare those to emissions from burning ethanol in motor vehicles.

Prevailing estimates had indicated that refining ethanol fuel and burning it in cars and trucks generate equivalent amount of VOCs, including ethanol. But, the new emissions measurements from the Decatur plant show that ethanol emissions from production of one kilogram of ethanol at the refinery are 170 times higher than what comes out of a vehicle burning the same amount of ethanol, de Gouw said. If the Decatur refinery is like most other refineries in the US, he added, "the higher emissions of ethanol and VOCs that we calculated from our data would make the refining process a larger source of these gases than burning the ethanol fuel in your car."

"Obviously, this was just one refinery that we looked at, so we'd like to do more and see if these findings are more universal or if this plant was just exceptional," de Gouw added.

The new study points to the need for more measurements of emissions coming from ethanol fuel refineries, said Dylan Millet, an associate professor of atmospheric chemistry at the University of Minnesota in St. Paul. He was not involved with the new research. Additional observational data will help scientists better understand the emissions and their impact on air quality, he said.

"If we are going to accurately assess the air-quality implications of our fuel choices, then these are important emissions to know," Millet said.

(Environmental Resource Center – 5/26/15)

INTEGRATED DNAPL SITE CHARACTERIZATION AND TOOLS SELECTION

This guidance document reviews the current knowledge of DNAPLs and their subsurface behavior. Using an integrated site characterization (ISC) approach that emphasizes adequate data resolution to fully characterize a site, this document describes how to align data on contaminant distribution, geology, and groundwater flow at a spatial resolution appropriate to the site-specific remedial objectives. With improving understanding of subsurface contaminant behavior, both existing and new tools and techniques can be used to measure physical, chemical, and hydrologic subsurface parameters to better characterize the subsurface.

TECHNOLOGY UPDATES *(Continued)*

This document synthesizes the knowledge of DNAPL site characterization and remediation and provides guidance on simultaneous characterization of contaminant distributions, hydrogeology, and attenuation processes to allow for improvements in the following areas: assessment of ongoing contaminant exposures; quantification of contaminant transport, storage, and attenuation patterns; prediction of future exposures that would occur without intervention; prediction of changes in future exposures that would occur in response to remedial actions; and selection and design of remedial actions (May 2015, 381 pages). View or download at http://www.itrcweb.org/DNAPL-ISC_tools-selection. For more information on the corresponding Internet-based training course on July 23, see <http://www.itrcweb.org> or <http://clu-in.org/live>.

(Tech Direct – 6/1/15)

MORE MOLD LAWS

New York State and New Hampshire are set to implement mold laws according to American Council for Accredited Certification (ACAC).

RT offers in depth services to address mold and other indoor air quality issues. You can reach Gary at 800-725-0593, extension 234 or you can reach him by email at: gbrown@rtenv.com.

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION PROPOSES:

INTERIM POLICY ON THE RE-USE OF SOIL FOR LARGE RECLAMATION PROJECTS

Policy Statement

Massachusetts DEP published an Interim Policy to issue site-specific approvals, in the form of an Administrative Consent Order, to ensure the reuse of large volumes of soil for the reclamation of sand pits, gravel pits and quarries poses no significant risk of harm to health, safety, public welfare or the environment and would not create new releases or threats of releases of oil or hazardous materials.

Effective Date

This Interim Policy is effective immediately, after comments are resolved. Comments were due on June 17, 2015. Comments on the new policy were submitted in June. This Interim Policy will remain in effect until it is specifically rescinded or superseded by MassDEP regulations governing soil fill projects promulgated pursuant to Section 277 of Chapter 165 of the Acts of 2014, M.G.L. c. 21E, Section 6, and M.G.L. c. 111, Section

150A. While such regulation will likely differ in scope and detail from this Interim Policy, it is anticipated that the final approach will specifically recognize and accommodate projects commenced under an Administrative Consent Order issued pursuant to this Interim Policy.

