

COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

* * * * *

SLUDGE FREE UMBT, *

JIM AND DONNA DELLATORE, * EHB

MIKE AND DIANE ZIMMERER, * Docket No.

DEBRA AND TOM BODINE, * 2014-015-L

JOHN AND TRACY GORMAN, *

BOB AND TERRY SCHNEIDER, *

Appellants *

vs. *

COMMONWEALTH OF *

PENNSYLVANIA, DEPARTMENT *

OF ENVIRONMENTAL *

PROTECTION, AND SYNAGRO, *

a/k/a SYNAGRO *

MID-ATLANTIC, INC., *

Permittees *

* * * * *

DEPOSITION OF

DARRYL I. FRITZ

September 30, 2014

Any reproduction of this transcript is
prohibited without authorization by
the certifying agency.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPOSITION

OF

DARRYL I. FRITZ, taken on behalf of the Appellants herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Rhonda K. Thorpe, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the offices of the Department of Environmental Protection, Northeast Regional Office, Two Public Square, Wilkes-Barre, Pennsylvania, on Tuesday, September 30, 2014, beginning at 10:02 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

JORDAN B. YEAGER, ESQUIRE

Curtin & Heefner, LLP

2006 South Easton Road

Suite 100

Doylestown, PA 18901-7103

COUNSEL FOR APPELLANTS

MICHAEL T. FERRENCE, ESQUIRE

Pennsylvania Department of Environmental
Protection

Office of Chief Counsel

Northeast Regional Office

Two Public Square

Wilkes-Barre, PA 18711-0790

COUNSEL FOR PERMITTEE, PA DEP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S (cont'd)

JULIE D. GOLDSTEIN, ESQUIRE
Fox Rothschild, LLP
Stone Manor Corporate Center
2700 Kelly Road
Suite 300
Warrington, PA 18976-3624

COUNSEL FOR PERMITTEE, SYNAGRO

ALSO PRESENT:

PETER PRICE, Synagro representative

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS: DARRYL I. FRITZ

EXAMINATION

By Attorney Yeager 8 - 70

EXAMINATION

By Attorney Ferrence 70 - 72

CERTIFICATE 73

EXHIBIT PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE IDENTIFIED</u>
	<u>Fritz Exhibits:</u>	
One	Letters	68

OBJECTION PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ATTORNEY

PAGE

Ferrence

52, 62

Yeager

72

P R O C E E D I N G S

DARRYL I. FRITZ, HAVING FIRST BEEN DULY
SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY YEAGER:

Q. All right. Good morning, Mr. Fritz. We've never met before.

A. No.

Q. My name is Jordan Yeager. I represent the Appellants in a case that's before the Environmental Hearing Board, and you've been identified by the Department as somebody who might have information about the matter. And so that's why we've asked you to come and sit with us some today. Have you sat for a deposition before?

A. Yes.

Q. Okay. How many times have you participated in a deposition roughly?

A. Five to ten.

Q. Okay. All in the context of your work for DEP?

1 A. Yes.

2 Q. Okay. And as you know, it's a
3 question and answer session. Okay.
4 It's not a memory quiz. If you don't
5 remember something, just tell you don't
6 remember. If you're not sure, tell me
7 you're not sure, whatever the most
8 honest answer is to whatever question I
9 ask; okay?

10 A. Uh-huh (yes). Yes.

11 Q. And one of the --- one of the
12 rules is that we have to use words, that
13 nods and shakes don't show up in the
14 transcripts. Uh-huhs come out a lot
15 like uh-uhs, so yeses and nos when you
16 can; okay?

17 A. Yes.

18 Q. If at any point you don't
19 understand my question or you don't
20 understand a part of my question, let me
21 know and I'll try to rephrase it. And
22 if at any point you need a break --- I
23 don't expect you'll be here too long,
24 but if at any point you need a break,
25 let me know. All right?

1 A. Yes.

2 Q. Okay. All right. So how long
3 have you been with the Department?

4 A. Almost 35 years.

5 Q. And can you walk through what
6 your experience has been? What
7 positions have you held within ---?

8 A. Oh, the very first positions I
9 held, soil scientist in waste
10 management.

11 Q. Okay.

12 A. That was approximately two years.
13 I was then furloughed. I came back in
14 the sewage facilities grants program for
15 approximately two years.

16 Q. What's that mean, grants program?

17 A. It was a program where the EPA
18 would give money towards the
19 construction of wastewater treatment
20 plants, collection systems, pump
21 stations and the like. So I served the
22 function of administrative assistant in
23 that program.

24 Q. Okay. Prior to joining DEP, did
25 you have specialized education or

1 training degrees, certificates?

2 A. My degree was in agronomy, which
3 is the study of the relationship between
4 soils, fertilizers, crops.

5 Q. And was that a Bachelor's degree?

6 A. Yes.

7 Q. From where?

8 A. Penn State University.

9 Q. And what year was that?

10 A. I graduated in 1979.

11 Q. Okay. And then straight to DEP?

12 A. Yes.

13 Q. Okay. So sewage facilities grant
14 program for about two years?

15 A. Then I went to the waste
16 management program as a hazardous waste
17 coordinator.

18 Q. Okay.

19 A. That was also for approximately
20 two years 'til I came in --- went to the
21 water management program as their soil
22 scientist. I held that position until
23 2003, when I --- when I took the sewage
24 planning supervisor's position in water
25 management. That dealt mostly with the

1 onlot sewage program and sewage
2 facilities. All right?

3 Q. Okay.

4 A. Then in 2009, I was promoted to
5 the section chief.

6 Q. Okay.

7 A. And I've been in that position
8 since.

9 Q. And so what section is that?

10 A. The sewage facilities planning
11 and biosolids section.

12 Q. And what does the sewage
13 facilities planning and biosolids
14 section do?

15 A. There are multiple programs.
16 There's the Act 537 sewage facilities
17 planning program. That deals with the
18 sewage facilities plan that each
19 municipality must have. It also deals
20 with the implementation of the program
21 by the local municipalities, and it also
22 has oversight of the licensed sewage
23 enforcement officers.

24 Q. Okay.

25 A. In addition to that, there is the

1 Chapter 94 program. The Chapter 94
2 program deals with the existing sewage
3 facilities, wastewater treatment plants,
4 and every year they must provide a
5 status of their current facilities,
6 report to us if they have projected
7 hydraulic overloads or projected organic
8 overloads or what issues they've having
9 with the system. That program, if there
10 are problems, then there would be
11 corrective action plans that would be
12 developed.

13 Q. Okay.

14 A. And then our section follows
15 through on the corrective action plans.
16 Our section also deals with ---.

17 Q. And is this --- I'm sorry to
18 interrupt, but is all this that you're
19 describing statewide?

20 A. It varies. The programs may be
21 administered a little bit differently in
22 different regions. Some regions, the
23 Chapter 94 program may be assigned to an
24 operations section.

