



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY CONTROL BOARD

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IN RE: PROPOSED RULEMAKING FOR EXCLUSION FOR
IDENTIFICATION AND LISTING HAZARDOUS WASTE AT MAX
ENVIRONMENTAL TECHNOLOGIES, INC. BULGER AND YUKON
FACILITIES

(25 Pa. Code Chapter 261a)

PUBLIC HEARING

* * * * *

BEFORE: LAURA GRIFFIN, Chair

Kate Cole, Member

Darek Jagiela, Member

Jennifer Swan, Member

HEARING: Wednesday, January 26, 2022

6:00 p.m.

LOCATION: Virtual Hearing

WITNESSES: Tina Curry, James Cato, Elissa Weiss

Anais Peterson, Diana Steck, Debbie Larson

Reporter: Gregory S. Jones

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I N D E X

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14
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16
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18
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21
22
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24
25

OPENING REMARKS

By Laura Griffin

3 - 9

TESTIMONY

By Tina Curry

9 - 15

TESTIMONY

By James Cato

16 - 18

TESTIMONY

By Elissa Weiss

18 - 22

TESTIMONY

By Anais Peterson

22 - 24

TESTIMONY

By Diana Steck

25 - 29

TESTIMONY

By Debbie Larson

29 - 34

CERTIFICATE

35

P R O C E E D I N G S

1
2
3
4
5
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CHAIR: Good evening, everyone. I would like to welcome you to the Environmental Quality Board's public hearing on the proposed rulemaking for Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Boulder - Bulger and Yukon Facilities.

My name is Laura Griffin. I am the Regulatory Coordinator for the Department of Environmental Protection. I am representing the Environmental Quality Board or EQB at today's hearing. And assisting me this evening are Kate Cole, Darek Jagiela, and Jennifer Swan.

I officially call this hearing to order at 6:01 p.m.

The purpose of this hearing is to formally accept testimony on the proposed rulemaking.

This proposed rulemaking was adopted by the EQB at its meeting on September 21st, 2021. The proposed rulemaking would delist or remove the wastewater treatment sludge filter cake generated at the MAX Bulger and Yukon facilities from the list of

1 hazardous wastes as long as specific conditions are
2 met.

3 A delisting petition is a request to
4 remove waste from a particular facility from the
5 list of hazardous wastes identified under the
6 Resource Conservation and Recovery Act of 1976.
7 This proposed rulemaking is the result of two
8 delisting petitions submitted by MAX Environmental
9 Technologies, Inc. for the wastewater treatment
10 sludge filter cake currently listed as hazardous
11 wastes generated at the MAX Bulger and Yukon
12 facilities. Wastewater treatment sludge filter cake
13 is the solids that are removed from wastewater
14 during the treatment process. The petition process
15 required MAX Environmental to show that the
16 wastewater treatment sludge filter cake generated at
17 the MAX Bulger and Yukon facilities did not meet any
18 of the criteria for which the waste was originally
19 listed as hazardous, and does not exhibit any
20 hazardous waste characteristics, which are
21 ignitability, corrosivity, reactivity and toxicity.

22 It is important to emphasize that a
23 delisting could - could take - sorry. It is
24 important to emphasize that a delisting does not
25 exclude a hazardous waste from hazardous waste

1 regulation. More accurately, a delisting excludes a
2 waste that is not hazardous from being managed as a
3 hazardous waste.

4 The delisting petition process and
5 associated analysis by the Department demonstrated
6 that the wastewater treatment sludge filter cake
7 from both the MAX Bulger and Yukon facilities did
8 not meet the criteria for being listed as hazardous
9 wastes and did not exhibit any hazardous waste
10 characteristics. As such, this proposed rulemaking
11 would amend the Department's regulations under
12 Chapter 261a Appendix IXa, Table 1a to remove or
13 delist the wastewater treatment sludge filter cake
14 at the MAX Bulger and Yukon facilities from the list
15 of hazardous wastes, as long as specific conditions
16 are met to demonstrate the filter cake does not
17 exhibit any hazardous waste characteristics.

18 This concludes the summary of the
19 rulemaking. If you would like to access a more
20 detailed explanation of regulatory amendments
21 included in this rulemaking, you can visit eComment
22 on DEP's webpage and select Regulations.