DRAFT BROWNFIELD REGULATIONS DEFINING “UNDERUTILIZED” AND “AFFORDABLE HOUSING PROJECT” ISSUED IN NEW YORK

The New York State Department of Environmental Conservation recently issued draft Brownfield Regulations which include interesting definitions, defining what a Brownfields project is. The proposed Definitions are summarized as follows:

This spring New York enacted amendments to its Brownfield Cleanup Program (BCP) to, among other things, make eligibility for the lucrative tangible property tax credit more stringent for properties located in New York City.[1] Under the amended law, New York City-based developments will no longer be eligible for such credit unless the applicant meets at least one of the following eligibility requirements:

- at least 50% of the project site is located in an impoverished area known as an “Environmental Zone”;
- the site is “upside down”; i.e., it costs more to remediate than it would be worth as clean;
- the site is an “affordable housing project”; or
- the site is “underutilized.” The amendments made clear that the new eligibility criteria would take effect on the later of July 1, 2015 or the date on which the New York State Department of Environmental Conservation (NYSDEC) issues proposed regulations defining the terms “affordable housing project” and “underutilized.” Well, that date is now known because NYSDEC issued proposed regulations in early June, meaning that the new criteria will take effect on July 1st. As discussed below, NYSDEC has proposed to define “affordable housing project” mostly in terms of existing programs that will likely make this eligibility criterion easy to apply. By contrast, the agency has defined “underutilized” in such manner that will make it virtually impossible for any properties located in New York City eligible for the tangible property tax credit.

For a copy of the complete Law Blog article from Greenberg Traurig, go to: <http://gtlaw-environmentalandenergy.us6.list-manage.com/track/click?u=1684e2d964bfa9b5d101ab1dc&id=05e0fc622a&e=fa10b8c3bc>

(By Steven C. Russo and Robert M. Rosenthal – 6/29/2015 – Greenberg Traurig)

Feature Article: from Clark County, WA ENERGY ADVISER: NEW HOMES BUILT TIGHT, VENTILATED RIGHT, TOO

Homes constructed before the 1970s were allowed to breathe, which means a lot of cold air seeps in and heated air leaks out throughout the year. In those days, energy was cheaper and plentiful. Builders started sealing houses tight as a response to the 1970s energy crisis; unfortunately, that effort had unintended negative consequences.

It turned out that these new tighter houses developed moisture and mold problems as moist air that used to leak out of the house now stayed in. Tighter houses also increased the chance that combustion appliances such as fireplaces, gas furnaces and water heaters could back-draft poisonous exhaust into the living space. Poorly ventilated houses could also allow cancer-causing radon levels to build up.

"Pre-1970 homes 'breathed' air in and out continuously," said Mike Selig, program manager for the county's Weatherization and Building Safety programs. "The energy crisis sealed houses up and one of the results in the Northwest was a dramatic increase in mold and dry rot."

Unless updated, '70s and early-'80s homes in Clark County may still harbor damage caused by moisture in the walls. Poorly ventilated ones may also trap in bad air. Such homes can even impact respiratory problems or allergies. A 2007 Environmental Protection Agency study linked 4.6 million asthma cases to dampness or mold in homes.

Today, the new mantra for builders is "build tight and ventilate right." The field of building science was developed after the negative effects of tight building construction were discovered and is now the model for producing energy-efficient, healthful housing. Treating the home as a system, builders have developed ways to save energy, improve ventilation and decrease moisture problems by improving air circulation in and out of a home.

The building crash of 2008 eventually caused Clark County to be farther along in integrating building science and building safety than most other communities, Selig explained. "Clark County had to slash its building staff significantly; some of our building inspectors went to work in energy conservation businesses," Selig said. "In 2010, they returned primed with building science training they had picked up while they were away."