25 Q. When you say that you're sections

1 chief ---

2 A. Yes.

3 Q. --- for the sewage facilities
4 planning and biosolids section, ---

5 A. Uh-huh (yes).

6 Q. --- is that in this region?

7 A. Yes.

8 Q. Okay.

9 A. Yes.

10 Q. So that's a regional role?

11 A. Yes.

12 Q. Okay. I'm sorry. Go ahead.

13 A. Okay. So the Chapter 94
14 reporting, that program, like I was
15 stating before, they may be assigned to
16 different sections depending on the
17 decision of the program managers in
18 those regions. In addition to those
19 programs, the section I supervise also
20 administers the PENNVEST loan and grant
21 program.

22 Q. Okay.

23 A. We do the technical evaluations
24 for PENNVEST.

25 Q. Okay.

1 A. PENNVEST is ---.

2 Q. You don't need to go into
3 detail, ---

4 A. Okay.

5 Q. --- into that.

6 A. Okay. And the biosolids program.

7 Q. Okay.

8 A. In the biosolids program we have
9 a biosolids coordinator, Tim Craven, and
10 he does the implementation of that
11 program.

12 Q. So prior to becoming section
13 chief in 2009, had you had any
14 involvement with the biosolids program?

15 A. The first two years of my
16 employment as soil scientist in waste
17 management, I did a lot of --- it was
18 called sewage sludge application at the
19 time. Different permitting processes,
20 but I had two years of experience there.

21 Q. What were you doing on those
22 projects?

23 A. Those projects, there was
24 actually --- if a generator of sewage
25 sludge wanted to apply on a farm, there

1 would be a permitting procedure. We'd
2 go out, do soils evaluation. We'd go
3 out and measure slopes. We'd make sure
4 it met those requirements at that time,
5 also went to public meetings if they
6 were required.

7 Q. Okay.

8 A. So we ---

9 Q. What kind of ---?

10 A. --- issued the permits.

11 Q. Okay. And that was work that you
12 did, the soil evaluations, ---

13 A. Yes.

14 Q. --- the slope measurements?

15 A. Yes.

16 Q. What kind of soil evaluations
17 were you doing?

18 A. We'd go over the form, take a
19 shovel or an auger with us, evaluate the
20 depth to limiting zones such as a water
21 table or rock.

22 Q. Is that it?

23 A. Basically look at different
24 aspects of the farming operation, what
25 crops they were growing, what they were

1 intending to use ---.

2 Q. I mean in terms of the soil
3 evaluations, did you do any other soil
4 evaluations?

5 A. I don't recall because it's that
6 long ago.

7 Q. Yeah.

8 A. We may have. There might have
9 been sampling, soil sampling of the
10 sites that we were responsible for, for
11 pH and some other parameters.

12 Q. Okay. And you said you measured
13 sewage sludge. How would you go about
14 doing that?

15 A. Well, we were issued bio ---
16 clinometer, Abney level.

17 Q. Okay.

18 A. An Abney level was a ---

19 BRIEF INTERRRUPTION

20 OFF RECORD DISCUSSION

21 A. --- handheld device.

22 BY ATTORNEY YEAGER:

23 Q. So you would physically do ---

24 A. Yes.

25 Q. --- the measurement yourself?

1 A. Yes.

2 Q. Okay. And since you've been now,
3 in 2009, the section chief, what has
4 been your role as it relates to the
5 biosolids program?

6 A. Very limited. With Tim as the
7 biosolids coordinator, all the work flow
8 goes to him almost directly. If he has
9 questions or identifies an issue, he'll
10 bring them to us. But it's basically
11 his program to administer, and if he has
12 issues or there's questions come up,
13 then I would get involved. But it's
14 pretty limited.

15 Q. Are there types of --- let me
16 back up. Tim has been in the role the
17 whole time that you've been the section
18 chief?

19 A. Yes.

20 Q. And he had been in that role
21 prior to that?

22 A. Yes.

23 Q. Okay. And within the scope of
24 knowledge that's needed in the
25 biosolids program, are there areas of

1 knowledge that you have that he doesn't
2 have? Does that make sense?

3 A. No. Can you restate?

4 Q. Sure. What I'm looking for is
5 are there things --- are there types of
6 issues that he would generally come to
7 you with because of your expertise
8 versus his?

9 A. Not in the biosolids program, no.

10 Q. Okay. Is he working in other
11 programs besides biosolids?

12 A. Also, we have him cross-trained
13 into the 537 ---

14 Q. Okay.

15 A. --- administration end of it,
16 where we have two soil scientists and we
17 tried to cross-train them just in case
18 somebody left, that we don't lose our
19 knowledge base.

20 Q. Sure.

21 A. And that depends on workload.
22 And Tim also helped train a new person
23 in that program.

24 Q. Okay. So how many approvals for
25 Class B biosolids does your section

1 grant in a given year?

2 A. I do not know that number.

3 Q. Rough estimate? Are we talking
4 about like one or two, are we talking
5 about a couple dozen?

6 A. I really don't have a good feel
7 for that number.

8 Q. Okay. Even between less than
9 100, more than 100?

10 A. Oh, I would say it's less than
11 100.

12 Q. Okay. Less than ten, more than
13 ten? You don't know?

14 A. Most likely more than ten.

15 Q. Okay. Can you give me any sense
16 between 10 and 100 roughly?

17 A. Not really.

18 Q. Okay. How many times in the ---
19 say, since 2009, do you think Tim has
20 come to you with a question or an issue
21 that he's identified that he's seeking
22 feedback on?

23 A. In what context?

24 Q. I'm sorry, in the biosolids
25 program.

1 A. In the biosolids program?

2 Probably less than five.

3 Q. Okay. What types of issues were
4 those?

5 A. They would be more
6 administrative, like if he got a
7 distraught person on a phone call, he
8 would get an inquiry about --- maybe
9 from a newspaper reporter and how to
10 handle that.

11 Q. External relations kinds of
12 issues?

13 A. Yes.

14 Q. Any science-related issues,
15 technical issues?

16 A. Not that I can --- not that I can
17 recall.

18 Q. Okay. Have you ever done a
19 performance review of Mr. Craven in the
20 context of his work in the biosolids
21 program?

22 A. I have done performance reviews.
23 Those reviews were based on his work as
24 a total.

25 Q. Okay.

1 A. So some of it was in the
2 biosolids program.

3 Q. How do you know whether he's
4 doing a good job or not doing a good job
5 in his work in the biosolids program?

6 A. I review the approval letters
7 that he gives me. I look to understand
8 when we get an inquiry or a question,
9 the --- how he responds to those,
10 because a lot of times we will get maybe
11 a legislative inquiry about a site and
12 then we have to respond, the types of
13 responses, the quality of the work, the
14 questions that people may pose, and then
15 the detail that Tim can provide on those
16 issues. All of the responses I have
17 seen Tim give were thorough, thought
18 out. If a person asked about a
19 question, we went back and asked Tim
20 what was the status of that, he could
21 give a report, he could give what he
22 did, what his results were.

