



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 Group Against Smog & Pollution (Rachel Filippini, Executive Director)

Mailing Address 1133 South Braddock Avenue - Suite 1A

City Pittsburgh State PA Zip 15218 Email rachel@gasp-pgh.org

Phone 412-924-0604 Fax (optional) _____

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

Name Ned Mulcahy, Staff Attorney (Group Against Smog & Pollution)

Mailing Address 1133 South Braddock Avenue - Suite 1A

City Pittsburgh State PA Zip 15218 Email ned@gasp-pgh.org

Phone 412-924-0604 x203 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.)*

On November 6, 2019, the Allegheny County Board of Health approved an expenditure from the Air Quality Program's Clean Air Fund of up to \$627,100 for a solar lighting project in the County's South Park. The Group Against Smog & Pollution ("GASP") avers this use of the Clean Air Fund violates the Air Quality Program's regulations established for the Clean Air Fund. See Article XXI § 2019.09. There is no official written record of this determination available, but GASP avers the vote itself is a "final agency action" of the Department. Article XI § 1103 (annotated). GASP requests that the Hearing Officer accept this Appeal but immediately continue the matter and place it in abeyance pending the outcome of an Action for Declaratory Judgment currently before the Allegheny County Court of Common Pleas that will address the scope of allowable expenditures under Article XXI § 2019.09. See Case No. 18-GD-008885; See attached Motion for Continuance.

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  Date December 6, 2019

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

RECEIVED
DEC 06 2019
LEGAL SECTION
Allegheny County
Health Department

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

GROUP AGAINST SMOG AND
POLLUTION,

vs.

ALLEGHENY COUNTY BOARD
OF HEALTH,

Case No.: _____

In re: Appeal of Board of Health
approval for Clean Air Fund
expenditure covering project in
South Park on November 6, 2019

MOTION FOR CONTINUANCE

Pursuant to Article XI of the Allegheny County Health Department’s Rules and Regulations, Group Against Smog and Pollution (“GASP”), files this Motion for Continuance, and avers the following:

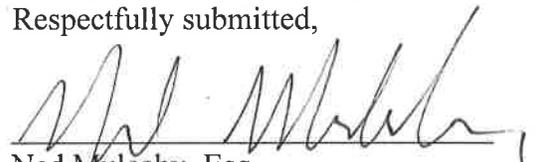
1. On July 9, 2018, GASP and Clean Air Council (“CAC”) (collectively, “Plaintiffs”) filed a Complaint in Action for Declaratory Judgment in the Allegheny County Court of Common Pleas. *See* Case No. GD – 18 – 008885.
2. In the Action, Plaintiffs are seeking “a declaration of the rights, status, and other legal relations relating to the [Allegheny County Health Department’s] use of ...Clean Air Fund money” for a building renovation project. Complaint p. 18, Prayer for Relief.
3. An argument proffered in the Action is that use of the Clean Air Fund for capital improvement projects that benefit the County is improper.
4. The action is still pending.
5. The Clean Air Fund expenditure being appealed herein involves purchase and permanent installation of solar-powered lighting along Corrigan Drive in the County’s South Park.

See attached Exhibit "A" ("Clean Air Fund Application for South Park Trail Improvement Project").

6. This Project – like the Action noted above – involves capital improvements to County-owned real property funded by the Clean Air Fund.
7. Given that a critical point of law that would have a direct bearing on this Appeal is actively being litigated, this Appeal, therefore, should not proceed until such time as the Action noted above has reached a conclusion.
8. A continuance in this appeal would be in keeping with the principle of judicial economy as well as avoid potentially conflicting decisions.
9. Pursuant to 25 Pa Code §1021.92(c), GASP notified Counsel for the Appellee of its intent to file this Appeal and Motion on the morning of December 6, 2019, and thus was unable to determine the nonmoving party's position on this Motion.

WHEREFORE, GASP respectfully requests that the Hearing Officer grant this Motion for Continuance until such time as the Action for Declaratory Judgment described above reaches a conclusion.

Respectfully submitted,



Ned Mulcahy, Esq.
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ned@gasp-pgh.org

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

GROUP AGAINST SMOG AND
POLLUTION,

vs.