Another positive result of the building crash was the formation of partnerships to do more with fewer resources. Clark County Building Safety works with Clark Public Utilities, Clark County Building Industry

TECHNOLOGY UPDATES *(Continued)*

Association, the Washington Department of Commerce, DOE and HUD to elevate awareness of building science in local organizations. These groups also provide training for builders in energy conservation, new building techniques, heating and ventilation as well as a code checklist and other materials to make their work easier.

Many local builders today are on the forefront of green homebuilding. They build for the home site, and employ building science to design and erect comfortable, energy-efficient homes that are healthful to live in. They understand homes with different exposures have differing energy-saving and moisture-blocking needs, as do homes built under shade trees, or those on the Columbia River with greater exposure to rain and wind. As technology and our understanding of how houses perform continue to evolve, houses will become even better. Energy efficiency, indoor air quality and building durability will continue to improve.

"The marriage of building science and building safety has been a very good thing, and like a good marriage, gets even better with age." Selig said.

(The Columbian – 7-23-15)

HISTORIC FILL IN MASSACHUSETTS

Massachusetts LSPs advised - Read This Before You File a "Permanent Solution Statement with Conditions" for the Presence of Historic Fill

By: Wesley E. Stimpson, LSP, Technical Practice Committee and LSPA Past President

Recent revisions to the Massachusetts Contingency Plan (MCP) change the way "Background" conditions are identified and managed under those regulations. Background is now divided into two

categories: Natural Background and Anthropogenic Background. A subcategory of Anthropogenic Background is Historic Fill.

MassDEP has determined that internal guidance is needed for its staff reviewing submittals that identify the presence of Historic Fill and utilize its presence as Background to exclude certain contaminants contained in the Historic Fill from the Risk Characterization process. MassDEP staff are currently working on developing an internal Standard Operating Procedure (SOP) entitled "Anthropogenic Background-Historic Fill". Once the Department has finalized the SOP, it expects to draft a guidance document that will be made available to the public.

An initial draft version of the SOP has been developed and provided to the LSPA Technical Practice Committee (TPC) for constructive input. In addition, the general approach and some outstanding issues for which the Department is looking for help were presented at the March 5 meeting of MassDEP's Waste Site Cleanup Advisory Committee. A video of that presentation and the PowerPoint slides can be found here. The TPC is continuing its dialogue with MassDEP and has provided comments and some data sources.

At 310 CMR 40.0006(12), under the definition of Historic Fill, the MCP provides the criteria needed to document the presence of Historic Fill at a Disposal Site. Based on its review of recent submittals, the Department has identified a need for increased diligence on the part of LSPs in confirming that these criteria are met. Some of the more critical questions LSPs need to address in attributing the presence of a contaminant to historic fill include:

- Was that fill placed at the Disposal Site

prior to 1983?

- Is the fill primarily soil?
- Was the contaminant in the fill at the time of placement?
- Have the nature, and the horizontal and vertical limits of the Historic Fill been defined?
- Do lines of evidence support the conclusion that the contaminant did not come from an on-site source?"
- Can the level of contamination be considered to be consistent with the pervasive use of the contaminants prior to 1983?

LSPs in Massachusetts were advised to consider the documentation of the answers to these questions as they prepare risk characterizations for submittal of a Permanent or Temporary Solution Statement. The LSP Association's TPC will continue to monitor the Department's progress on the guidance document and will inform the LSPA as additional information becomes available.

(LSP Association – June 2015 Newsletter)

MILLIONS HAVE WORK-RELATED ASTHMA CDC SAYS

More than 15 percent of asthma cases among employed adults are work-related, according to a report from the Centers for Disease Control and Prevention (CDC). In its report, the CDC analyzed data from phone surveys in 22 states. An estimated 12 million adults in those states had asthma and 15.7 percent had work-related asthma. The CDC said the findings could provide a baseline for additional research regarding the scope of work-related asthma and prevention strategies for the disease.

(IAQA Digest – 4/22/15)

WHAT IS OSHA?