23 In order to ensure everyone has an
24 equal opportunity to comment on this proposal, I
25 would like to establish the following rules. I will

1 call upon the witnesses who have registered to
2 testify at this hearing. All who registered were
3 assigned a number indicating the order in which
4 witnesses will be called on to speak. Testimony is
5 limited to five minutes for each witness. If you
6 are attending online and you can see your screen
7 you'll see on the right-hand side a timer, it says
8 five minutes right now, which I will start once the
9 speaker begins speaking.

10 Please note that written and spoken
11 testimony both carry the same weight. If you should
12 run out of time for your spoken testimony, we will
13 read the rest of your comments from your written
14 testimony. As advised in registration
15 correspondence, please provide a copy of your
16 written testimony to regcomments@pa.gov. The e-mail
17 address is R-E-G-C-O-M-M-E-N-T-S@P-A dot G-O-V.
18 Your e-mail must note that you are submitting
19 testimony for proposed rulemaking Exclusion for
20 Identification and Listing Hazardous Waste at MAX
21 Environmental Technologies Bulger and Yukon
22 Facilities, along with your first and last name,
23 mailing address, e-mail address, and if you are
24 commenting on behalf of an organization. Please
25 note this information is being added to the chat

1 box. You can - you can write it down from there to
2 if you could attach that on Facebook.

3 Testimony is not required to be five
4 minutes long. If other people who provide testimony
5 before you are making similar statements to yours,
6 you are free to abbreviate or summarize your verbal
7 testimony and still provide the full testimony via
8 e-mail.

9 You do not have to provide verbal
10 testimony in order to be included in the public
11 record. All written testimony submitted to
12 regcomments@pa.gov will also be reviewed by the D -
13 EQB and Department and will be included in the
14 public record. The public comment period on this
15 proposed rulemaking closes on February 22nd. Public
16 comments will not be accepted for the public record
17 on this proposed rulemaking after that date.

18 When you start speaking, please state
19 your name, address and affiliation if applicable for
20 the record prior to presenting your testimony. The
21 EQB would appreciate your help by spelling out your
22 name and terms that may not be generally familiar so
23 that the transcript can be as accurate as possible.

24 Because the purpose of a hearing is to
25 receive comments on the proposal, Department staff

1 cannot address questions about the proposed
2 rulemaking during the hearing.

3 In addition to, or in place of verbal
4 testimony presented at today's hearing, interested
5 persons may also submit written comments on this
6 proposal. Again, written and verbal comments hold
7 the same weight when considered in the finalization
8 of this proposed rulemaking. All testimony and
9 written comments provided become a part of the
10 official public record. All comments must be
11 received by the EQB on or before February 22nd,
12 2022.

13 There are a few ways - different ways
14 to submit written comments, which is separate from
15 testimony. Comments may be submitted online through
16 eComment, which is accessible from DEP's website by
17 going to the DEP homepage www.dep.pa.gov, and
18 selecting eComment under the heading Public
19 Participation at the top of the page, or comments
20 may be submitted by e-mail at regcomments@pa.gov. A
21 subject heading of the proposed rulemaking and a
22 return - your return name and address must be
23 included in each e-mail. Comments may also be sent
24 through US postal mail addressed to the
25 Environmental Quality Board, P.O. Box 8477,

1 Harrisburg, Pennsylvania 17105-8477.

2 All testimony received at this
3 hearing, as well as written comments received by
4 February 22nd, 2022, will be considered by the EQB
5 and will be included in a comment and response
6 document, which will be prepared by DEP and reviewed
7 by the EQB prior to the Board taking its final
8 action on this regulation.

9 I would now like to call for the first
10 commenter, Tina Curry.

11 MS. CURRY: Can you hear me?

12 CHAIR: Yes, we can, Tina.

13 Please go ahead.

14 MS. CURRY: Okay. Perfect. Oh my
15 goodness. Good job. Patting myself on the back.

16 Hello. My name's Tina Curry. I have
17 been a citizen of the Yukon, which is - I was
18 probably a city and a block half away from MAX
19 Environmental for 16 years. It's in the Yukon
20 location.

21 But let's back this all up because I'm
22 sitting here listen to you talk. Did anybody ask
23 themselves why is this so important that MAX wants
24 these chemicals delisted? Why are we having the
25 same exact meeting that we've had a year ago in

1 November, within a year, the same exact meeting for
2 them to have this stuff delisted? I'm going to tell
3 you why. Because MAX Environmental has a permit to
4 treat, to store in Yukon. Guess what they don't
5 have in Yukon? They're out of space. It doesn't
6 have space to store anything there; it's just as a
7 treatment. That's their 40-foot vertical increase.
8 And guess what they do have. Bulger has all the
9 space they want down there.