ALLEGHENY COUNTY BOARD
OF HEALTH,

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Case No.: _____

In re: Appeal of Board of Health
approval for Clean Air Fund
expenditure covering project in
South Park on November 6, 2019

ORDER

AND NOW, this ____ day of December, 2019, upon consideration of Group Against Smog and Pollution's Motion for Continuance, it is hereby ordered that the Motion is **GRANTED**. This Appeal is Continued until such time as Allegheny County Court of Common Pleas Case No. GD-18-008885 is completed and appeals are exhausted. GASP must notify the Hearing Officer within ____ days after the completion of that Action.

ALLEGHENY COUNTY HEALTH DEPARTMENT

Max Slater, Esq.
Administrative Hearing Officer

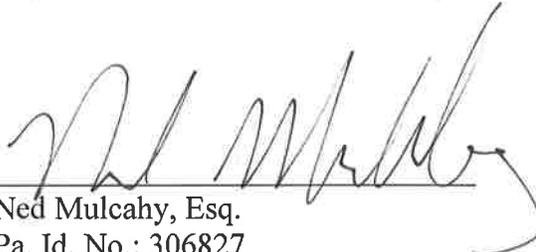
Dated: _____

CERTIFICATE OF SERVICE

I, Ned Mulcahy, Esq., counsel for Plaintiff Group Against Smog and Pollution, do hereby certify that a true and correct copy of the foregoing *Notice of Appeal* and *Motion for Continuance* have been served upon all other parties listed below via electronic service and additionally via hand delivery to the Hearing Officer at the address listed below, this 6th day of December, 2019.

Max Slater, Esq.
Administrative Hearing Officer
Allegheny County Health Department
542 4th Avenue
Pittsburgh, PA 15219
max.slater@alleghenycounty.us

Jeffrey Bailey, Esq.
Allegheny County Health Department
Air Quality Program
301 39th Street, Bldg. No. 7
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Exhibit A

Allegheny County Health Department – Air Quality Program Clean Air Fund Application

Project Title: South Park Trail Improvement Project

Applicant Name: <u>Allegheny County Department of Public Works</u>			
<input type="checkbox"/> Private Company <input type="checkbox"/> 501(c)3 Organization <input checked="" type="checkbox"/> Government <input type="checkbox"/> Academia <input type="checkbox"/> Other			
Contact Person: <u>Kevin Lemon, E.I.T.</u>			
Street Address: <u>542 Forbes Avenue</u>			
City: <u>Pittsburgh</u>	State: <u>PA</u>	Zip: <u>15219</u>	Phone: <u>412-350-2517</u>
Email: <u>Kevin.Lemon@AlleghenyCounty.US</u>			Fax: <u>412-350-2523</u>

Project Category:

- I. Improving Air Quality II. Public Education III. Special Purpose Monitoring
 IV. Research & Development of Control Technology V. Health Effect Studies and Surveys
 VI. Diesel Emission Reduction Technology VII. Consulting Services
 VIII. Purchasing of Materials for Air Quality Program

Please fill out the matching Supplemental Application for your project's category

Funding Request:

Up to \$627,100

Project Abstract: Provide a brief description of the candidate project or program. Detailed information will be requested in Section II.

The purpose of this project is to install solar-powered pedestrian lighting for the walking trail along Corrigan Drive in South Park in order to improve public safety, as well as to reduce County reliance on conventional energy generation, and in so doing reduce County contributions to air pollution.

Project Period: Describe the anticipated length of your program

Continuous

Project Location/Impacted Area:

Corrigan Drive in South Park (Bethel Park Borough /South Park Township)

I. In-Depth Summary

Full project description:

This project will involve the installation of new light poles along Corrigan Drive in Allegheny County's South Park. In total 122 light poles are to be installed beginning approximately 850' east of the intersection with SR 88 at STATION 8+50 and ending approximately 450' west of the intersection with County Road No. 5050-03 (Brownsville Road) at STATION 118+50, spanning a distance of 11,000' or approximately 2.08 miles. Each pole will be mounted with a solar panel, battery, and LED light. Work will also include, but is not limited to, the removal and remounting or replacement of guiderail elements as necessary. Signs are to be posted along the trail to educate the public about the solar lights and the pollution they will continuously eliminate.

The Allegheny County Department of Public Works (DPW) is seeking up to \$627,100 of financial assistance through the Allegheny County Clean Air Fund for costs specifically associated with the acquisition and installation of the pole-mounted solar panels, batteries/control enclosures, and luminaries, as well as the installation of signs for public education. As there are many trees along the Corrigan Drive walking trail, the solar lights are to be located between the roadway's guiderail elements in order to receive enough sunlight to properly function. For this reason, assistance is also being requested for costs associated with the incidental replacement of guiderail elements damaged during installation. All other costs, including installation of the poles and foundations as well as project mobilization, traffic control, engineering services, and other construction costs are to be covered by the DPW.