23 Q. Are you familiar with the regs
24 that are administered as part of the
25 biosolids program? I mean a working

1 knowledge.

2 A. Yes. Somewhat, yes.

3 Q. Are you in a position to know
4 whether he's applying those regs
5 properly based on the review that you're
6 conducting of his work?

7 A. If I have a question, which I
8 have from period --- time to time had a
9 question saying, what about this or what
10 about that? Tim has always come back to
11 me, was able to explain his position in
12 the reg and solid footing in the reg.
13 And that was able to be confirmed with
14 Central Office or another regional
15 biosolids coordinator. The biosolids
16 coordinators do have a working
17 relationship with each other. They
18 actually do training with each other
19 that --- to the general public and to
20 applicators and the like. So if there
21 was inconsistencies between the regions,
22 that would normally be brought back to
23 the supervisors ---

24 Q. Okay.

25 A. --- to address. And none of

1 those issues have ever been brought
2 back.

3 Q. You don't know whether the
4 programs are being administered properly
5 in other regions?

6 A. No. I cannot speak to that.

7 Q. So there may not be any
8 inconsistencies, but that doesn't mean
9 it's being done properly; correct?

10 A. I would say I don't have any idea
11 what the other regions are implementing
12 or how they're implementing it. All I'm
13 saying ---.

14 Q. Okay. So the fact --- I'm sorry.
15 Go ahead.

16 A. Go ahead.

17 Q. So the fact that it's consistent
18 with other regions doesn't actually tell
19 you whether it's being done properly;
20 correct?

21 A. I guess you could make that ---
22 take that viewpoint. I would take the
23 contrary viewpoint, that if it was being
24 implemented inconsistently or wrongly,
25 that we'd be getting inquiries or other

1 aspects that would come back saying,
2 well, they're doing this there, why
3 aren't you doing that?

4 Q. Okay. You told me you'd had some
5 depositions before. Have any of them
6 ever been in the context of an appeal
7 from a biosolids approval?

8 A. Not in my position as chief, and
9 I can't recall ---.

10 Q. I'm not asking you back 35 years
11 ago.

12 A. Yeah.

13 Q. Yeah. Okay. So did you have any
14 involvement with the Department's review
15 of Synagro's proposed project here or
16 the Department's approval of that
17 project?

18 A. The involvement I had is Tim had
19 asked me to sit in on a phone call from
20 a distraught citizen who was --- that
21 received the 30-day notice as a
22 landowner, adjacent landowner. So I sat
23 in with Tim during a phone call. And
24 then later, there were a couple comment
25 letters that came in from concerned

1 citizens, that there was a response
2 letter drafted and sent out to those
3 people.

4 Q. By Tim?

5 A. I believe. Tim prepared the
6 letter. Myself and the program manager,
7 Mike Brunamonti, reviewed that letter
8 before it went out.

9 Q. Okay.

10 A. But for the technical aspects of
11 the application, Tim did the site
12 review, he did the site visits. He
13 prepared the approvals.

14 Q. Did you review any of the work
15 that he did to reach an independent
16 conclusion about his work on this
17 project?

18 A. There were several issues. With
19 the complaint letter, there were several
20 issues raised in the complaint letters
21 that had to do with wells, wells that
22 were done for a prior development
23 project. So there was questions about
24 what is the proper procedure to isolate
25 those wells, if they needed isolation at

1 all. So there was some --- I remember
2 some involvement there, where we
3 confirmed that a water source as defined
4 in the reg --- you know, a well that is
5 being used as a water source. So it
6 differs from wells that are not a water
7 source.

8 Q. And therefore?

9 A. And therefore, the isolation
10 distances do not apply.

11 Q. And that's based on the --- and
12 that's based on what?

13 A. The definition of water source.

14 Q. In the regs?

15 A. In the regs.

16 Q. In which regs?

17 A. 271, I believe.

18 Q. Who participated in that
19 conclusion, in reaching that conclusion?

20 A. Oh, it would have been Tim
21 Craven, myself and Mike Brunamonti.

22 ATTORNEY YEAGER:

23 Okay. Do you want the
24 spelling of that, ma'am?

25 OFF RECORD DISCUSSION

1 BY ATTORNEY YEAGER:

2 Q. Do you have a --- were there
3 other issues besides this question about
4 isolating a well that might have been
5 dug for a prior development project?

6 A. Yeah. I think there were some
7 other concerns listed.

8 Q. My question that you had answered
9 --- you had told me about that ---

10 A. Uh-huh (yes).

11 Q. --- in response to a question I
12 had asked about whether you had any role
13 in reviewing the application or the
14 conclusions that the Department had
15 reached on the application. And you
16 identified that as one issue. And I'm
17 paraphrasing what my question was about.
18 Are there any other issues that you had
19 participated in or played a role in?

20 A. No, not to a great extent. The
21 rest of the comment letter was the
22 response to the citizens' inquiries.
23 Weren't developed by Tim. They were
24 pretty standard responses. I don't
25 think we really investigated any of the

1 other aspects as much as we did the
2 wells.

3 Q. And I'm not asking about it right
4 now in terms of comparison, in relation
5 to what you did about the wells, but
6 were there other issues that you
7 reviewed to determine whether the
8 project was appropriate for an approval
9 or not?

10 A. Based on Tim's recommendations,
11 no, I can't say we really investigated
12 beyond what Tim recommended.

13 Q. Okay. What's your understanding
14 of the legal --- of what the legal ---
15 let me back up. What's your
16 understanding of what the source of the
17 legal standards are for these approvals?
18 What laws, what statutes, what
19 regulations, what other provisions that
20 are out there guide whether to grant an
21 approval? Do you know?

22 A. Well, I know we look at chapters
23 --- in the waste management regs, the
24 chapter is 271. I'm not sure about all
25 the regs. I would pick up the book and

1 look through it if I have questions, but
2 I don't know what the Act would have
3 called --- that would have promulgated
4 the regulations under it.

5 Q. Okay. Anything else besides
6 Chapter 271?

7 A. We would look --- materials that
8 were generated from the regulations such
9 as the PAG 07, the PAG 08, the notice of
10 intents, the 30-day notice, application
11 forms, those kind of materials.

12 Q. I'm sorry, PTL-7 and PTL-8?
13 What's PTL stand for?

14 A. No, PAG.

15 Q. Oh.

16 A. PAG 07.

17 Q. Okay.

18 A. PAG 08.

19 Q. I'm sorry. I misheard you. Do
20 you look at Chapter 93 at all? Does
21 that have any role play in approvals?

22 A. By reference, the regs do
23 reference other regs.

24 Q. Okay. Do you have any --- have
25 you ever done any work with Chapter 93?

1 A. Yes.

2 Q. Okay. What's your understanding
3 of what Chapter 93 requires?

4 A. Chapter 93 is a water quality
5 standards regulation.

6 Q. Okay.

7 A. It deals with the water quality
8 of different streams. It involves the
9 classifications of different streams as
10 far as their uses, statewide standards
11 such as warm water fishery, cold water
12 fishery, high quality watersheds,
13 exceptional value watersheds. It
14 provides for protection of existing
15 uses. It provides for evaluation of the
16 streams, classification of the streams.
17 It provides for the anti-degradation
18 protection of these watersheds when
19 you're dealing with special protection
20 watersheds, which would be high quality
21 and exceptional value.