10 So they want to be able store it in
11 Yukon, treat it in Yukon with the discharge in the
12 Sewickley Creek and transport it down to Bulger.
13 That's why we're sitting here tonight. And I'm
14 going to tell you - that's - that's exactly why
15 we're sitting here tonight.

16 Whether - I'm a common citizen. I'm
17 not a scientist. I didn't know any of this going
18 into any of this. I was simply a neighbor. Okay.
19 And in - in the years of going through this and
20 watching and learning, educating myself on it, I see
21 the bigger picture. I get the - the business aspect
22 of it, but at what part are we going to say okay,
23 the human life already has enough jumping off? We
24 already have enough going on with COVID. We have
25 enough going on with this, with that, the other. We

1 don't need to be poisoned unknowingly. And it's not
2 - that's not a - a statement that I'm - I mean, it's
3 a statement that I'm making, but it's a fact.

4 Last year we had had samples taken, at
5 last year's November meeting with the Quality
6 Control Board with the delisting petition, samples
7 taken from the Sewickley Creek by the Riverkeeper
8 Eric Harder and there were more than enough reasons
9 for it to be not delisted. And they didn't get -
10 they didn't get the delisted petition passed that's
11 why we're sitting here now under a rulemaking. Do
12 you see it's just another angle to continue the -
13 the - just the long endless cycle of chaoticness?

14 I mean, I'm sure as well as everybody
15 listening on this meeting, if you and I don't get
16 our - we all have driver's licenses, and fortunately
17 we all do. I don't know if somebody doesn't.
18 Sorry. But we all have driver's licenses. If we
19 don't pay our - our fees and if we get violations on
20 our driving records, what happens? You don't drive.
21 Right. Max has an endless list of violations. And
22 you can ask Mountain Watershed how many times I've
23 called. Hey, can you guys come down and get these
24 samples? They come down to get the samples, another
25 violation.

1 I'm a citizen. This is taking away
2 from my - not only polluting my life, this is taking
3 away from my time - my valuable precious time that
4 was given to me on this earth. I have to spend it
5 doing somebody else's job because let's face it, if
6 the job was done, not one of us would be sitting
7 here right now, not one of us would be sitting here.

8 I've had to be a chemo buddy to - to
9 residents that live by MAX that have cancer - throat
10 cancer. I lost a very good friend, not this past
11 year, the year before. It was - it was his chemo
12 buddy as well. I mean, I've lived in this community
13 for 16 years. I watched it go on for 16 years. And
14 do you know what's really sad is, this is millions -
15 one hundred million dollars-plus annual business a
16 year and these residents don't realize the largest
17 plastic - treatment facility in our country is
18 located in their backyard. Their backyard.

19 Literally in the backyard. It's - it's really a sad
20 thing to see. It - it really is. But I mean, I
21 just had to get that out. I'm sorry. I apologize,
22 but it's the facts. Just these are hardcore facts.

23 Now as far as delisting a petition
24 goes, like I said, it is stored and treated and they
25 want to transport it to Bugler. We all know this.

1 They have no space in Yukon. MAX is filling up a -
2 lead pipe. A pipe is actually discharging to the
3 Sewickley Creek. It has been expired since 2009. I
4 believe they just did - possibly and I have to fact
5 check myself. They may have gotten a permit on that
6 pipe, but since 2009. Think about that. Think
7 about driving your vehicle since 2009 without a
8 driver's license. None of us would. We'd follow
9 the rules. See what I'm saying? 2009.

10 But as far as the delisting petition
11 goes the - we have had and - and I have
12 documentations and whatever you might need.
13 Obviously our Riverkeeper Eric Harder who - he has,
14 you know, all of them. I have a majority of them,
15 but just in case there is one I may have missed or
16 whatnot. If you need any of the reports or whatnot,
17 we will be more than happy and I would be more than
18 happy to oblige by sharing them.

19 But if - if I can - if you can get a
20 sample out of a DEP-permitted pipe that shows 300
21 times the arsenic levels after MAX Environmental
22 treated that water - now this water returning to the
23 Sewickley Creek. It came right from the pipe.
24 Right from the pipe. It goes into the Sewickley.
25 And this is the same stream, keep in mind, they have

1 a kid's fishing derby at every spring. You have
2 children fishing for fish in a stream with 300 times
3 the arsenic level. Does this sound like a permit
4 that you would want to give to anybody? It doesn't
5 to me. I mean, that - I mean, that alone just blows
6 my mind. It blows my mind.

