

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

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OCT 2 2024

Environmental Quality
Board

Arthur E Maxwell

APPELLANT'S NAME,

Appellant,

v.

Appeal No. 24-10-EQB

DIRECTOR, DIVISION OF

Jeremy W Bandy

DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appellee.

NOTICE OF APPEAL

Action Complained Of: The appellant(s) named above respectfully represent(s) that it is aggrieved by (identify the order, failure or refusal, or permit, and give date of the order or permit): CAP Case No. 240007

WV Legislative Rule 47CSR58 Section 4.7.4. WV Legislative Rule 47CSR58 Section 4.11.

WV State Code 22-15-10(a). September 5, 2024.

Relief Requested: The appellant therefore prays that this matter be reviewed and that the Board grant the following relief (describe the relief sought): We are not guilty of all charges and would like all charges and fines dismissed. See attached paper.

Specific Objections: The specific objections to the action, including questions of fact and law to be determined by the Board, are set forth in detail in separate numbered paragraphs and attached hereto. The objections may be factual or legal.

Amendment of this Notice of Appeal may be had only by leave of the Board, and only for good cause shown.

Dated this 09 day of 30, 2024.

Arthur E Maxwell

(Signature)

Arthur E Maxwell

(Address)

4602 Ohio River Rd Huntington, WV 25702

(304)963-3970

(Telephone)

CERTIFICATE OF SERVICE:

I, **(INSERT YOUR NAME)**, do hereby certify that I, on this **(INSERT DATE)**, served the attached **(INSERT NAME OF DOCUMENT)** to all parties in Appeal no. **(INSERT APPEAL NUMBER)**, as follows:

by United States Mail, postage prepaid:

Kenna DeRaimo, Clerk
Environmental Quality Board
601 57th Street, SE
Charleston, WV 25304

(WVDEP - OFFICE OF LEGAL SERVICES)
601 57th Street, SE
Charleston, WV 25304

(DIRECTOR, DIVISION OF WATER AND WASTE MANAGEMENT)
601 57th Street, SE
Charleston, WV 25304

(NAME OF INTERVENOR)
Person or Company holding
the permit - if other than yourself)

Arthur E Maxwell
ARTHUR E MAXWELL

(YOUR NAME)

(When filing any appeal related motions, documents or materials you must provide copies to all parties of the appeal. To certify that you have done this, include the names and addresses of all parties to the appeal on the Certificate of Service and attach it as the last page of the document. ** Any names and addresses of additional parties to the appeal will be supplied to you in the Certificate of Service attached to the Notice of Hearing issued by the Environmental Quality Board.)

#1 WV Legislative Rule 47CSR58 Section 4.7.d Drums, containing materials that have the potential to contaminate groundwater, shall be stored so that spills and leaks are contained. Measures shall be taken to control drum deterioration and/or damage due to handling.

Objection: Drums were stored on pallets in a building and on concrete. Yet we were Fined for not having secondary containment.

#2 WV Legislative Rule 47CSR58 Section 4.11. Each industrial establishment shall have a comprehensive groundwater protection plan (GPP). Each GPP shall contain the following:

4.11.a. An inventory of all operations that may reasonably be expected to contaminate the groundwater resources with an indication of the potential for soil and groundwater contamination from those operations;

4.11.b. A description of procedures designed to protect groundwater from the identified potential contamination sources, with specific attention given to:

4.11.b.1. Manufacturing facilities;

4.11.b.2. Materials handling;

4.11.b.3. Equipment cleaning;

4.11.b.4. Construction activities;

4.11.b.4. Maintenance activities;

4.11.b.5. Pipelines carrying contaminants; and

4.11.b.6. Sumps and tanks containing contaminants.

4.11.c. A list of procedures to be employed in the design of any new equipment/operations;

4.11.d. A summary of all activities carried out under other regulatory programs that have relevance to groundwater protection; and

4.11.e. A discussion of all available information reasonably available to the facility/activity regarding existing groundwater quality at, or which may be affected by the site.

4.11.f. A clarification that no wastes be used for deicing, fills,

etc., unless provided for in existing rule.

4.11.g. Provisions for all employees to be instructed and trained on their responsibility to ensure groundwater protection. Job procedures shall provide direction on how to prevent groundwater contamination;

4.11.h. The GPP shall include provisions for quarterly inspections to ensure that all elements and equipment of the site's groundwater protection program are in place, properly functioning and appropriately managed.

+. Objection: We are a new business and I was not aware of the law, But when told by the D.E.P I was getting it together along with the Storm Water Protection Plan and Permit. Yet I was fined for not having one.

#3 WV State Code 22-15-10(a) (a) Open dumps are prohibited and it is unlawful for any person to create, contribute to, or operate an open dump or for any landowner to allow an open dump to exist on the landowner's property unless that open dump is under a compliance schedule approved by the director.

The compliance schedule shall contain an enforceable sequence of actions leading to compliance and shall not exceed two years. Open dumps operated prior to April 1, 1988, by a landowner or tenant for the disposal of solid waste generated by the landowner or tenant at his or her residence or farm, are not a violation of this section, if the open dump was not a violation of law on January 1, 1988, and unauthorized dumps which were created by unknown persons are not a violation of this section: Provided, That a person may not contribute additional solid waste to any such dump after April 1, 1988, except that the landowners on which unauthorized dumps have been or are being made are not liable for the unauthorized dumping unless the landowners refuse to cooperate with the division in stopping the unauthorized dumping.

Objection: The Property was owned By RT.2 Recycling it went Bankrupt and the Bank owned it, then a Lawyer Owned it then me and my dad bought it. So the plastic and that was left from RT.2 Recycling was covered by trees and overgrowth that none of the other owners seen or cleaned up.

We have hired extra help to clean up and have been cleaning as fast as we can. Yet We were fined for the trash that other owners left behind.

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To The Environmental Quality Board

Pursuant to West Virginia Codes Chapter 22-12-10(c) and Chapter 22-15-15(c)(1).

I Arthur Maxwell Representing M&M Fiber Recyclers am requesting a formal hearing before the Environmental Quality Board.

CAP Case No.20007.



9-17-2024

M+M FIBER RECYCLERS
4602 OAK RIVER RD
HUNTINGTON, WV 25702

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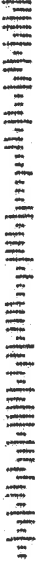


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