1. The government who certifies respiratory safety equipment?
2. Occupational Safety and Health Administration?
3. The Agency who Investigates Work Fatalities?
4. Agency who Establishes Permissible Air Levels?
5. The Agency which regulates Public Employee Safety?

POND RESTORED AT BEAUMONT AN ENVIRONMENTAL SUCCESS STORY

The Beaumont Retirement Community is a nationally renowned retirement center located in Lower Merion Township, Pennsylvania. A project involving upgrading and expansion of the Harriton High School caused sediment impacts to a pond at Beaumont in 2008.

The sediment problem related to construction activities upstream from Beaumont and a number of upgrading measures had to be undertaken to better protect the downstream pond. We are pleased to offer an overview of a chronology of the project which is considered an environmental success story, as follows:

Beaumont Pond Dredging: A Chronology

Ann Louise Strong, memoirist and
Richard Stephens photographer, Chair and Vice-Chair,
respectively, of the Beaumont Green Committee

Prelude: The Beaumont Pond, 1980s to 2008.

Beaumont Retirement Community was conceived and brought to fruition by Arthur Wheeler. The 50 acre site had been an estate with mansion, outbuildings, and a small stream featuring a very small pond. In 1986, as part of plans for development, Wheeler and Lower Merion Township agreed on changes to the pond. It was enlarged to around 2/3 acre, with a depth of 7' at the ends and 8' in the center and with sides sloping at an a slope of 1:3. A dam at the pond, as well as a dam at another site now called the vale, were designed to detain runoff from the roads and roofs of the new development. Runoff to the pond not only came from Beaumont but also from Harriton High School and other upstream neighbors. Heavy rainfalls brought floods of water and sediment from them to the Beaumont inlet and pond. This led to substantial erosion of the inlet banks and settling of sediment in the pond.

In the 1990s Harriton created two swales or storage areas abutting North Ithan Avenue. This slowed runoff only slightly as there was no pond or dam at Harriton. However, when the Lower Merion School District decided to raze the old school and build a much larger new complex, they were required to create two new detention ponds and dams to replace the swales. This resulted in some delay in flows of water and sediment to Beaumont. Over several years the inlet stream banks eroded and the sediment settled in the pond. Consultants hired by Beaumont recommended dredging the pond and reconstructing the inlet stream. Toth Bros. Clearing and Dredging, Inc. was selected to do the work. Work by Toth began in 2001, with 2,000 cubic yards of sediment removed from the pond and the inlet stream rebuilt. This was not a solution since upstream runoff continued as before.



Harriton water storage areas abutting North Ithan Ave from December 1997 'Stream Stabilization Report' by Michael F. Loftus, Beaumont at Bryn Mawr Director of Grounds.

Dredging Again, in 2015

My late husband, Michael, and I moved to our villa overlooking the pond in late 2007.

Early in 2008, I saw that there was a sediment problem in the pond. Beaumont engaged the Academy of Natural Sciences to do a study of the pond, and that was the start of determining the extent of sediment deposition and of analyzing the causes. Several years of work by our consultants, Richard Nalbandian, geologist; Gary Brown, environmental engineer; and Stephen Yusem, attorney, led to the development, with our neighbors, of a solution to the problem. It required numerous attempts and considerable expenditure by Harriton High School but now, after eight years, the excess runoff of upstream water and sediment has been corrected. At last it is time for the Beaumont pond to be healthy again. Toth Bros. has arrived again. They came to dredge mud and restore the pond to meet Lower Merion Township specifications.

The Dredging Gets Underway... The Crew carries on through Tough Winter Weather.

Saturday, February 7th: A giant yellow dredge with a 65 foot arm (formally a CAT 200 Hydraulic Excavator) arrives, along with a Toth tri-axle truck, and a large storage trailer.



The pond on day 1 with dredge in position.