22 Q. And what role, if any, does
23 Chapter 93 play in the work that's done
24 by you or those who work under you in
25 the approval of biosolids applications?

1 A. Well, biosolids applications, the
2 general permits are not allowed in
3 exceptional value watersheds. They are
4 allowed in high quality watersheds or
5 other watersheds. We would have looked
6 at --- it would generally, you know, ---
7 the process that we go through to meet
8 --- that would protect the existing uses
9 of those streams.

10 Q. Did Chapter 93 play any role in
11 the review or approval of this project?

12 A. To the extent that the process
13 itself --- the forms, the applications,
14 all take that into account when they
15 were being developed. So when we look
16 at what the requirements for a biosolids
17 application would be, such as the
18 requirement for either an erosion
19 sedimentation control plan or a farm ---
20 I can't think of the term right now ---
21 conservation plan. Those aspects are
22 all part of the process. Okay? It may
23 not refer directly to 93, but that's
24 part of the process in developing the
25 permit applications, the requirements

1 for the permit applications.

2 Q. Have you ever played the role of
3 a reviewer of a permit, the role that
4 Tim plays?

5 A. No, I have not.

6 Q. Okay. Do you know what the steps
7 are in that process?

8 A. Not exactly, no, I do not.

9 Q. Okay. Do you know how the
10 Department makes a determination as to
11 whether a project is proposed within a
12 special protection watershed?

13 A. Could you restate that?

14 Q. Do you know how the Department
15 --- how, if at all, the Department makes
16 a determination about whether a proposed
17 project is within a special protection
18 watershed?

19 A. Yeah. The Department would look
20 at the designated uses in Chapter 93,
21 and then we also have a list on our
22 website of existing uses that have to be
23 protected. So there'll be a list of
24 streams that aren't --- have maybe been
25 upgraded, but haven't yet been adopted

1 into 93. So there'll be existing uses
2 there, the designated uses in Chapter
3 93. And we take a look at those aspects
4 to determine if it's in a special
5 protection watershed or not.

6 Q. When you say the Department, who
7 within the Department is responsible for
8 doing that?

9 A. I think every reviewer is
10 responsible to make sure that what he's
11 reviewing, he knows what the quality is
12 of that watershed.

13 Q. Okay. Do you know whether Tim
14 does that?

15 A. I would think he would do that
16 because I've never seen one where we got
17 questioned where he was --- it was
18 inappropriate.

19 Q. Okay. Are you familiar with what
20 the DRBC is?

21 A. Delaware River Basin Commission.

22 Q. Okay. And are you familiar with
23 the water quality standards --- are you
24 familiar with the water quality
25 standards set out by the Delaware River

1 Basin Commission?

2 A. I'm familiar with what --- with
3 the organization. I don't have an
4 explicit understanding of their regs.

5 Q. Okay. Does the Department play
6 any role, to your knowledge, in making
7 sure that Department approvals comply
8 with the standards that are established
9 by the DRBC?

10 A. There is a working relationship
11 between the Department and DRBC.
12 Specifically, I can give you specific
13 instances in the sewage facilities
14 section, how we interrelate with the
15 DRBC, in that we know what kind of
16 projects they typically will comment on.
17 And we ask that they be coordinated with
18 DRBC, and DRBC will implement their
19 requirements. And then the Department
20 --- you know, the approvals have to be,
21 or the applications have to be modified
22 to meet what DRBC's requirements would
23 be.

24 Q. After a DRBC review identifying
25 the requirements for that project?

1 A. Yes. We have had several
2 instances where we may have taken an
3 action and then they --- then the
4 Applicant would go to DRBC. Then DRBC
5 had imposed their criteria on the
6 Applicant and it became a conflict. So
7 the Department has --- we now tell the
8 consultants or Applicants when they come
9 in that they should consult with DRBC
10 early on in the process so they know
11 what DRBC's requirements are, so they
12 can be molded into one application. And
13 when we make an approval, it will be
14 consistent with what DRBC would be
15 asking them.

16 Q. I just want to make sure I
17 understand the order of that, of what
18 you've just described. The way I
19 understood what you were saying is that
20 the Department's consideration follows
21 from a DRBC action on a particular
22 project. Is that accurate?

23 A. If I could restate?

24 Q. Okay.

25 A. I could give you a circumstance,

1 maybe an existing example.

2 Q. Okay.

3 A. When we approve a sewage
4 facilities plan or we get a sewage
5 facilities plan submitted to us, all
6 right, we will --- as part of that
7 submittal, because DRBC does want to
8 review certain sewage facilities --- if
9 they're over a certain gallonage or if
10 they're located in a certain location,
11 DRBC will have interest. They will have
12 interest in the technology. They will
13 have interest in the kind of effluent
14 quality those facilities might produce.
15 So we asked early on the process, have
16 you filed a notice of application
17 received with DRBC?

18 Q. You'll ask the Applicant?

19 A. Yes, because that way it brings
20 DRBC into the discussion early in the
21 planning process, so that if there are
22 certain effluent criteria put on that
23 facility, that they can then plan to
24 provide sewage facilities that provide
25 that level of treatment. Or if it's

1 deemed that the location is not
2 appropriate for discharge according to
3 DRBC, that issue is vetted out well
4 before we get to a final approval
5 status.

6 Q. And as I understood that example,
7 the application of DRBC standards is
8 carried out by DRBC initially, ---

9 A. Correct.

10 Q. --- communicated to the
11 Department and then the Department will
12 adopt it?

13 A. No, not ---.

14 Q. Okay.

15 A. No. No. When we deal with DRBC
16 for sewage facilities and that notice of
17 application received, all we want to
18 know is if the Applicant is aware that
19 DRBC will be involved, ---

20 Q. Okay.

21 A. --- that they must contact DRBC
22 to find out what their involvement is
23 going to be in this project.

24 Q. Okay.

25 A. The Department, through the

1 Applicant normally, is informed of,
2 yeah, this was our discussion with DRBC.
3 This is what their requirements are
4 going to be. We're going to have to
5 mold that into this approval that the
6 Department will ultimately approve. The
7 Department does not take on the
8 responsibility of implementing DRBC's
9 rules or in --- how should I say ---?
10 The Department does not get involved
11 with conveying their requirements.

12 Q. And ---.

13 A. It may end up that the treatment
14 plant has to meet a certain effluent
15 criteria that DRBC puts on, that the
16 Department will include in a permit,
17 that then becomes enforceable by the
18 Department. But the requirements of
19 DRBC are conveyed and discussed between
20 the Applicant and DRBC.

