

September 20, 2019

VIA HAND DELIVERY

Office of the Director
Allegheny County Health Department
542 Fourth Avenue
Pittsburgh, PA 15219

Attention: Hearing Officer

Re: Notice of Violation of NPDES Permit No. PA0020681

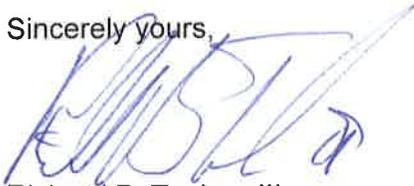
Dear Sir or Madam:

Enclosed herewith please find a Notice of Appeal being filed on behalf of the Borough of Sewickley with respect to the Notice of Violation sent to the Borough by letter dated August 22, 2019 and signed by Michael J. Moskorisin. The violation relates to the digester cover on the Borough's sewage treatment plant. A copy of the letter is attached to the Notice of Appeal.

Please be advised that this appeal is being filed to preserve the Borough's right to appeal until Borough Council can vote on what action to take with respect to the Notice of Violation at its next Borough Council meeting scheduled for October 8, 2019. We will contact you after the October 8th meeting to advise you whether the Borough intends to pursue the appeal.

If you have any questions concerning this matter, please do not hesitate to contact me at 412-594-5562.

Sincerely yours,



Richard B. Tucker, III

RBT/ksd
Enclosure

c: Michael J. Moskorisin
Stacey Greenwald
Jeff Neff
Marla P. Marcinko
Erin Sakalik

TADMS:5201234-1 012523-185114

RECEIVED

SEP 20 2019

**LEGAL SECTION
Allegheny County
Health Department**



Notice of Appeal

This form is used to file an appeal of an order, notice, decision, determination, or ruling by the Allegheny County Health Department. Please complete this form (use additional pages as necessary). If more than one person or entity is filing this appeal, please attach a separate form for each additional appellant. **A copy of the order, notice, decision, determination, or ruling must be attached to the Notice of Appeal.**

Name Borough of Sewickley

Mailing Address 601 Thorn Street

City Sewickley State PA Zip 15143 Email mmarcinko@sewickleyborough.org

Phone 412-741-4015 Fax (optional) _____

If you are represented by an attorney, please provide contact information for your attorney:

Name Richard B. Tucker, III

Mailing Address 1500 One PPG Place

City Pittsburgh State PA Zip 15222 Email rtucker@tuckerlaw.com

Phone 412-594-5562 Fax (optional) _____

Describe your objections to the Department's actions and a statement describing the relief you want the Hearing Officer to grant. *(The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Use additional pages if necessary.)*

See Attachment marked "RELIEF REQUESTED"

By filing this Notice of Appeal with the Allegheny County Health Department, I hereby certify that the information submitted is true and correct to the best of my information and belief.

Signature [Handwritten Signature] Date 9/20/19

Appeals should be submitted in person or by mail to:
**Allegheny County Health Department
Attention: Hearing Officer
542 4th Avenue
Pittsburgh, PA 15219**

RELIEF REQUESTED

This appeal is filed in response to an August 22, 2019 letter sent to the Borough of Sewickley (Borough) by Allegheny County Health Department (ACHD) Program Manager, Michael J. Moskorisin (ACHD Letter), attached as **Exhibit A**. In the letter Mr. Moskorisin, on behalf of ACHD's Water Pollution Control & Solid Waste Management Program, states that on May 7, 2019, "The following violation of the [Sewickley Borough sewage treatment plant's] NPDES Permit No. PA0020681 was noted:

25 Pa. Code 92a.41(a)(5)

On February 1, 2017 the outer membrane of the digester cover ripped half way across the top of the digester and had to be removed. In January 2018, the inner membrane cover ripped and had to be completely taken off the digester. The digester sensor was not operational."

The letter orders that the Borough "notify this Department (and copy the PA DEP) in writing, within 30 days of receipt of this letter with a plan and schedule for implementing the following:
A. Replacing the anaerobic digester cover."

The Borough, which is responsible for operation and maintenance of the Sewickley Borough sewage treatment plant, is significantly aggrieved by this Order: the Borough estimates replacement of the anaerobic digester cover will cost approximately \$500,000. Additionally, the Borough is currently negotiating to divert its sewage to another treatment plant. If these negotiations are successful, the Sewickley Borough sewage treatment plant will cease operation, rendering moot the allegations in the ACHD letter.

The Borough appeals ACHD's Letter and Order therein for the following reasons:

1. The ACHD letter does not identify a specific violation of NPDES Permit No. PA0020681. Although the letter states that the outer and inner membranes of the digester cover were removed, the letter does not identify any condition of NPDES Permit No. PA0020681 that requires the Borough to maintain the outer and inner membranes covers. Because the ACHD letter does not identify a specific violation of the NPDES Permit, the Borough is unable to adequately respond to the letter.
2. The ACHD letter does not identify any discharge or environmental impact created by the removal of the outer and inner membranes of the digester cover. Since removal of the outer and inner membranes, the Sewickley Borough sewage treatment plant has continued to successfully operate in compliance with applicable laws and regulations, and without any negative environmental impact.

Since the ACHD letter does not identify any cognizable violation of NPDES Permit No. PA0020681, the Borough requests the ACHD Hearing Officer to vacate the ACHD Letter and the Order therein.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

August 22, 2019

Borough of Sewickley
601 Thorn Street
Sewickley, PA 15143



ATTENTION: Jeff Neff, President of Council
Marla Marcinko, Manager

**RE: SEWERAGE
COMPLIANCE EVALUATION INSPECTION
SEWICKLEY BOROUGH SEWAGE TREATMENT PLANT
NPDES PERMIT NO. PA0020681
BOROUGH OF SEWICKLEY**

Dear Borough Officials:

On May 7, 2019, Dustie Specht of the Health Department's Water Pollution Control & Solid Waste Management Program performed an inspection at the above-referenced facility.

The following violation of the plant's NPDES Permit No. PA0020681 was noted:

25 Pa. Code 92a. 41(a)(5)

- On February 1, 2017 the outer membrane of the digester cover ripped half way across the top of the digester and had to be removed. In January 2018, the inner membrane cover ripped and had to be completely taken off the digester. The digester sensor was not operational.

Please notify this Department (and copy the PA DEP) in writing, within 30 days from receipt of this letter with a plan and schedule for implementing the following:

- A. Replacing the anaerobic digester cover.

Pursuant to Article XI entitled "Hearings and Appeals", you are hereby notified that you have thirty (30) days in which to file an appeal after issuance of this letter. The notice of appeal shall be filed in the Office of the Director, 542 Fourth Avenue, Pittsburgh, PA 15219. In the event that an appeal is not filed within thirty (30) days after issuance of this letter, the within action shall become final.

If you have any questions, please call Dustie Specht of this office at 412-578-8045.

Sincerely,

Michael J. Moskorisin
Program Manager

MJM/DRS/ge

cc:

Stacey Greenwald, DEP Clean Water Program
Chad O'Donnell, Superintendent, Sewickley Borough STP



KAREN HACKER, MD, MPH, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT

WATER POLLUTION CONTROL & SOLID WASTE MANAGEMENT
3901 PENN AVENUE • BUILDING 5 • PITTSBURGH, PA 15224-1318
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