7 But if you - if we had to show one of
8 four characteristics for this to be not approved
9 that - there's one of them. And like I said, we -
10 Eric has all the other reports. Be more than happy
11 to share those as well. But if that's not a reason
12 to not give this, I don't - I don't know what - what
13 reason is. I mean, at the end of the day it comes
14 down to doing the right thing to not the right thing
15 and to following the rules and not the following the
16 rules. It's not called bending the rules to get
17 what you want. Yeah, I get that. I get that whole
18 corporate idea, but at the end of the day when
19 you're sitting there next to somebody who dies from
20 cancer because the cancer was so aggressive that it
21 broke his back because he lived at the trailer at
22 the end of the road next to MAX Environmental his
23 whole entire adult life that's gut wrenching, that's
24 sickening. That's sickening is what it is.

25 CHAIR: This is Laura Griffin of DEP

1 now, but we're at least a full minute over your
2 time. But please - please -.

3 MS. CURRY: Oh. I'm sorry. I'm
4 sorry. Thank you for -.

5 CHAIR: That's okay.

6 MS. CURRY: Because I go on with -.

7 CHAIR: It's - it's quite all right.
8 Please do submit - if you have additional written
9 testimony or if you want to submit written comments
10 please do submit to regcomments@pa.gov. But - so
11 we -

12 MS. CURRY: That's - thank you for
13 your time.

14 CHAIR: - could get the rest of your
15 testimony.

16 Okay?

17 MS. CURRY: That's good. Thank you.

18 CHAIR: You're welcome. Thank you,
19 Tina.

20 MS. CURRY: Have a good evening.

21 CHAIR: You, too.

22 MS. CURRY: Thank you.

23 CHAIR: Okay.

24 And next witness is James Cato.

25 James, are you with us?

1 MR. CATO: Yeah. Can you hear me?

2 CHAIR: Yes, I can.

3 Please go ahead, James.

4 MR. CATO: Thank you.

5 Hello. My name is James Cato. I'm a
6 resident of Pittsburgh. I'll try to keep this
7 pretty short.

8 Obviously, this decision should be
9 made taking many factors into consideration, and I
10 know that, but given what we do know about this
11 facility I'm going to talk about one of those
12 factors a little bit more in depth and definitely
13 urge the Board to deny this request to reclassify
14 these sludge cakes. And - and here's why.

15 A review of MAX's compliance history
16 shows a consistent failure to monitor and report.
17 The - the consequences would be really, really
18 terrible if MAX incorrectly sampled or failed to
19 report if this request is granted. If this
20 hazardous sludge is not monitored properly and it's
21 being treated as nonhazardous waste it could be
22 buried onsite, which would obviously leach into the
23 soil and potentially the water systems which would
24 surely damage the surrounding community. And so far
25 MAX Environmental has shown either a lack of ability

1 or a lack of intent to consistently comply with DEP
2 regulations.

3 The Bulger and Yukon facilities have
4 collected over 110 violations by the DEP and EPA
5 since 2009. So yeah, please - please allow me to
6 mention a few of those DEP issued violations which I
7 think are particularly concerning and relevant with
8 regards to this delisting position, but this is from
9 a big pool. This is just a few of them; hazardous
10 waste containers leaking onto the ground, failure to
11 maintain leak detection, receiving and storing
12 residual waste not permitted by the DEP, improperly
13 labeling waste or failing to label it all, open
14 burning, causing an unauthorized release of residual
15 waste leachate, allowing uncontrolled fugitive dust
16 emissions to leave the site, exceeding site
17 capacity, failing to perform radiation source checks
18 and failing to perform weekly site inspections.

19 So many of these violations that -
20 that I have mentioned have led DEP to issue civil
21 penalties and fines. These penalties have been
22 issued at least once a year every single year from
23 2012 to the present. And since 2009 MAX has been
24 fined at least 25 times for a total of over \$850,000
25 in penalties. Meanwhile, if this delisting petition

1 is approved, MAX itself estimates that it would save
2 almost a million dollars annually, about \$950,000.

3 So it seems to me that to reward MAX
4 Environmental financially by delisting this
5 hazardous waste knowing the facility's very sketchy
6 history of noncompliance, it seems really
7 counterproductive to the interests of environmental
8 protection. So I would certainly urge the Board to
9 deny this request. Thank you so much. That -
10 that's everything that I have to say tonight.

