



For Immediate Release:

February 21, 2018

Contact:

Maya van Rossum, the Delaware Riverkeeper, 215-369-1188 x 102

Delaware Riverkeeper Network Files Appeal Over After-The-Fact Rubber Stamp Approval of Sweetheart Deal With Bishop Tube Site Developer

East Whiteland, Chester County, PA – Delaware Riverkeeper Network (DRN) filed an appeal with the Environmental Hearing Board challenging the Pennsylvania Department of Environmental Protection’s (DEP) ratification of two amended Prospective Purchaser Agreements (PPA) (which are settlement agreements) entered into with a proposed developer of the former Bishop Tube site, a highly contaminated site located in East Whiteland, PA. The organization challenges the agency for being a rubber stamp on the deal that were not publicly noticed until 7 to 10 years after they were signed by the state. The challenge asserts that the state failed to acknowledge critical changing facts, including that the DEP had voided key elements of the agreement which it chose not to disclose to the public, and that the anticipated development shifted from commercial to residential, but this too was not acknowledged by the state.

“It is an appalling betrayal of the public trust, of state law, and of the DEP’s constitutional obligation to protect people’s rights that the agency would simply rubber stamp this sweetheart deal with the developer 7 years after the fact,” said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network. “DEP knows it never gave the public their legal right to comment on the deals before DEP approved them, DEP knows that important elements of the deal had been voided in recent years, and the DEP knows that while the original deal contemplated commercial development the developer is actually planning to build over 200 residential homes on the highly toxic site after only a partial remediation – this after the fact approval adds insult to injury and demonstrates an irresponsible bias in favor of the developer and against the public and our natural resources.”

The amended PPAs are between DEP and Constitution Drive Partners (CDP), the owners of the Bishop Tube site in East Whiteland Township since 2005. The Bishop Tube site is listed on the Pennsylvania Priority List of Hazardous Sites for Remedial Response under the Pennsylvania Hazardous Sites

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org

Cleanup Act. These amended documents, dated 2007 and 2010, were made available for public comment only 10 years after the first one was proposed -- on April 1, 2017 – and seven years after the second one was proposed in 2010. DEP’s failure to secure public comment on the two settlement agreements at the time of their proposal was a violation of DEP’s mandatory obligations under the Hazardous Sites Cleanup Act, according to the appeal.

Not only were the deals finalized and then acted upon by DEP prior to securing public review and input, they foisted onto the DEP, and therefore the public purse, responsibilities for site clean up the Delaware Riverkeeper Network argue are not in the public interest.

According to the filing, the public was asked to comment on the PPA agreements based on outdated or missing information. For example, the PPA included and relied on an operational AS/SVE system. However, in 2011, an independent contractor hired by CDP damaged the system and rendered it unfit for use. The appeal states, “Accordingly, the 2010 PPA was being finalized and ratified in 2018, at a time when there had been a substantial and material change in circumstance that was neither contemplated nor reflected by the 2010 PPA or early agreements.” Further, the planned use for the Site had changed from non-residential to residential, which potentially changed the cleanup standards of the Site.

The group also challenge the appropriateness of the deal with regards to the level of clean up that would be required. The appeal states, “Ratification of the 2010 PPA violates DEP’s duty as a trustee to the natural resources of the environment, because it fails to advance the goals of a true and comprehensive cleanup and to protect the people’s right to pure water, clean air and a healthy environment.”

The Bishop Tube Site is a former metals processing plant located in East Whiteland Township, PA. The site is bordered by Little Valley Creek, a stream designated under state law as “Exceptional Value.” Groundwater, soil and surface water at the Site are contaminated with trichloroethylene (TCE), which is classified as a probable human carcinogen by the EPA and also as causing other significant health problems. TCE and other contaminants of significant concern known to be present at the site continue to migrate into the aquifer, stream and nearby residential area. The Site remains heavily contaminated decades after DEP discovered the hazardous releases with no final or interim remediation plans forthcoming from DEP and responsible parties.

Read the Notice of Appeal here:

<http://www.delawariverkeeper.org/sites/default/files/Notice%20of%20Appeal%20EHB%20%282018-02-21%29.pdf>

Read Exhibit A here: <http://delawariverkeeper.org/sites/default/files/EHB%20Exhibit%20A.pdf>

Read Exhibit B here:

http://delawariverkeeper.org/sites/default/files/Notice%20of%20Appeal%20w_attachments%20%282018-02-21%29.pdf

###

Delaware Riverkeeper Network (DRN) is a nonprofit membership organization working throughout the four states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.