I. In-Depth Summary

Quantifiable Results – Briefly describe how the success of this program will be measured, including any quantifiable results and/or deliverables (reports, papers, etc.)

With regards to air quality improvement, the success of this project will be measured by pollution eliminated from using solar energy for the pedestrian lighting versus conventional power generation. Using an estimated power consumption of 16,511 kWh/year for the lighting system, it has been calculated that this project will eliminate an estimated 21,490 lbs (10.7 tons) of air pollutants annually.

Additional details are provided in the Supplemental Application.

Deliverability: Briefly describe the steps taken to advance project deliverability/readiness to date:

The engineering design work for this project has already been completed and bid documents are currently being finalized. The Department of Public Works is prepared to advertise this project for bids and will award the construction contract once notification has been received regarding any disbursement from the Clean Air Fund.

Statement of Need: Briefly describe the importance of this project and why you believe it should be funded through the Clean Air Fund

The main goal for this project is to improve public safety and visibility along Corrigan Drive, but the use of solar-powered lighting offers several additional benefits versus conventional lighting which are aligned with the stated goals of the Clean Energy Fund. In addition to long-term reduction of costs for taxpayers, utilization of solar energy will eliminate the air pollution which would have been caused by using conventional power generation for these lights. Furthermore, this project will serve to educate the public on practical application of renewable energy technology in a high-visibility area, furthering the County's commitment to emission reduction.

Attach Additional Information forms as necessary

Timeline: Provide an estimated timeline for major project milestones. ***Please note: No funds can be expended until contracts are finalized.***

Project advertisement: August 20, 2019
Contract Award: September 18, 2019
Notice to Proceed: February 10, 2020
Project Completion: June 29, 2020

Note: This timeline assumes a material delivery time of roughly 14 weeks.

II. Budget

Applicant Name				
Allegheny County Department of Public Works				
BUDGET CATEGORY	GRANT REQUEST	MATCHING FUNDS	TOTAL	NOTES
Engineering Costs	0	19870	19870	
Poles	0	305000	305000	
Foundations	0	152500	152500	
Guiderail	19600	0	19600	
Luminaries	113200	0	113200	
Solar Panels	177100	0	177100	
Battery Enclosure/Controls	309700	0	309700	
Mobilization	0	49000	49000	
Traffic Control	0	31000	31000	
Construction Consultation	0	15000	15000	
Construction Costs (Including Inspection)	0	297992	297992	
Educational Signage	7500	0	7500	
			0	
			0	
			0	
TOTAL	\$ 627100	\$ 870362	\$ 1497462	

Supplemental Application Category I: Improving Air Quality

- 1.) Describe the quantifiable results of your project. How will you measure the successfulness of this program?:

With regards to air quality improvement, the success of this project will be measured by pollution eliminated from using solar energy for the pedestrian lighting versus conventional power generation. It is estimated that the power consumed by the new lighting system will be 16,511 kWh/year based on data from the National Renewable Energy Laboratory (NREL). Assuming this same value would be needed to power conventional lighting, the amount of pollution eliminated through the use of renewable power can be calculated.

- 2.) List the estimated reductions in criteria pollutants that will result from your program:

POLLUTANT	ESTIMATED REDUCTION	Cost per ton (use total dollar amount of full request)
Fine Particulates		
Ozone		
Nitrogen Oxides	160 lbs over 10 years	\$7,838,750/ton
Sulfur Dioxide	210 lbs over 10 years	\$5,972,380/ton
Lead		
Carbon Monoxide		
Air Toxics		
Other pollutants of concern	214,530 lbs of CO2 over 10 years	\$5,846/ton

- 3.) Summarize the estimated reductions of pollutants that will result from your program:

Pollutant estimates in the table above were calculated using data from the US Environmental Protection Agency (EPA). This data only accounted for Carbon Dioxide, Sulfur Dioxide, and Nitrogen Oxide. Any additional pollutants resulting from conventional energy generation were not considered for this application.

A 10-year minimum project life has been used for the purposes of these calculations, but the walking trail improvements are to be operated and maintained continuously beyond this timeframe.

In total this project will eliminate an estimated 21,490 lbs (10.7 tons) of air pollutants annually.