21 Q. So the application of the
22 standards, of DRBC standards, is a
23 process that's done by DRBC and not by
24 the Department?

25 A. Yes, the process. The end result

1 may mean that there's a requirement for
2 a certain effluent discharge requirement
3 or something like that that gets placed
4 into the permit, and the permit is then
5 enforceable by the Department.

6 Q. So if because of where a project
7 is located within the Delaware River
8 Basin, there are more stringent
9 standards under the DRBC's regulations,
10 water code, you, as the Department,
11 would not be applying those higher
12 standards; is that correct?

13 A. We don't have the initial
14 discussions, but if there is a standard
15 that DRBC imposes upon the Applicant
16 that becomes part of the permit, the
17 Department will have ---.

18 Q. In the approval process, you're
19 not reviewing the project for the
20 compliance with that higher standard?

21 A. If there is --- yeah, we do not
22 enforce or review the DRBC rules or regs
23 for them.

24 Q. Or independently on your own?

25 A. Or independently on our own.

1 Q. Why not?

2 A. That's the way the Department
3 policy and the DRBC worked out the
4 arrangements.

5 Q. How is a determination made
6 within the Department about whether it's
7 a project that should be referred to
8 DRBC?

9 A. We have a general set of
10 parameters that --- we know that if it's
11 a treatment plant proposal and it's
12 being proposed in the Delaware River
13 Basin, DRBC is going to require a docket
14 for it.

15 Q. Okay.

16 A. So we know there's going to be
17 involvement.

18 Q. Okay.

19 A. They have given us other
20 standards like for onlot systems. Okay?
21 If it's a land-based or onlot system
22 proposal that is more than 10,000
23 gallons in size, DRBC would want to
24 comment on that proposal. So we tell
25 Applicants that --- you know, according

1 to what we have, DRBC is going to want
2 to be involved here. You must contact
3 them.

4 Q. Is there a document that the
5 Department uses to --- in making that
6 determination, about whether it's a
7 project to refer to the DRBC?

8 A. The information that I received,
9 I think, was through e-mail saying these
10 are the types of projects.

11 Q. Okay. I'm going to ask that
12 those be produced, those e-mails.

13 ATTORNEY FERRENCE:

14 Okay. I can produce them.

15 BY ATTORNEY YEAGER:

16 Q. Do you still have those e-mails,
17 sir?

18 A. I believe I do, yes.

19 Q. When was the last time those were
20 updated?

21 A. I do not know.

22 Q. How far back do they go?

23 A. The ones I'm aware of are
24 probably somewhere mid-2000s, 2005, '06,
25 '07, something like that.

1 Q. Okay.

2 ATTORNEY FERRENCE:

3 Jordan, I would request
4 that I review those documents
5 first to see ---

6 ATTORNEY YEAGER:

7 Oh, sure.

8 ATTORNEY FERRENCE:

9 --- if attorney/client
10 privilege applies ---

11 ATTORNEY YEAGER:

12 Of course, of course.

13 ATTORNEY FERRENCE:

14 --- or if there's any
15 other reason why they would not
16 be producible. I don't know that
17 right here and now.

18 ATTORNEY YEAGER:

19 Understood. Understood.

20 ATTORNEY FERRENCE:

21 And I don't think any of
22 those type of documents were
23 requested in the ---

24 ATTORNEY YEAGER:

25 And I'm not ---

1 ATTORNEY FERRENCE:

2 --- in the

3 Interrogatories.

4 ATTORNEY YEAGER:

5 --- casting aspersions.

6 ATTORNEY FERRENCE:

7 I just wanted to make

8 it ---

9 ATTORNEY YEAGER:

10 Yeah.

11 ATTORNEY FERRENCE:

12 --- clear.

13 BY ATTORNEY YEAGER:

14 Q. Are you familiar with any
15 biosolids --- proposed biosolids project
16 ever being referred by DEP to DRBC?

17 A. No, I am not.

18 Q. Do you know what the DRBC's
19 special protection orders program is?

20 A. I know of it.

21 Q. In approving a biosolids
22 application within a watershed that's
23 considered a special protection water
24 under the DRBC's water code, does the
25 Department take any action to ensure

1 that the water resources of the basin
2 won't be degraded below existing
3 quality?

4 ATTORNEY FERRENCE:

5 Could you restate that?

6 Could you read it back, please?

7 PREVIOUS QUESTION READ BACK

8 A. Okay. The Department does
9 evaluate all applications as far as the
10 existing quality of waters. If you're
11 asking if we specifically go to DRBC's
12 regulations, no, we do not. But we
13 still do a level of protection under our
14 regulations.

15 BY ATTORNEY YEAGER:

16 Q. What effort is made to determine
17 the existing quality of water --- of the
18 waters in a basin where a proposed
19 biosolids application is being applied
20 for?

21 A. Okay. Like I stated before,
22 there is a website with a listing of
23 streams that have existing qualities
24 that are not included in Chapter 93.

25 Q. Right.

1 A. And those are updated routinely
2 because we have --- the Department has
3 biologists that go out and reevaluate
4 streams for different reasons. And if
5 they find that, when they evaluate a
6 stream, that that quality designation
7 isn't the same as a designated use,
8 there may be additional provisions put
9 in.

10 Q. I'm talking about ---.

11 A. Okay.

12 Q. My question was within the
13 Department's review of a particular
14 proposed project for the application of
15 biosolids.

16 A. Okay. Well, it's an ongoing ---
17 what I'm trying to get across is that
18 existing quality issues are ongoing for
19 different streams all the time. We
20 don't just look at those issues
21 particularly --- only when a project is
22 proposed.

23 Q. Within --- I'm ---.

24 A. Okay.

25 Q. And if you don't know because you

1 haven't been doing the review of these
2 projects, let me know. My question is
3 within the review of a project --- an
4 application comes in, a notice, 30-day
5 notice comes in that says we want to
6 spread biosolids on these fields, ---

7 A. Uh-huh (yes).

8 Q. --- what is done in the
9 Department's review of that application
10 to determine existing water quality? Is
11 it simply looking at the --- what's been
12 designated in Chapter 93, and what's
13 been identified since but hasn't been
14 integrated into 93? Or is there some
15 sort of study that's done to examine
16 water quality?

17 A. I am not aware of any studies
18 that are done particularly for an
19 application.

20 Q. Okay. And what is done to ensure
21 that an application won't degrade
22 existing water quality?

23 A. That's where, when the process
24 was set up, the PAG 07, PAG 08, the
25 notice of intent to apply, those

1 documents and what was required by the
2 regulations in those documents would
3 protect the health and safety of the
4 people and address the environmental
5 concerns and existing uses.

