

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

RECEIVED

OCT 2 2024

Environmental Quality
Board

Jay and Pamela McClelland,
APPELLANT'S NAME,

Appellant,

v.

Appeal No. **24-11-EQB**

DIRECTOR, DIVISION OF

Water and Waste Management,
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): Order# UST-24-023 Closure# C-8182-2016

Relief Requested: The appellant therefore prays that this matter be reviewed and that the Board grant the following relief (describe the relief sought): Drop order and finalize closure report. Please see attached information on grievance. Thank you

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 26th day of September, 2024.

Jay S. McClelland + Pamela S. McClelland
(Signature)

PO Box 1342

(Address)

Freer TX 78357

(210)241-7055

(Telephone)

CERTIFICATE OF SERVICE:

I, (Jay + Pamela McClelland), do hereby certify that I, on this (9/20/2024), served the attached (UST - 24 - 023) to all parties in Appeal no. (1701531), 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)

Jay + Pamela McClelland
(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.)

Closure#
C-8182-2016
Leak ID#
16-021

To all this may concern

1. May I start with saying that I appreciate and respect the DEP. I live in Texas and my employment is with an enviro-company "Veolia Water Technologies". I do like to think that I'm enviromentaly friendly. So I was blindsided to receive this copy of the Confirmed Release Notice. We never received the notice or copy until 9/11/2023. The initial attempt from the DEP was dated 9/23/2016. Seven years later was the 1st we were made aware of this. The certified mail was signed and received by Wilma VanOrder.

2. At the time we received the closure report we thought things were all good. See attached memo from contractor Joe Defazio to James Tallman DEP. Fairmont. When we confirmed with contractor's they stated 2 samples came back high. They then excavated more and assumed we were good.

3. Joe Defazio stated if anything further needed to be done that James Tallman would stop by or we would recieve something via mail (we never did) until 7 years later from Justin Tincher.

4. In closing please consider the following to dismiss order and finalize the closure report based on the following

5. 7 year delay on the communicating issue. We did not receive any further instructions, guidance, or orders

6. 2 of the 13 samples 1 from North wall and 1 from South wall

came back high in benzene. Also lab stated they received samples unsealed. Leading to possible contamination.

7. water and bottoms were fine...please see attached photo's from closure report

8. over excavation done on North and South wall and set to anerobic site at time...please see attached photo from report I would like to think if any contaminants still were present biodegradation would diminish in 7 years

9. since 2016 the parking lot has had city sewage lines ran through it and it took years of packing rock after settling of fill

10. Also on a personal note the property is a monthly burden to my wife and I. We had to take out a loan against it when we closed in 2016 to pay off dept to creditors associated with the business. We are barely making loan payment/insurance/taxes associated to it. We don't know where this leads but we can't financially afford to proceed with sampling/excavation and other associated cost.

Sincerely and Thank You

Jay and Pamela McClelland

6-6-2016

Spill

vent pipes

000

Heavenly Hoogies

#1 W. Wall

5 Bot. Tank

6 Bot. Tank

7 Bot. Tank

#3 East Wall

#9 Dispenser Sample

11 Dispenser Sample

12 Dispenser Sample

#2 North wall

Garage

#4 South wall

#8 Piping Sample

#10 Piping Sample

1	West Wall	6 FT
2	North Wall	6 FT
3	East Wall	6 FT
4	South Wall	6 FT
5	Bot Tank	12 FT
6	Bot Tank	12 FT
7	Bot Tank	12 FT
8	Piping Sample	3 FT
9	U. Disp. Sample	3 FT
10	Piping Sample	3 FT
11	U. Disp. Sample	3 FT
12	U. Disp. S.	3 FT

US RT 19 South

Subject: Ee tank pit 6.7.2016
From: Joe [mailto:joe@postoffice.com]
Date: 06/07/2016 10:05 AM
To: Joe [mailto:joe@postoffice.com]

Send from my U.S. Cellular Smartphone
201607_10045_00001.jpg



201607_10045_00001.jpg

4/18

Subject: Ee tank pit 6.7.2016
From: Joe [mailto:joed@earthlink.net]
Date: 07/16/2016 08:58 AM
To: Joe [mailto:joed@earthlink.net]

See picture 11. Check? Over there
201607_154171_000000.jpg



201607_154171_000000.jpg

2548

Subject: Ee 6.8.2016 spoil pile
From: Joe [mailto:joe@protonmail.com]
Date: 07/16/2016 10:00 AM
To: Joe [mailto:joe@protonmail.com]

See item #13 in the attachment
720000_10171_0000_100



720000_10171_0000_100

1410

WV Dept. of Environmental Protection
EE-Tanks Unit
1150 Nick Rahall Greenway
Fayetteville, WV 25840

CERTIFIED MAIL



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Jay McClelland
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Huntsville TX, 77320

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DEP OFFICE OR FIELD
OFFICER*

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