11 CHAIR: Thank you for your comments,
12 James.

13 Our third witness is Elissa Weiss.

14 MS. WEISS: Hello. Can you hear me?

15 CHAIR: Yes, we can, Elissa.

16 MS. WEISS: Okay.

17 CHAIR: Please go ahead when you're
18 ready.

19 MS. WEISS: My name is Elissa Weiss,
20 E-L-I-S-S-A, Weiss, W-E-I-S-S. I'm an internist and
21 I live at 134 Dennis Drive, Glenshaw, PA 15116. I'm
22 speaking as citizen and a lot of what I will say
23 will probably echo some of the points that have been
24 made before, but I'm speaking to strongly urge the
25 Environmental Quality Board to deny MAX's request to

1 reclassify the sludge generated from their treatment
2 systems at the Yukon and Bulger facilities as
3 nonhazardous.

4 MAX's history is significant and
5 impactful noncompliance, some of which we just heard
6 about that has merited that 100 violations from DEP
7 and penalties yearly since 2012 and fines as recent
8 as one month ago, clearly indicates that they are
9 unable or unwilling to comply with adherence to the
10 legitimate internal waste analysis procedures, the
11 self-monitoring, self-reporting and recordkeeping
12 that is described and required in the delisting
13 petition evaluation reports that DEP put up on - as
14 accessible in their description of this rulemaking.

15 In the waste description portions of
16 these reports, it is specified that MAX must analyze
17 representative samples of the treatment sludge at a
18 frequency of one sample per 20 cubic yards using
19 such and such a method with appropriate
20 determination levels and quality control procedures.
21 And MAX has been issued violations for not following
22 required waste testing procedures and not testing
23 for correct constituents in the past.

24 Also specified in those reports are
25 sample collection and analysis processes saying all

1 data submitted with a signed copy of the statement
2 to certify the truth and accuracy of the data
3 submitted, records of operating conditions and
4 analytical data must be compiled, summarized and
5 maintained on site for a minimum of three years.
6 You would be trusting that a company with MAX's
7 noncompliance history that includes failure to
8 provide DEP with required reporting, failure to
9 monitor, failure to make records available to DEP
10 and for incomplete records will fulfill the very
11 conditions for the exclusions to be valid.

12 You would be trusting to store in
13 containers that are to remain covered except when
14 sludge is being added or removed and managed in
15 accordance with sub - Subtitle C of RCRA, a company
16 that has been issued with violations for not
17 properly - closed containers of hazardous waste, the
18 hazardous waste containers leaking onto the ground,
19 failure to maintain leak detection, improper
20 labeling or non-labeling of waste. You would trust
21 this company that has failed to notify DEP of
22 unlawful discharge of wastewater with notifying DEP
23 of changes in disposal of the waste that was modeled
24 and predicted.

25 This degree of trust in light of this

1 company's history is unwarranted, unacceptable and
2 might even be considered negligent for the exposure
3 risk to human health and the environment that it
4 would create.

5 An outstanding question in my mind is
6 in what sort of reliable, durable housing are the
7 sludge cakes to be buried? And the elephant in the
8 room, with a large of percentage of oil and gas
9 waste in a waste stream that MAX facilities accept,
10 I would submit that the radioactivity must be
11 included in your considerations, even if it is only
12 supposedly a subject of pending legislation. It's
13 not the job of DEP to - facilitate the toileting of
14 industries that generate toxic and harmful
15 substances. Their goal - the goal of protecting
16 human health and the environment cannot be achieved
17 by cloaking, obscuring, limiting or minimizing the
18 identities and quantities of the dangerous or
19 seemingly innocuous entities that currently exist or
20 are yet to be created and that will come to be
21 combined in the mix of disposal sites whose contents
22 may be one earnest groundhog's explorations away
23 from being liberated into the environment on which
24 we so depend.

25 I urge you to deny MAX's request for

1 Exclusion for Identification of Listing Hazardous
2 Waste at their Bulger and Yukon facilities and thank
3 you for your careful and conscientious attention to
4 this matter and for the opportunity to comment.
5 Thanks.

6 CHAIR: Thank you for your comments,
7 Elissa.

8 Our next witness - and then so our
9 next witness is Anais Peterson and that will be
10 followed by - she will be - he - I'm sorry, she -
11 she will be followed by Diana Steck and then Gary
12 Steck.

