

In the Matter Of:

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL

SUSSEX REGIONAL RECLAMATION

February 23, 2022



DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
OF THE STATE OF DELAWARE

RE: Artesian Permits for the
Sussex Regional Reclamation
Facility

.. . . .

Virtual Public Hearing
Dial-In Number: 1-408-418-9388
Event Number: 2338 948 3371

Wednesday, February 23, 2022
6:00 p.m.

.. . . .

BEFORE: Lisa Vest, Hearing Officer

FOR THE DIVISION: John Rebar, DNREC

-- Transcript of Proceedings --

WILCOX & FETZER
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1 MS. VEST: Good evening. I believe
2 that everyone is now connected and ready, so
3 we are going to begin tonight's proceedings.

4 I do want to thank those of you
5 that have tuned in, so to speak, for
6 tonight's hearing and taking the time out of
7 your busy schedules to connect with us to
8 learn more about this pending permit matter.

9 The date is Wednesday, February 23,
10 2022, and we are here this evening to provide
11 the platform for DNREC to conduct its public
12 hearing on Artesian's application for
13 wastewater permits for the Sussex Regional
14 Reclamation Facility, or SRRF.

15 For those of you that may not
16 recognize me or know me, my name is Lisa
17 Vest, and DNREC's Secretary Garvin has
18 designated me to serve as hearing officer for
19 tonight's proceedings.

20 To set the stage for the reason why
21 we are here tonight and the protocols that go
22 along with DNREC hearings, I'm just going to
23 say a few words.

24 First of all, this hearing is, of

1 course, being conducted virtually, as are all
2 of DNREC's public hearings. Staff is not
3 gathered together in one room. Rather,
4 everyone is participating independently at
5 their own respective locations.

6 While there are no sign-in sheets
7 to document physical attendance tonight, the
8 WebEx platform does generate a list of those
9 that have logged on and are participating
10 virtually, and the Department still keeps a
11 verifiable record of those who have
12 electronically joined tonight. And, again, I
13 do thank everybody for their interest in this
14 matter.

15 At the conclusion of these
16 introductory remarks, I will be turning the
17 hearing over to Department staff. They have
18 a brief presentation to help everyone that's
19 here understand and to help build the record
20 on what it is that we are here to consider
21 tonight and that the Secretary may review
22 when he reviews the record prior to making
23 his decision.

24 There is still a court reporter

1 virtually present. She will prepare a
2 verbatim transcript of the hearing tonight,
3 pursuant to DNREC's statutory obligation to
4 do so. And, as always, that transcript will
5 be posted on the hearing webpage as soon as
6 it has been received.

7 Following the Department's
8 presentation, the applicant, who tonight is
9 Artesian, will also have a brief
10 presentation. And for those of you that
11 tuned in a little bit early tonight, that's
12 why we were a minute or so late getting
13 started, because I wanted to make sure that
14 they were ready and connected, as well.

15 Following the conclusion of both
16 presentations, the floor will then be open to
17 receive live comment from those members of
18 the public who have preregistered pursuant to
19 DNREC's protocols to do so.

20 This particular evening we have
21 three members of the public who have
22 registered to offer comment. They will be
23 recognized in the order in which they
24 preregistered with each given three minutes

1 to speak.

2 As is the case with all DNREC
3 public hearings, the Department wishes to
4 ensure that everyone is enabled to offer
5 their comments for inclusion into the record
6 and, of course, for the Secretary's
7 consideration.

8 Therefore, the record will not
9 close at the conclusion of tonight's hearing.
10 Rather, it will remain open through March 10,
11 2022 so that the public will have the
12 opportunity to offer written comment and
13 submit it for the Secretary's consideration,
14 again should they wish to do so.

15 I do wish everyone attending this
16 proceeding to visit DNREC's public hearing
17 webpage. You can find it under the
18 Administrative Law Section of the
19 Department's website. And if you scroll
20 down, you will see this hearing. They are
21 listed in chronological order.