Supplemental Application Category I: Improving Air Quality

4.) Describe in detail the area which will receive the most benefit from this program:

Pedestrians along Corrigan Drive will receive the immediate benefit of improved visibility and safety offered by the lighting. In the longer term, any areas affected by air pollution resulting from conventional energy generation will receive the most benefit through the prevention of pollution. This benefit will increase for every year the solar lighting is in operation.

5.) Describe how long improvements will last – Are improvements temporary or sustainable?

This project is intended to permanently improve the walking trail along Corrigan Drive. County maintenance crews will be responsible for any repairs or battery replacements as needed. Currently, a 10-year maintenance plan is being analyzed for the purposes of budgeting.

Attach Additional Information forms as necessary



Power Profiler

How clean is the electricity you use?

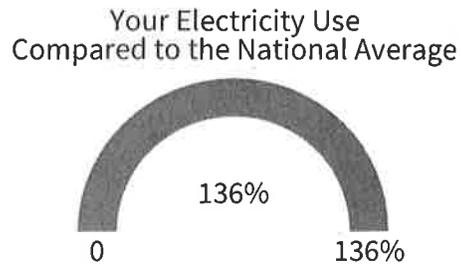
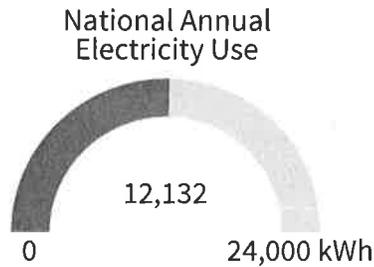
Annual Results

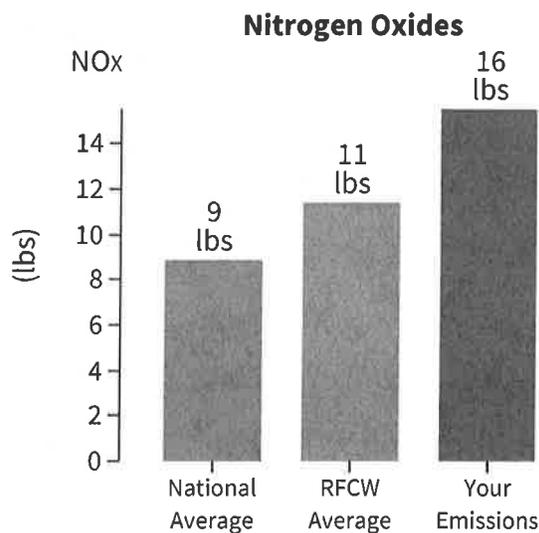
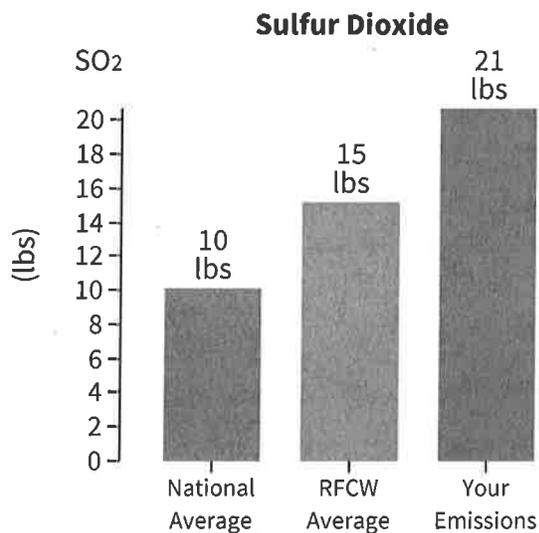
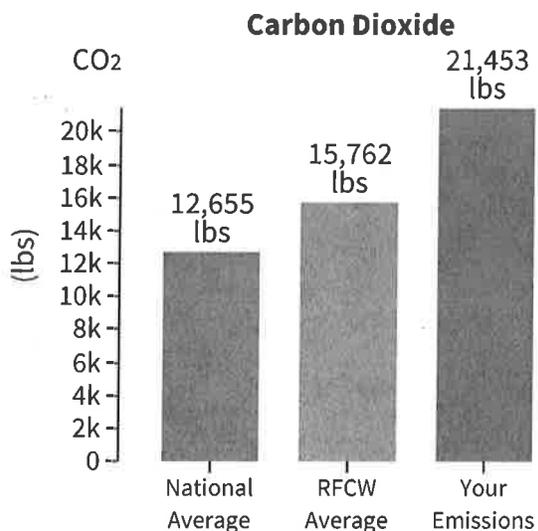
Average Monthly Electricity Use

Using the eGRID subregion **RFCW (RFC West)** emission rates and **4.49%** percent line loss, your estimated annual use of **16,512 kWh** of electricity results in **21,453 pounds CO₂**, **21 pounds SO₂**, and **16 pounds NO_x** emitted in one year from the power plants in your area.