13 So Anais, are you with us?

14 MS. PETERSON: Yes. Can you all hear
15 me?

16 CHAIR: Yes, we can. Thank you.

17 Please go ahead.

18 MS. PETERSON: Yeah. Yeah, thanks for
19 pronouncing name my right. That was very
20 unexpected. So Anais Peterson. I am in Pittsburgh
21 as well and I'm employed by Earthworks as a
22 Petrochemicals Campaigner, but I am speaking tonight
23 on my own behalf. So I am here to urge you to deny
24 MAX's request to reclassify the sludge generated
25 from their waste treatment as nonhazardous.

1 MAX treats oil and gas waste has been
2 shown to be radioactive. Even though the
3 Commonwealth of Pennsylvania does not currently
4 classify this waste as radioactive or hazardous,
5 there is pending legislation that would change that
6 classification. Regardless of this formal
7 classification, the research once again still shows
8 that this waste is radioactive and the sludge left
9 over from MAX's operations is likely radioactive and
10 so should not be handled and - and listed as
11 nonhazardous.

12 In addition to the radioactive waste -
13 risk this waste poses, MAX has a history of
14 violations and penalties at the Bulger and Yukon
15 facilities, incurring over 110 violations by the DEP
16 and EPA since 2009. I think a number of folks have
17 listed these violations so I hope these aren't
18 repeats, but these violations do include not
19 properly closing containers of hazardous waste, not
20 following required waste testing procedures, causing
21 unauthorized release of residual waste leachate and
22 failure to provide DEP with the required reporting
23 on water pollution discharges, chemical releases and
24 compliance histories.

25 Given this terrible record MAX has

1 been fined at least 25 times over and paid over
2 \$850,000 in penalties since 2009, as they have been
3 issued a penalty at least once year since 2012. MAX
4 has treated these fines and penalties simply as the
5 cost of doing business, but their noncompliance and
6 struggle to comply with regulations is deeply
7 troubling. And as we heard earlier on from, I
8 believe, Tina, there are very real repercussions to
9 the community for this absolute abysmal behavior.

10 MAX's has previously stated in its
11 regulatory analysis form that delisting would save
12 them an estimated \$950,000 annually in transport and
13 disposal costs. It is absolutely unacceptable to
14 consider this petition when MAX has made it clear
15 that they're more interested in saving money than
16 complying with safety regulations or in doing
17 anything for the good of the community.

18 MAX has a lengthy history of violating
19 laws and permit terms and giving them even less
20 regulatory oversight places the community and the
21 environment at a greater risk. And once again, I
22 urge you to deny MAX's request. Thank you so much.

23 CHAIR: Thank you, Anais.

24 Our next speaker is Diana Steck.

25 Diana?

1 MS. STECK: Can you hear me?

2 CHAIR: Yes, Diana, we can.

3 Please go ahead when you're ready.

4 MS. STECK: Okay. Sorry about that.

5 My name's Diana Steck. Thank you for
6 the opportunity to speak tonight. I live - my
7 name's spelled D-I-A-N-A, S-T-E-C-K. And I live
8 with my family in North Huntingdon, Pennsylvania.

9 We lived within a half mile of the
10 Yukon MAX Environmental facility for a number of
11 years. I have friends who currently still live near
12 that facility. And I served as a community leader
13 for the citizens group in the Yukon area, the
14 Pennsylvania Environmental Network, and I'm
15 currently a member of Mountain Watershed
16 Organization.

17 I really empathize with what Tina
18 talked about earlier. My family experienced many
19 health problems when we lived there and, in fact,
20 abandoned a home to move away because of health
21 problems. My husband and I are both cancer
22 survivors and my two children had severe asthma
23 related to the poor air quality when we lived there.

24 I'm here today because I want to
25 express my concerns and opposition to the planned

1 rulemaking exclusion to delist - delist these
2 hazardous wastes at the MAX Environmental site. I
3 implore you as Environmental Quality Board members
4 to deny this request to reclassify the sludge
5 generated as nonhazardous. In my opinion this
6 action constitutes linguistic detoxification. The
7 waste streams contain materials that contain
8 significant radioactive substances that pose
9 significant health risks.

10 Please consider the fact there is
11 legislation pending that would classify these wastes
12 as hazardous. It would seem to me that being
13 proactive and acting to impose greater safety
14 precautions would be in the best interests of the
15 residents of Yukon and Bulger.

16 MAX Environmental has a horrific
17 compliance history as you've heard from everyone
18 who's testified thus far. It exemplifies a blatant
19 disregard for the laws and the people of the
20 Commonwealth. As you heard before, since 2009 over
21 110 violations have been filed against MAX by the
22 DEP. Just a month ago violations related to
23 exceeding their NPDES water pollution permit, you
24 know, was a fine of \$28,500. In fact, MAX has not
25 been in compliance with their water pollution

1 permits for 94 days during the past year.