Monday, February 9th: Starting in mid-morning three men from Toth lay several 10' x 15' mats made of oak slats near the pond and adjacent to Gatehouse Road. These mats will protect the ground from the weight of the dredge and trucks. Soon the dredge is driven onto the mat nearest the water's edge.



Wooden mats in place to protect the bank.

Two men go to the inlet stream, install a pump and link it to a very long blue hose running from the pump down the edge of the woods path to the outlet stream. This hose will carry all of the incoming flow from upstream, by-passing the pond.



Tank Holding Fish for return to restored pond.



The newly dredged pond refilled.

I ask what the fate of any fish will be. The answer is that there will be a good-sized tank of water near the pond where the fish will live until returned to the pond when work is finished.

Wednesday, March 11: First success: Return of Canada geese. A Spring turf war broke out around 7 a.m. I was in my kitchen and heard a sudden cacophony of squawks coming from the pond. I hurried to the deck, looked at the pond, and saw two geese--males I presume--in a fierce battle of wings and heads. In a circle surrounding them were five more geese, all squawking to cheer on their respective champion. I left them for my breakfast. The noise ebbed, and I returned to the deck half an hour later. By then one pair of geese were swimming in circles near the inlet, squawking at the other five geese occupying the bank where the dredge had parked. One of this group squawked constantly and the other four watched and listened. Why an uneven number? I can speculate but don't know. I was delighted that we have seven competitors for a seasonal home on a once again appealing pond.

While many members of the public see continued development as a cause of environmental degradation, problems can occur on projects but environmental professionals can improve the situation effectively. At this site, the upstream project was comprehensively upgraded, including stormwater basins with extended detention. This keeps runoff on site longer, allowing small particles to settle out. What had resulted in litigation over offsite sediment impacts got prompt attention and the Beaumont Pond was saved for the long term. Upstream development does not have to mean downstream loss of habitat or water quality. The right stormwater Best Management Practices make all the difference.

Gary Brown

SCOPE OF SERVICES

ENVIRONMENTAL SURVEYS

Phase I & II Environmental Site Assessments

- Field Investigations
- Computer Regulatory Database Checking
- Field Analytical Testing (Volatiles, Metals, PCB's, Gasoline, and Oil Compounds)
- Remedial Action Plans
- Asbestos Testing & Abatement
- Lead-Based Paint Testing & Abatement
- Feasibility Studies
- Storm Water Management

BROWNFIELDS/LAND RECYCLING:

- Reuse Plans
- PCB Remediation
- Risk Assessment
- Capping/Paving
- Bioremediation
- Natural Attenuation

OIL & GAS SERVICE:

- Drill Pad Inspections
- Spill Prevention Control and Counter Measure Plans
- Release Response Act 2 Cleanups
- Permits
- Erosion and Sediment Control Plan

INDOOR AIR QUALITY:

- Baseline Assessments
- Mold Investigations
- IAQ Management Programs
- Mold Remediation

REMEDIATION:

- Groundwater Recovery/Treatment
- Waste/Soil Excavation
- Vapor Extraction
- Bioremediation
- Liquid and Vapor Phase Carbon Treatment
- Thermal Oxidation
- Thermal Desorption
- Tank Removals/Lagoon Closures

LANDFILLS:

- Design & Permitting
- Gas Recovery Systems
- Truck Wash Facilities
- Leachate Collection/Treatment
- Cap, Cover and Slurry Walls

OTHER SERVICES:

- Training Programs
- Contingency Plans
- Source Reduction
- Waste Minimization
- Soil Testing

- Geotechnical Engineering
- Superfund Project Management
- Expert Witness Testimony

AIR EMISSIONS:

- Emissions Permitting and Inventories
- Emissions Testing
- Odor Control Studies
- Dispersion Modelling

PROCESSING FACILITIES:

- Transfer Stations
- Recycling Facilities
- Industrial Metal Processing
- Residual Waste Planning Compliance

CONCEPT THROUGH START-UP:

- Design and Project Management
- Permitting
- Construction and Construction QA/QC
- Start-up Operations Services
- Operations and Maintenance



RT ENERGY NEWS

ENVIRONMENTAL GROUPS FILE COMPLAINT AGAINST EPA REGARDING LACK OF AST REGULATIONS

According to a recent Complaint against EPA:

- In section 311(j)(1) of the Federal Water Pollution Control Act Amendments of 1972 (commonly known as the Clean Water Act), Congress directed that “as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations...(C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances...from onshore facilities..., and to contain such discharges.” Pub. L. No. 92-500, § 311(j)(10), 86 Stat. 816, 868 (codified at 33 U.S.C. § 1321(j)(1)).

- The following year, the President delegated to the EPA Administrator the authority and responsibility under section 311(j)(1)© to issue regulations to “prevent discharges of oil and hazardous substances from non-transportation-related onshore facilities..., and to contain such discharges.” Exec. Order No. 11,735 § 1(4), 38 Fed. Reg. 21,243 (Aug. 7, 1973).

- In the intervening decades, Defendants never issued regulations to prevent and contain hazardous-substance spill from non-transportation-related onshore facilities (hereinafter, “hazardous-

substance spill regulations”). Defendants’ failure to comply with its non-discretionary duty under section 311(j)(1)(C) is actionable under the Clean Water Act, 33 U.S.C. § 4365(a)(2), and exposes the public, particularly low-income communities and communities of color, to environmental and health risks from preventable hazardous-substance spills.

- As part of the Clean Water Act, Congress directed that “as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations...(C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances...from onshore facilities..., and to contain such discharges.” 33 U.S.C. § 1321(j)(1).

- Since 1973, the EPA administrator has had a non-discretionary duty under Section 311(j)(1)(C) to issue regulations to prevent and contain discharges of oil and hazardous substances from onshore facilities, including above-ground storage tanks.

- Despite this recognition, EPA has only satisfied half of Congress’s mandate under section 311(j)(1)(C). EPA has issued, and occasionally revised, spill prevention and containment countermeasure plan regulations to prevent and contain discharges of oil from non-transportation-related onshore facilities.

- Onshore facilities that store hazardous

substances are left unregulated, exposing the public and the environment to serious harm from spills.

- EPA never finalized its proposed hazardous-substance spill regulations under section 311(j)(1)(C). Nor has it ever proposed hazardous-substance spill regulations that would apply to all onshore facilities.

- According to U.S. Coast Guard data, there are thousands of self-reported hazardous-substance spills from onshore facilities each year. Hundreds of those spills reach bodies of water, where by definition, they “present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.”

- Plaintiffs respectfully request that this Court enter judgment against EPA as follows:

o Declaring that EPA’s forty-plus-year failure to issue regulations under 33 U.S.C. § 1321 (j)(1)(C) to prevent and contain hazardous-substance spills from non-transportation-related onshore facilities is unreasonable and a violation of a non-discretionary duty under the Clean Water Act, 33 U.S.C. § 1365(a)(2);

o Compelling EPA to begin rulemaking and issue regulations to prevent and contain hazardous-substance spills from non-transportation-related onshore facilities, as required.

WHICH OF THESE ARE VAILID AIR PERMITS?

1. Gas Pipeline New Flare Permit?
2. Grandfathered Air Filter Permit?
3. Title 4 Stationary Source Permit?
4. State Only Permit?
5. Expedited Source Upgrade Permit?
6. Synthetic Minor Permit?