6 Q. You didn't have any role in
7 formulating those standards; correct?

8 A. No, I did not.

9 Q. Okay. Do you know who did?

10 A. No, I do not.

11 Q. You identified an issue that you
12 had become aware of when this project
13 was going through the Department's
14 approval process about wells that may
15 have been drilled for a prior
16 development project. And you talked
17 about the definition of a water source.
18 Is it your understanding that there is a
19 requirement under the law --- and by the
20 law, I'm including the regulations ---
21 to keep a separation from where the
22 biosolids are being applied and a water
23 source?

24 A. Yes. As defined in the regs,
25 there is an isolation distance.

1 Q. Why is that? Why is that
2 something that the law cares about?

3 A. Typically, isolation distances in
4 various programs are designed to ensure
5 that there's no immediate health or
6 safety concern, you know, that there ---
7 that the buffer distance provides some
8 level of protection.

9 Q. Okay. Does your section consider
10 groundwater flow in approving biosolids
11 projects?

12 A. Not that I'm aware of.

13 Q. Does your section consider
14 whether there is --- are you familiar
15 with the term communication when used
16 --- in talking about water wells, talk
17 about communication between one well and
18 another?

19 A. I've never heard the word
20 communication used.

21 Q. Okay.

22 A. But interconnectedness ---

23 Q. Interconnectedness?

24 A. --- or that type of concept.

25 Q. Concept?

1 A. Concept.

2 Q. Okay. Is that a concept that
3 gets considered at all in your section's
4 review and approval of biosolids
5 applications?

6 A. Not that I'm --- not
7 specifically. I think it's generally
8 accepted that in Pennsylvania
9 groundwater has a regional aspect to it,
10 that it's not just one particular region
11 or property and what happens there
12 doesn't affect other places.

13 Q. Well, is that understanding
14 utilized at all in the approval process?

15 A. I don't know.

16 Q. You're not aware of it being ---?

17 A. I'm not aware.

18 Q. Why not?

19 A. Well, again, I think the general
20 concept is that we understand that
21 groundwater flows in different
22 directions. It moves. It's not
23 restricted to one property, so we don't
24 --- again, the rules, the regs, the
25 general permit, the requirements for the

1 general permit are all designed to
2 incorporate that concept, to understand
3 that concept.

4 Q. How so?

5 A. Well, I would think ---.

6 Q. Do you know?

7 A. Not particularly.

8 Q. Okay. So do you know whether
9 there's any interconnection between any
10 wells that were drilled on the sites
11 that were proposed for the spreading of
12 biosolids and the wells of any
13 neighboring property owners?

14 A. The only thing I know is I read
15 some documents that said there were well
16 draw-down tests performed on that
17 previous development. And when they
18 were doing the well draw-down tests,
19 that water levels in neighboring wells
20 also dropped.

21 Q. Okay. And did you consider that
22 --- did the Department consider that at
23 all in granting these approvals?

24 A. I think, again, at least from my
25 standpoint, that is not something that

1 would be surprised --- surprising to me.
2 I would think a well draw down on one
3 property may have the impact in
4 Pennsylvania to impact a draw down on a
5 neighboring well. That is not uncommon.
6 So that fact that there's a groundwater
7 table, that if you do a pump down test
8 --- and I don't know the specifics of
9 those tests. I don't know how much they
10 drew down. I don't know what their time
11 period was. The fact that you have
12 other wells being affected is not
13 unusual or something that puts up a red
14 flag. It's just understood that ---.
15 Q. Doesn't it increase the chance
16 that if there's contamination of a well
17 on the site where the biosolids are
18 being applied, that that contamination
19 will spread to neighboring wells?

20 ATTORNEY FERRENCE:

21 Jordan, I'm going to
22 object now. I think --- Darryl
23 is here as a fact witness.
24 You're starting to get into some
25 areas that I think are beyond

1 just fact testimony. So I'm
2 going to object and direct Darryl
3 not to answer that question.

4 ATTORNEY YEAGER:

5 You're going to direct him
6 not to answer that based on what
7 he's just been saying?

8 ATTORNEY FERRENCE:

9 Yeah, I am. I've let it
10 go for a while, but it's just
11 going way too far into an area of
12 expert testimony, and I'm not ---
13 he's not qualified as an expert
14 in this case. He was not
15 elicited as an expert in this
16 case. The deposition was
17 supposed to be regarding facts.
18 I think the question that you
19 asked was a yes or no question,
20 and Darryl did go on into other
21 areas, but he can answer that
22 question as to whether it was
23 considered or not if he knows.

24 BY ATTORNEY YEAGER:

25 Q. My understanding from your answer

1 is that --- well, was it specifically
2 considered in the approval of this
3 project that there was --- that there
4 may be an interconnectedness between
5 wells on the site where the biosolids
6 would be applied and neighboring wells?

7 A. It was acknowledged in the review
8 because we had some statements to that
9 fact. But how that was applied, I am
10 not aware.

11 Q. Okay. Other than Mr. Craven and
12 Mr. Brunamonti --- am I saying his name
13 right ---

14 A. Yes.

15 Q. --- anyone else within the
16 Department that you're aware of have
17 knowledge of these approvals?

18 A. At the time they were happening,
19 not that I'm aware of.

20 Q. Okay. Who was it that --- you
21 said there was a resident who was on a
22 call that you got on. Who was that?

23 A. I do not recall the name at this
24 time.

25 Q. Did you identify yourself, that

1 you were on the call?

2 A. Yes.

3 Q. And was that the only
4 communication you had with any of the
5 residents?

6 A. Yes.

7 Q. Did you have communication with
8 anyone else within the Department about
9 this approval prior to the appeal being
10 filed?

11 A. Only Mike Brunamonti and Tim
12 Craven.

13 Q. Okay. Any communication with
14 anybody outside the Department other
15 than this one individual?

16 A. Not that I recall.

17 Q. You told me about the document
18 that --- that there had been some
19 letters received from residents, and
20 that Tim prepared a draft response, you
21 reviewed it and Mr. Gramonti --- I'm
22 sorry, I'm going to ---

23 A. Brunamonti.

24 Q. --- Brunamonti reviewed it. Did
25 you look at any other documents as part

1 of your --- any role that you played in
2 connection with this approval?

3 A. I remember Tim coming in the
4 office. He might have had his maps or
5 some kind of map showing the farms'
6 locations while we're discussing ---

7 Q. Right.

8 A. --- some of these aspects, but I
9 couldn't tell you exactly which map
10 or ---.

11 Q. Okay. And you didn't generate
12 any documents?

13 A. No, I did not.

14 Q. If you could give me a minute,
15 I'll --- we should be able to wrap up
16 shortly.

17 It sounds like in other work that
18 you've done outside of biosolids theory
19 field, you have familiarity with sewage
20 treatment plants?

21 A. Correct.

22 Q. Does the composition of the
23 biosolids from a sewage plant change
24 over time?

25 A. Possibly.

1 Q. What kind of factors would you
2 --- would lead to a change?

3 A. You may have different industries
4 moving in or closing down.

5 Q. Okay.

6 A. You may have different sources
7 that --- you know, some treatment plants
8 take septic --- septic waste, depending
9 on how much or what they accept at that
10 time. There would be some variation.