2 The violations are nothing new and
3 have been going on at this site since it first
4 opened in the 1960s. While you may disregard the
5 pollution and violation history that occurred under
6 their previous name, the pollution and exposure
7 risks to the people living nearby to both of these
8 facilities are cumulative and have contributed to
9 health problems and effects and deserve
10 consideration. If anything, more stringent
11 parameters and regulations should be applied to this
12 known polluter.

13 MAX has demonstrated that they are not
14 good neighbors and they're not law-abiding company.

15 They have failed to follow required waste testing
16 procedures. They've also had hazardous waste
17 containers leaking. They have contaminated the
18 groundwater. They have contaminated the ground.
19 They have been caught accepting and receiving and
20 storing residual waste that they weren't even
21 permitted by the DEP to accept. Containers of
22 hazardous waste were not closed properly. Leachate
23 monitoring and management has been improperly done.
24 And the list of compliance issues goes on and on.

25 This company has demonstrated time and

1 time again for decades that they cannot be trusted
2 to comply with laws and regulations. They should
3 not be rewarded for bad behavior by delisting their
4 waste stream just so that they can make a little
5 more profit. Relying on a company who has failed to
6 notify DEP of compliance violations to monitor their
7 own waste stream to ensure that hazardous limits are
8 not exceeded is akin to putting the fox in charge of
9 the henhouse.

10 We're at a critical time in our world
11 and all means must be taken to preserve our planet.
12 As members of the Environmental Quality Board, you
13 have both the opportunity and a responsibility to
14 take actions to protect not only the environment but
15 especially the public health of the people living
16 nearby and downstream from these facilities. Please
17 uphold Section 27 of the PA Constitution and
18 remember that the people have a right to clean air,
19 pure water and the preservation of natural scenic,
20 historic and aesthetic values of the environment.
21 As trustee of these resources the Commonwealth shall
22 conserve and maintain them for the benefit of all
23 people.

24 I urge the EQB to deny this proposal.
25 And I will submit additional written comment

1 detailing more of their compliance history. And I
2 would like you - to tell you that Gary Steck, who's
3 my husband, is unable to provide oral testimony
4 tonight due to a conflict, but he will also submit
5 written. So thank you very much for this
6 opportunity. Please do the right thing and deny
7 this request.

8 CHAIR: Thank you for your comments,
9 Diana. And yes, please do submit your testimony and
10 your additional comments. I'll - just to remind
11 everyone who's listening again, regcomments@pa.gov.
12 Everything will be uploaded into our eComment
13 system.

14 So - so Gary will not be testifying.
15 So our last witness who signed up is Debbie Larson.

16 Debbie, are you with us?

17 MS. LARSON: Yes. Can you hear me?

18 CHAIR: Yes, we can, Debbie.

19 Please go ahead whenever you're ready.

20 MS. LARSON: Sorry. I was wondering
21 if my speaker was working.

22 CHAIR: No problem.

23 MS. LARSON: Thank you.

24 Good evening. My name is Debbie
25 Larson, and that's D-E-B-B-I-E, L-A-R-S-O-N. I am

1 the medical outreach coordinator for the
2 Environmental Health Project and we're located in
3 McMurray, Pennsylvania.

4 Please accept this comment submitted
5 on behalf of the Environmental Health Project, which
6 is a nonprofit public health organization that
7 assists and support residents of southwest
8 Pennsylvania and beyond who believe their health has
9 been or could be impacted by shale gas development
10 or fracking. We submit these comments based on the
11 potential health - public health risks to residents
12 due to misclassifying or mishandling of hazardous
13 waste materials.

14 EHP respectfully urges the
15 Environmental Quality Board to deny the request by
16 MAX Environmental Technologies to delist sludge
17 generated from treatment of disposal impoundment and
18 landfill leachate and contact stormwater at MAX's
19 Yukon and Bulger facilities.

20 One major toxic the F039 delisting
21 petitions do not address in the leachate sludge
22 testing is radium. Radium-226 and 228 are present
23 in the shale gas waste stream. It is present in
24 Pennsylvania black shale and is brought to the
25 service - surface with drill cutting and produced

1 water. Note that oil and gas waste brought to the
2 surface during fracking operations is exempt from
3 hazardous waste sludge regulations under Subtitle C
4 of the Resource Conservation Recovery Act. This in
5 no way means the waste is benign. If it was, it
6 would not require an exemption.