22 And there is a vast amount of
23 information that is up on that webpage for
24 the public to read through and study. And I

1 find that it also helps people that, as they
2 learn more about it, their comments can be
3 much more detailed, and the comments can be a
4 very meaningful contribution to the record
5 that gets developed in these kind of matters.
6 So I would encourage everyone to do so.

7 Both presentations will be entered
8 into the record following their conclusion,
9 and I will instruct the Department to place
10 both presentations up on the website for that
11 hearing.

12 And they should be up within 24
13 hours, barring any kind of electronic
14 problems. But you will be able to go and
15 find that and review that, again, as well,
16 subsequent to this hearing.

17 Of course, all mechanisms
18 previously available by which to offer
19 comment remain in effect. There is
20 electronic link; there is e-mail; and, of
21 course, the United States Postal Service.

22 Also, please note that the
23 following protocols do remain in place for
24 this hearing, as well as all DNREC hearings:

1 Number one: All comment received
2 must be limited solely to the subject matter
3 of tonight's hearing.

4 All comments germane to the subject
5 matter will be incorporated into the record
6 that's being generated for the Secretary's
7 consideration.

8 As previously noted, in order to
9 ensure that everyone who wishes to offer
10 comment for the Secretary's consideration is
11 accommodated, the record will remain open
12 through March 10, 2022.

13 There is only one authentic record
14 of this formal proceeding tonight, and it is
15 the official court reporter's transcript,
16 which, again, will be posted on the website
17 immediately upon its receipt.

18 The statutory purpose of tonight's
19 hearing is to build the record with regard to
20 this proposed permitting action. A record,
21 consisting of the transcript of tonight's
22 hearing, all written comments that are
23 received, all exhibits that are formally
24 entered into the record, and eventually the

1 Hearing Officer's Report, will all be
2 reviewed by Secretary Garvin.

3 The Secretary will ultimately issue
4 an order following that review, and that
5 order will contain his decision on the matter
6 and his reasoning therefor.

7 Lastly, it is important to note
8 that no decision has already been made by the
9 Department, nor will any decision be made
10 tonight with regard to this permitting
11 matter.

12 The record will remain open, once
13 again, through March 10, 2022 so that
14 everyone has ample opportunity to offer their
15 written comment for the Secretary's
16 consideration.

17 Comments may be submitted through
18 the comment form link on the hearing webpage
19 dedicated to this matter, via e-mail to
20 DNRECHearingComments@delaware.gov, or via the
21 United States Postal Service at the physical
22 address for DNREC indicated on the hearing
23 page, as well as the public notices that have
24 previously been issued in this matter.

1 Please note that written comment to
2 DNREC may not be submitted using social media
3 platform such as Twitter, Facebook, YouTube,
4 or standardized text messaging.

5 In conclusion, please note that
6 whether comments come in prior to the hearing
7 tonight, in realtime by the three members of
8 the public that have preregistered to do so,
9 or if additional comments are received
10 between now and when the record closes for
11 comment on March 10th, regardless of the
12 manner in which the comments were submitted,
13 as long as they are received by the
14 Department on or before March 10th, 2022, all
15 comments bear the same weight, and all will
16 be considered equally by the Secretary prior
17 to his making a final decision in the matter.

18 Again, the ultimate decision
19 regarding this permitting issue is made by
20 Secretary Garvin. This formal hearing
21 tonight acts as a legal mechanism by which
22 the Department can thoroughly vet this
23 proposed permitting matter to the public and
24 to let the public know the various ways in

1 which comment can be submitted for Secretary
2 Garvin's consideration, should they wish to
3 do so.

4 That being said, I am going to turn
5 the matter and the floor, so to speak, over
6 to John Rebar. He has a brief presentation
7 on behalf of the Department. And, John, when
8 you are ready, you may proceed.

9 MR. REBAR: All right. Thank you,
10 Madam Hearing Officer. A background --

11 MS. VEST: John, I just un-muted
12 you again. I don't know how long you were
13 talking, but somehow you accidentally muted
14 yourself, so if you could start again.