It would take 252 seedlings grown for 10 years or 11 acres of forests in one year to offset those CO₂ emissions. [EPA's Energy and the Environment site](#) can show you how to take steps to reduce your environmental impact, such as becoming more energy efficient or switching to cleaner energy sources.

To find out more about what a reduction in your electricity use means in everyday terms, like miles driven, visit [EPA's Greenhouse Gas Equivalencies Calculator](#). For basic information about GHG emissions, visit [EPA's Greenhouse Gas Emissions site](#).





 [Print Report](#)



Caution: Photovoltaic system performance predictions calculated by PVWatts® include many inherent assumptions and uncertainties and do not reflect variations between PV technologies nor site-specific characteristics except as represented by PVWatts® inputs. For example, PV modules with better performance are not differentiated within PVWatts® from lesser performing modules. Both NREL and private companies provide more sophisticated PV modeling tools (such as the System Advisor Model at <https://sam.nrel.gov>) that allow for more precise and complex modeling of PV systems.

The expected range is based on 30 years of actual weather data at the given location and is intended to provide an indication of the variation you might see. For more information, please refer to this NREL report: The Error Report.

Disclaimer: The PVWatts® Model ("Model") is provided by the National Renewable Energy Laboratory ("NREL"), which is operated by the Alliance for Sustainable Energy, LLC ("Alliance") for the U.S. Department Of Energy ("DOE") and may be used for any purpose whatsoever.

The names DOE/NREL/ALLIANCE shall not be used in any representation, advertising, publicity or other manner whatsoever to endorse or promote any entity that adopts or uses the Model. DOE/NREL/ALLIANCE shall not provide

any support, consulting, training or assistance of any kind with regard to the use of the Model or any updates, revisions or new versions of the Model.

YOU AGREE TO INDEMNIFY DOE/NREL/ALLIANCE, AND ITS AFFILIATES, OFFICERS, AGENTS, AND EMPLOYEES AGAINST ANY CLAIM OR DEMAND, INCLUDING REASONABLE ATTORNEYS' FEES, RELATED TO YOUR USE, RELIANCE, OR ADOPTION OF THE MODEL FOR ANY PURPOSE WHATSOEVER. THE MODEL IS PROVIDED BY DOE/NREL/ALLIANCE "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED. IN NO EVENT SHALL DOE/NREL/ALLIANCE BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO CLAIMS ASSOCIATED WITH THE LOSS OF DATA OR PROFITS, WHICH MAY RESULT FROM ANY ACTION IN CONTRACT, NEGLIGENCE OR OTHER TORTIOUS CLAIM THAT ARISES OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE MODEL.

The energy output range is based on analysis of 30 years of historical weather data for nearby , and is intended to provide an indication of the possible interannual variability in generation for a Fixed (open rack) PV system at this location.

RESULTS

16,511 kWh/Year*

System output may range from 15,914 to 17,150 kWh per year near this location.

Month	Solar Radiation (kWh / m ² / day)	AC Energy (kWh)	Value (\$)
January	2.52	871	29
February	3.41	1,050	35
March	4.47	1,455	49
April	5.16	1,671	53
May	5.86	1,774	60
June	6.10	1,775	60
July	6.25	1,846	62
August	6.07	1,787	60
September	5.07	1,461	49
October	3.94	1,236	42
November	3.10	971	33
December	2.12	714	24
Annual	4.51	16,511	\$ 556

Location and Station Identification

Requested Location	30 corrigan Drive
Weather Data Source	Lat, Lon: 40.33, -80.02 0.2 mi
Latitude	40.33° N
Longitude	80.02° W

PV System Specifications (Commercial)

DC System Size	13.42 kW
Module Type	Standard
Array Type	Fixed (open rack)
Array Tilt	20°
Array Azimuth	180°
System Losses	14.08%
Inverter Efficiency	96%
DC to AC Size Ratio	1.2

Economics

Average Retail Electricity Rate	0.034 \$/kWh
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Performance Metrics

Capacity Factor	14.0%
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