7 According to its website MAX accepts
8 oil and gas drilling wastes, which include drill
9 cuttings, mud, drilling fluid, equipment cleanout
10 and unused frack sand. Note that scale solids from
11 the equipment cleanout is another source of
12 accumulated and concentrated radioactive material.
13 It is imperative for the health and safety of
14 residents living near these facilities that these
15 sources of emissions be recognized for having
16 hazardous and toxic components.

17 As water percolates through the
18 landfill, water soluble materials, including salts
19 and radium from the shale formation will leach out
20 and concentrate. As the amount of shale gas waste
21 continues to accumulate at the MAX facilities, the
22 volume of TENORM, the technically enhanced naturally
23 occurring radioactive material such as radium, rises
24 as well. And over time this will increase the
25 amount of radium present in the leachate and in the

1 resulting sludge filter cake from the facilities.

2 This is taken directly from the PA DEP
3 TENORM Report from 2016, Section 9, Observations and
4 Recommendations. Filter cake from three of the nine
5 selected landfills was sampled and analyzed using
6 gamma spectroscopy. Radium was detected in all of
7 the filter cake samples. Radium-226, results ranged
8 from 8.73 to 53 picocuries per gram and radium-228,
9 results ranged from 150 - 1.53 to 5.03 - picocuries
10 per gram. And then they had two notes in italic.
11 The first, there is little potential for
12 radiological exposure to workers and members of the
13 public from handling and temporary storage of filter
14 cake at landfills that accept oil and gas wastes for
15 disposal. Second note, however, there is a
16 potential for radiological environmental impacts
17 from spilled and the long-term disposal of landfill
18 filter cake from landfills that accept oil and gas
19 waste for disposal, which is what we're speaking
20 about here. This is not a problem that will go
21 away. It will only grow worse as the amount of
22 TENORM in the landfill increase.

23 An additional health risk to
24 populations in the proximity to the facilities is
25 the radon coming off of each landfill as radium

1 decays. Radium-226 is the greater concern from a
2 public health perspective as the human body
3 recognizes it as calcium and has had a tendency to
4 accumulate in bone, which may result in cancer.
5 Radium exposure is also associated with anemia,
6 cataracts and broken teeth. Exposure to radon, a
7 decay product of radium, is associated with lung
8 cancer risk.

9 In general, Pennsylvania fails to
10 treat TENORM from shale gas development as low level
11 radioactive waste. Failure to treat it as such
12 jeopardizes the health and well-being of those
13 living proximity to any site where this - this waste
14 is accumulating. Improper handling of TENORM,
15 especially when it comes to disposal of shale gas
16 waste, is a legacy problem for the State of
17 Pennsylvania, one that will impact the public health
18 of Pennsylvanians well into the future.

19 Radium-226 has a half-life of 1,600
20 years. It is concentrated in the leachate and
21 resulting sludge at landfills including MAX's Bulger
22 and Yukon facilities.

23 We ask that the EQB deny MAX's request
24 to - delist the sludge generated from the treatment
25 of disposal impoundment and landfill leachate and

1 contact stormwater. Thank you very much for your
2 time and for the opportunity to comment.

3 CHAIR: Thank you for your comments,
4 Debbie.

5 That is the end of everyone who of the
6 list of people who have signed up to provide
7 testimony this evening.

8 Is there anyone else who may be
9 listening who wanted to provide testimony but did
10 not register in advance? If so, if you can go ahead
11 and just send a message in the chat box to let us
12 know and we can unmute you if you'd like to provide
13 testimony. I'll give a few moments then if you want
14 to let us know.

15 Do we have anyone? Unfortunately, I
16 can't see when I go and share my screen. I've been
17 told we don't have anyone in chat.

18 So in that case, on behalf of the
19 Board - with no other commenters present, on behalf
20 of the EQB I hereby adjourn this hearing at 6:40
21 p.m. Thank you, everyone. Have a great evening.

22 * * * * *

23 VIDEOCONFERENCE HEARING CONCLUDED AT 6:40 P.M.

24 * * * * *

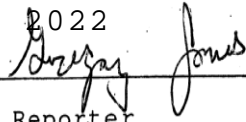
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CERTIFICATE

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I hereby certify that the foregoing proceedings, hearing was held before Chair Griffin, was reported by me on January 26, 2022 and that I, Gregory Jones, read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.

Dated the 17 day of February, 2022



Court Reporter

Gregory Jones