11 Q. Okay. And likewise, is there
12 variation among treatment plants, the
13 variation on the chemical composition?

14 A. On some of the metals, yeah,
15 depending on the industry.

16 Q. So if you have --- strike that.

17 Would there be any way to know
18 what the variation would be based on
19 location other than through current
20 testing, the variation on the chemical
21 composition?

22 A. Could you restate what you're
23 asking?

24 Q. Yeah. If you wanted to know what
25 the difference of the makeup would be of

1 the sludge coming from different
2 treatment plants, would there be any way
3 to know that other than by a current
4 chemical analysis?

5 A. No. You could make certain
6 assumptions, but no, if you wanted to
7 know what the actual variations were,
8 you would take samples.

9 Q. Does the Department still do its
10 own slope measurements like you did back
11 35 years ago?

12 A. Yes.

13 Q. Does it still do its own soil
14 samples?

15 A. Not that I'm aware of.

16 Q. Why not?

17 A. I do not know. I think --- I
18 don't know.

19 Q. All right. Why is it important
20 to know --- do you know, for purposes of
21 reviewing a sludge application, why it's
22 important to know what the nature of the
23 soils are?

24 A. Yeah. For the treatment of the
25 --- the incorporation of biosolids, you

1 want to know what the soil depth is.
2 You want to know how much soil is there.
3 You want to know the depth of the soil
4 above a season of high water table. You
5 want to know the types of soils. Their
6 characteristics will impact the function
7 of soil, so ---. Slope is a criteria.
8 It's not directly related to the soil,
9 but it's --- it relates to the
10 topography setting, potential for
11 runoff, what kind of controls you might
12 put on.

13 Q. Do the soil types, the
14 characteristics of the soils, tell you
15 anything about runoff, allow you to
16 figure anything else --- anything out
17 about runoff?

18 A. Well, there's very general
19 relationships. All right? Certain
20 soils will have higher clay contents.
21 Certain soils will have more coarse
22 fragments. Certain soils will have
23 different structures. So with those
24 general factors, that all comes into
25 play about --- and then what kind of

1 crops are growing, what kind of residue,
2 what kind of other management activities
3 occur. That all comes into play of how
4 that site is then utilized.

5 Q. And the slopes as well?

6 A. And the slopes.

7 Q. And do you have --- do you
8 consider those factors individually or
9 how they interact collectively?

10 A. Collectively, I believe, you
11 know, the conservation plans, you know,
12 --- now, I'm not an expert on
13 conservation plans, but looking through
14 them, they have a lot of information on
15 general soils types. And that
16 information based in those conservation
17 plans, I would --- it appears to me that
18 looking at them, they take those general
19 considerations in when they develop
20 their plans.

21 Q. The Applicant?

22 A. Whoever prepares the conservation
23 plan.

24 Q. On behalf of the Applicant?

25 A. Right.

1 Q. My question is about the
2 Department.

3 A. Okay.

4 Q. Does the Department consider the
5 interrelationship between the soil
6 characteristics, the various soil
7 characteristics and the slope? Or are
8 those factors that are just --- that are
9 just --- you just look and see whether
10 it's checked off on the box --- in the
11 box on the form, or they're just ---
12 they're considered individually or
13 they're considered collectively? How,
14 if at all, are they considered by the
15 Department?

16 A. Well, without technically
17 reviewing an application, I don't have
18 that ---

19 Q. Okay.

20 A. --- feel for how that --- those
21 characteristics are used --- based as
22 part of the review.

23 Q. Okay. From your role as a ---

24 A. Yeah.

25 Q. --- the length of your time in

1 the Department, your role in these
2 issues, your degree in agronomy, your
3 supervision of Mr. Craven, do you have
4 an understanding as to how they should
5 be applied appropriately, how those
6 different factors should be applied?

7 ATTORNEY FERRENCE:

8 Objection. Again, you're
9 getting into areas that I don't
10 think are part of what he's here
11 to testify about today. He's
12 here to testify about the facts
13 related to this case.

14 ATTORNEY YEAGER:

15 Are you instructing him
16 not to ---

17 ATTORNEY FERRENCE:

18 Yes.

19 ATTORNEY YEAGER:

20 --- answer?

21 ATTORNEY FERRENCE:

22 Yes, I am. Yeah. I
23 believe you're going into expert
24 areas again.

25 ATTORNEY YEAGER:

1 Well, I'm asking ---.

2 ATTORNEY FERRENCE:

3 A little too far ---.

4 ATTORNEY YEAGER:

5 I'm asking about the ---

6 about the Department's --- about

7 the Department's practices and

8 whether the Department considered

9 those factors at all, ---

10 ATTORNEY FERRENCE:

11 Right.

12 ATTORNEY YEAGER:

13 --- whether the Department

14 considers them individually or

15 collectively.

16 BY ATTORNEY YEAGER:

17 Q. If you don't know, you don't

18 know. You don't know?

19 ATTORNEY FERRENCE:

20 Right, but you --- but you

21 asked --- you asked his opinion

22 on --- you ended all of that with

23 --- with all of that ---.

24 ATTORNEY YEAGER:

25 Do you think they should

1 be?

2 ATTORNEY FERRENCE:

3 Right. That's an opinion
4 question.

5 ATTORNEY YEAGER:

6 And you're not going to
7 --- you're not going to answer
8 that?

9 ATTORNEY FERRENCE:

10 Correct.

11 ATTORNEY YEAGER:

12 All right.

13 BY ATTORNEY YEAGER:

14 Q. Do the Department's regulations
15 contemplate consideration of soil
16 characteristics in the approval of
17 biosolids applications?

18 A. Yes.

19 Q. Do they contemplate consideration
20 of slope?

21 A. Yes.

22 Q. Do they contemplate that those be
23 considered collectively or individually?
24 How they interrelate, is that important
25 under the Department's regs?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ATTORNEY FERRENCE:

If you know.

A. I know the regs require a certain depthness of soil and a certain slope. That interrelationship, how they would relate, I don't think is discussed in the regs.

BY ATTORNEY YEAGER:

Q. Okay. In the approvals that you grant within the Department, if the --- if the regs don't speak to it directly, are you allowed to look at those questions?

A. Sure. The Department --- when you review something, I mean, you look at the reg, but if there's another consideration that comes up --- and I can't think of an example --- you know, yeah, part of the review process is to look at that site and evaluate different factors. I mean, it's just not saying, oh, here's a check box, we complied with this, we complied with that. I think there are circumstances that the Department certainly does look more

1 holistically.

2 Q. So if the regs say you only
3 consider a well if it fits the
4 definition of a water source, are you
5 able to consider a well even if it
6 doesn't fit the definition of a water
7 source?

8 A. I believe there's provisions in
9 there that the Department can require
10 additional information or different ---
11 additional aspects, yes.

