

September 3, 2024

LETTER SENT VIA EMAIL ONLY: rovnerns@dial-law.com & rschena@foxrothschild.com

Steven Rovner
PA Waste, LLC
1785 Bustleton Pike
Feasterville, PA 19053

Re: Camp Hope Run Landfill – Permit # 101719
APS 944978; AUTH 1189259
Boggs Township, Clearfield County

Dear Mr. Rovner:

On June 4, 2024, the Department requested that PA Waste, LLC (PA Waste) submit, within 30 business days, information that demonstrated the applicant's compliance with 25 Pa. Code § 271.123.

On July 26, 2024, Fox Rothschild, on behalf of PA Waste, submitted a letter that was intended to respond to the Department's June 4, 2024, request. The letter explained that PA Waste had taken steps to attempt to resolve the property dispute between itself and Camp Rattlesnake. The letter indicates that PA Waste filed a suit against Camp Rattlesnake in Montgomery County in March 2022; the court dismissed that suit in January 2024; and, five months later, in May 2024, PA Waste refiled its suit against Camp Rattlesnake in Clearfield County. The letter contained no new information showing that the property dispute has been resolved. The letter requests that the Department take no action on the permit application until the Camp Rattlesnake litigation is resolved, or, in the alternative, consider issuance of the permit with resolution of the access issue as a condition.

The Department's June 4, 2024, letter summarized the history of its communications with PA Waste regarding this matter. The Department acknowledges that PA Waste has spent several years attempting to address this matter, but it also acknowledges that Camp Rattlesnake has raised a legitimate dispute regarding its property rights, which, if upheld, would preclude PA Waste from constructing and operating the proposed landfill. As such, PA Waste has been unable to demonstrate a clear property right to engage in the activities for which it seeks a permit, as required by 25 Pa. Code § 271.123.

The Commonwealth Court and the Environmental Hearing Board have both held that the permit applicant has the burden of demonstrating its entitlement to permits issued by the Department. Further, where there exists a legitimate dispute regarding the right to enter property to engage in the activities under the permit, the Commonwealth Court and the Environmental Hearing Board have found that the Department must deny it.

The Department requested that PA Waste submit information demonstrating compliance with 25 Pa. Code § 271.123. PA Waste failed to show that its property dispute with Camp Rattlesnake has been resolved. For this reason, PA Waste's permit Application No. 101719 is hereby denied.

This action of the Department does not preclude PA Waste from re-submitting a completed application once it has resolved its property dispute over the property on which it seeks to construct and operate a landfill.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

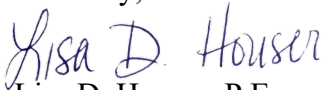
A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at www.ehb.pa.gov or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

Should you have any questions regarding this letter, please contact me at 570.327.3752 or lhouser@pa.gov to discuss your concerns or to schedule a meeting. Please address any legal questions that you may have to our counsel, George Jugovic, Jr. at gjugovic@pa.gov and Nicole Ippolito at nippolito@pa.gov.

Sincerely,



Lisa D. Houser, P.E.

Environmental Program Manager
Waste Management

cc: Compliance Plus Services: mlogancps@gmail.com
Clearfield County: ccomm@clearfieldco.org & jbrennan@clearfieldco.org
Boggs Township: boggstownship@comcast.net
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