PENNSYLVANIA BULLETIN NOTICES

4/4/15 – Department of Environmental Protection published notice of an alternative option to comply with nitrogen oxide emission limit requirements for non-electric generating units.
4/4/15 – Department of Environmental Protection published notice of technical guidance dealing with community and transient non-community drinking water systems.
5/9/15 – Department of Environmental Protection published notice of proposed 2015 Air Monitoring Network Plan for Philadelphia
5/16/15 – Department of Environmental Protection published notice – permit review may now be impacted by the U.S. Fish and Wildlife Service’s listing of Northern Long-eared Bat as a federally threatened species under the Endangered Species Act.
5/30/15 – DEP - notice of availability of a draft NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (PAG-13)
5/30/15 – DEP – notice of final interim technical guidance document on developing and publishing all technical guidance and request comments.
5/30/15 – DEP – notice re water quality designation for a tributary of Oley Creek in Luzerne County
6/20/15 – DEP – notice of final technical guidance on PA’s Capability Enhancement Program For Drinking Water Systems and a Training Provider Manual for Water System Operators.
6/20/15 – DEP – notice of 2015 Intended Use Plan for federal drinking water and wastewater nonpoint source and pollution abandonment funding.
6/20/15 – DEP – notice of revisions to the State Air Quality Implementation Plan related to North Reading for lead.
6/27/15 – Citizen’s Advisory Council recommended publishing a Non-Regulatory Agenda as part of an effort to improve public participation in the development of technical guidance.
6/27/15 – Department of Agriculture – Changes to the assessment process for farmland and forest land under the Clean and Green Act.
7/11/15 – DEP – notice of availability in the July 11 PA Bulletin for the PAG-10 NPDES General Permit for Discharges From Hydrostatic Testing of Tanks and Pipelines
7/18/15 – DEP – notice in the July 18 PA Bulletin of the draft technical guidance on evaluation of underground storage tank cathodic protection systems available for comment
7/18/15 – DEP – notice of final regulations making changes to the list of threatened and endangered species.
7/18/15 – Fish and Boat Commission published notice of proposed additions, revisions and removals from the list of Wild Trout Streams and the list of Class A Wild Trout Waters
7/25/15 – DEP – notice in the July 25 PA Bulletin of new draft technical guidance available for public comment: Land Recycling Program Technical guidance Manual for Vapor Intrusion and Radiation Protection Compliance and Enforcement Guidance
8/1/15 – Fish and Boat Commission – notice of additions to the Class A Trout Waters and Wild Trout Stream List.
8/8/15 – DEP – notice of correcting and extending the comment period on proposed technical guidance related to Radiation Protection Compliance and Enforcement.
8/15/15 – DEP – notice of proposed changes to the Residual Waste General Permit on the beneficial use of residual waste other than coal ash (WMGR052)

MOLD PRIMER

1. Who should you use to evaluate mold?
2. How long when porous surfaces remain wet that mold can start growing?
3. What is a mold treatment product that won’t cause chlorine problems?

FEDERAL REGISTER NOTICES
<http://www.federalregister.gov>

Proposed Rule: Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category
(Federal Register – 4/7/15)

Final Rule: Hazardous and Solid Waste Management System; Disposal of Coal Combustion residuals From Electric Utilities
(Federal Register – 4/17/15)

Final Rule: Revising Underground Storage Tank Regulations-Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training.
(Federal Register- 7/15/15)

Notice: Extension of Comment Period. Pesticides; Risk Management Approach to Identifying Options for Protecting the Monarch Butterfly; Notice of Extension of Comment Period.
(Federal Register – 7/22/15)

EPA Final Rule: Release of EPA's Report on the Environment (ROE). The ROE is a comprehensive source of scientific indicators that describe the status and trends in the nation's environment and human health condition.
(Federal Register – 7/24/15)

Nuclear Regulatory Commission Petition for Rulemaking; Denial: Environmental Impacts of Severe Reactor and Spent Fuel Pool Accidents
(Federal Register – 8/12/15)

Consumer Product Safety Commission Proposed Rule: Safety Standard for Infant Bathtubs
(Federal Register – 8/14/15)

Notice: Update of the Federal Agency Hazardous Waste Compliance Docket
(Federal Register – 8/17/15)

QUIZ ANSWERS

Page 3: Wastewater

1. State Pollution Discharge Elimination System – B (NY)
2. New Jersey Pollution Discharge Elimination System – C
3. National Pollution Discharge Elimination System – A (PA)

Page 7: Cleanup

- A. 3 (NJ); B. 1 (OH); C. 2 (PA)

Page 10: What is OSHA?