12 Q. And that didn't happen here;
13 correct?

14 A. Not to my knowledge, no.

15 Q. And when you say different
16 aspects, you mean different conditions
17 on how it's developed?

18 A. On what's developed?

19 Q. On how the project goes forward.

20 A. Yes.

21 Q. Are you aware of whether the
22 Department undertook any effort to
23 determine the history of any wells on
24 the Sunrise site?

25 A. No, I'm not.

1 Q. Did anyone bring to your
2 attention concern about runoff from any
3 of these sites?

4 A. Not at that time, no. The
5 complaint letters, I think, talked about
6 runoff.

7 Q. Okay.

8 A. So I think there was some
9 discussion about runoff in --- you know,
10 through the complaint letter.

11 Q. Okay.

12 A. Okay. And there was a response
13 to that by the Department in our
14 response letter.

15 Q. Okay. Give me just one second.
16 Who is Kenneth Reisinger, Reisinger
17 (changes pronunciation)?

18 A. I believe he works in Central
19 Office.

20 Q. Okay. Did he have any
21 involvement in this project?

22 A. I think the only time I saw his
23 name involved with this project is that
24 there was a letter sent out by a
25 citizens' group that listed him as the

1 contact.

2 ATTORNEY YEAGER:

3 Why don't we have these
4 marked as Fritz --- well, we'll
5 just mark them collectively as
6 Fritz One.

7 (Fritz Exhibit One marked
8 for identification.)

9 ATTORNEY YEAGER:

10 You can show it to ---
11 Julie, do you want it?

12 ATTORNEY GOLDSTEIN:

13 Thank you.

14 ATTORNEY FERRENCE:

15 I presume these are the
16 letters sent to Ken and the
17 e-mail string with Ken?

18 ATTORNEY YEAGER:

19 I'm sorry, Michael, yes.

20 No. These are the letters from the
21 Department to Mr. and Mrs. Zimmerer ---

22 ATTORNEY FERRENCE:

23 Oh, okay.

24 ATTORNEY YEAGER:

25 --- and to Mrs. DeGenaro

1 of January 8, 2014.

2 ATTORNEY FERRENCE:

3 Right.

4 ATTORNEY YEAGER:

5 They are each three pages,
6 including the bcc list. Michael,
7 I'm handing you another copy.

8 ATTORNEY FERRENCE:

9 Okay. Thank you.

10 BY ATTORNEY YEAGER:

11 Q. Sir, are these the letters that
12 you were referring to that were the
13 Department's responses to the residents'
14 letters of concern?

15 A. Yes.

16 Q. If you look at the second letter,
17 the letter to Mrs. DeGenaro, which has a
18 Bates page at the bottom left, page 33,
19 do you see in the middle of the first
20 page of that letter it says your well
21 has been located on the required map for
22 the 300-foot well isolation distance
23 during the Department inspection?

24 A. Yes.

25 Q. Did you see that yourself on the

1 map?

2 A. No. I don't recall ever looking
3 for that.

4 Q. Okay. So you don't know whether
5 that's accurate?

6 A. No, I do not.

7 Q. Okay. All right. I don't have
8 any other questions for you, sir. At
9 this time there are some documents that
10 I had asked for. I don't expect that
11 --- just during the course of this, I
12 don't expect that that's going to
13 require any additional questions, but if
14 it does, we'll obviously work through
15 Mr. Ferrence to try to address those.

16 A. Okay.

17 ATTORNEY GOLDSTEIN:

18 I have no questions.

19 ATTORNEY FERRENCE:

20 I do have a couple
21 follow-up questions.

22 EXAMINATION

23 BY ATTORNEY FERRENCE:

24 Q. Darryl, the letter that Mr.
25 Yeager just showed you to DeGenaro where

1 it speaks of the well, who signed the
2 letter?

3 A. Tim Craven.

4 Q. Okay. So you reviewed the letter
5 but you didn't ---

6 A. Yes.

7 Q. --- go out to the site?

8 A. No.

9 Q. Okay. Then you had stated that
10 you couldn't state that it's accurate.
11 You're not saying that it isn't
12 accurate; are you?

13 A. No. I'm not saying it's accurate
14 or inaccurate.

15 Q. Okay.

16 A. I have not personally confirmed
17 that location.

18 Q. Okay. Mr. Fritz, do you know
19 which watershed the farms are located
20 in?

21 A. Not off the top of my head, no.

22 Q. And I have one last question. Do
23 you know if the Delaware River Basin
24 Commission gets involved in land
25 (phonetic) application of biosolids

1 matters?

2 A. We have never been informed that
3 they wanted to be notified of any sewage
4 sludge applications.

5 Q. Would they have notified us if
6 they did?

7 ATTORNEY YEAGER:

8 Objection. That calls for
9 speculation.

10 BY ATTORNEY FERRENCE:

11 Q. You can answer the question.

12 A. Could you restate the question?

13 Q. Sure. Okay. Let me rephrase it.

14 Does the DRBC notify the Department when
15 it's --- when there are cases it wishes
16 to be involved in?

17 A. Yes.

18 ATTORNEY YEAGER:

19 Okay. I'll just stop
20 there.

21 ATTORNEY YEAGER:

22 I don't have any follow
23 up.

24 * * * * *

25 DEPOSITION CONCLUDED AT 11:20 A.M.

1 COMMONWEALTH OF PENNSYLVANIA)
2 COUNTY OF CLEARFIELD)

3

4

CERTIFICATE

5

I, Rhonda K. Thorpe, a Notary Public in
6 and for the Commonwealth of Pennsylvania, do
7 hereby certify:

8

That the witness whose testimony appears
9 in the foregoing deposition, was duly sworn by me
10 on said date and that the transcribed deposition
11 of said witness is a true record of the testimony
12 given by said witness;

10

11

12

13

That the proceeding is herein recorded
14 fully and accurately;

14

15

That I am neither attorney nor counsel
16 for, nor related to any of the parties to the
17 action in which these depositions were taken, and
18 further that I am not a relative of any attorney
19 or counsel employed by the parties hereto, or
20 financially interested in this action.

16

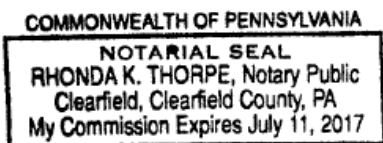
17

18

19

20

21



22

23

Rhonda K. Thorpe
Court Reporter

24

25

ERRATA SHEET

AFFIDAVIT

State of Pennsylvania

County of LUZERNE

I, Darryl Fritz, certify under oath or affirmation that I have read the transcript of my testimony dated 09/30/2014 and that the transcript of my testimony is accurate with the following corrections:

Page	Line	Error	Correction	Reason
16	18	Form	farm	spelling
17	13	sewage sludge	slope	discussion of instruments that measure slope

Are there additional corrections on a following page? NO YES

Signature of Deponent/Affiant Darryl Fritz

Sworn to and subscribed before me, a Notary Public, on this

17 day of November, 20 14.

[Signature]
Notary Public