1. Yes; 2. No; 3. Yes; 4. Yes; 5. No

Page 13 – Air Permits

1. No; 2. No; 3. No; 4. Yes; 5. No; 6. Yes

Page 14: Mold Primer

1. A Certified Microbial Consultant
2. 3 Days
3. Quaternary Ammonia



KEY HIGHLIGHTS

FEDERAL UPDATES

- New Federal UST Regulations, pg. 3
- DRBC Single Process Review, pg. 4
- Protecting Bees, pg. 4
- Selenium Update, pg. 5

PA UPDATES

- Wave of Large Pipeline Projects, pg. 6
- Transporters, Your Contingency Plan Update?, pg. 6
- Gas, Oil Well Rules Update, pg. 6
- Beaumont Pond Restoration, pg. 11

NJ UPDATES

- Mold Protected Lumber, pg. 7
- Cleaner Air at the Shore, pg. 7

TECHNOLOGY UPDATES

- Large Scale Soil Reuse in Massachusetts, pg. 9
- Homes Were Too Tight, pg. 9
- NY Brownfield Underutilized Definition, pg. 9
- Historic Fill in Massachusetts, pg. 10
- RT Pop Quiz Answers on pg. 15

RT ENERGY NEWS

- UST Rules, pg. 3
- Gas, Oil Well Emissions, pg. 6
- Wave of Large Pipelines, pg. 6
- Federal AST Regulations Coming?, pg. 13

RT E-MAIL DIRECTORY

TONY ALESSANDRINI	TALESSANDRINI@RTENV.COM	WALTER HUNGARTER	WHUNGARTER@RTENV.COM
LARRY BILY	LBILY@RTENV.COM	JUSTIN LAUTERBACH	JLAUTERBACH@RTENV.COM
JENNIFER BERG	JBERG@RTENV.COM	JOHN LYDZINSKI	JLYDZINSKI@RTENV.COM
CHRISTOPHER BLOSENSKI	CBLOSENSKI@RTENV.COM	AMANDA MALACARNE	AMALACARNE@RTENV.COM
GARY BROWN	GBROWN@RTENV.COM	SEJAL PATEL	SPATEL@RTENV.COM
LORELEI CARR	LCARR@RTENV.COM	JULIAN POZZI	JPOZZI@RTENV.COM
ERIK DREW	EDREW@RTENV.COM	MARIA SCUDDER	MSCUDDER@RTENV.COM
KEN EDEN	KEDEN@RTENV.COM	JAMES SIERACKI	JSIERACKI@RTENV.COM
GLENNON GRAHAM	GGRAHAM@RTENV.COM	EMMALEE VECERE	EVECERE@RTENV.COM
ANDREW HALLY	AHALLY@RTENV.COM	CHRIS WARD	CWARD@RTENV.COM
CRAIG HERR	CHERR@RTENV.COM		

VISIT OUR WEBSITE
WWW.RTENV.COM

IN THIS ISSUE

WETLANDS LANDOWNERS GET A WIN!
 Page 1

THE ENVIRONMENT IS IMPROVING
 Page 1

**CARBON DIOXIDE EMISSIONS
 HIT 27 YEAR LOW**
 Page 2

EPA'S CURRENT FOCUS
 Page 4

**ASBESTOS REGULATIONS
 CONTROVERSY**
 Page 4

**NATURAL GAS DELIVERS CLEANER
 AIR TO THE JERSEY SHORE**
 Page 7

WORK RELATED ASTHMA
 Page 10

RT POP QUIZZES
 Pages 3, 7, 10, 13, 14