15 MR. REBAR: Sure. Good evening,
16 everyone. I will start off with a little bit
17 of background.

18 As many of you know, Artesian
19 Wastewater Management Inc. is currently
20 authorized to operate and maintain the
21 facility called the Artesian Northern Sussex
22 Regional Water Recharge Facility, or ANSRWRF,
23 under State Permit 359288-02.

24 Please be aware that from this

1 point forward that facility has been renamed
2 the Sussex Regional Recharge Facility, or
3 SRRF.

4 So I want to make sure that there
5 is clarity, that many individuals understand
6 this facility's name is ANSRWRF, but we are
7 going to be referring to it as SRRF moving
8 forward.

9 As such, the other thing to bear in
10 mind is that there has always been a vision
11 for this facility to have a multiple-phased
12 approach to the construction and operations
13 of the on-site wastewater treatment and
14 disposal facility.

15 The construction and operation of
16 ANSRWRF, as we currently understand it and as
17 currently being operated, is considered phase
18 one.

19 DNREC has now received the
20 application for phase two, which is the
21 construction of a new wastewater treatment
22 system.

23 And the purpose of this
24 presentation is to provide an overview of

1 that application. And if approved, the
2 proposed construction and amended operations
3 permits, that would follow.

4 So, again, to give some background,
5 there is a phase one operations permit in
6 place. The facility is currently permitted
7 to receive treated wastewater from the Allen
8 Harim Foods Harbeson processing facility's
9 wastewater treatment system for storage prior
10 to spray irrigation.

11 The average daily flow of treated
12 effluent received is currently
13 1.5 million gallons per day with a peak flow
14 of 2 million gallons per day.

15 The treated effluent from Allen
16 Harim is stored in a synthetically lined
17 lagoon prior to being discharged via spray
18 irrigation to approximately 1,700 acres of
19 agricultural fields located in Sussex County.
20 Those spray fields are privately owned land
21 under a lease.

22 And the spray fields have been
23 permanently placed into an agricultural
24 preservation easement by the Delaware

1 Agricultural Lands Preservation Foundation.

2 Currently, treated effluent is
3 authorized to be discharged to Fields F and
4 G. Fields D and E have been recognized but
5 are not yet permitted, but they are planned
6 to receive treated effluent in the future.

7 I apologize. I keep, for some
8 reason, getting muted.

9 So this is a map of the current
10 area. It outlines the fields I just
11 mentioned. More importantly, it shows the
12 monitoring well network that currently
13 exists, surface water monitoring locations,
14 lysinder and lysometer locations all
15 associated with current operations.

16 So the Department received an
17 application for a phase two construction
18 permit. That application is for the
19 construction of a new wastewater treatment
20 system located on the same 75-acre site that
21 currently exists.

22 And that site is not far from the
23 intersection of Route 30 and Route 16. The
24 new wastewater treatment system is going to

1 be designed to treat up to 625,000 gallons
2 per day of wastewater received from
3 Artesian's wastewater service territories in
4 Sussex County.

5 The construction, if approved,
6 would include the 3-million gallon combined
7 equalization offset water diversion lagoon,
8 headworks that's going to consist of
9 screening and grit removal equipment, a
10 hybrid bardenpho process wastewater treatment
11 system, two cloth media filters, and a UV
12 disinfection system.

13 Treated effluent from the new
14 wastewater treatment system is proposed to be
15 mixed with the treated effluent from Allen
16 Harim's treatment system in the existing
17 storage lagoon and then discharged via spray
18 irrigation to the agricultural fields
19 previously permitted under phase one.

20 Technology does seem to be failing
21 me at the moment. I'm not sure what's going
22 on.

23 Okay. So for the benefit of the
24 public and to help with their comments, the

1 Department has proposed two draft permits.
2 One is for the phase two construction permit.
3 The other is for the draft operations permit
4 amendment.

5 So, if approved, both of these
6 permits would be issued in accordance with
7 the provisions of Chapter 60 in the
8 regulations governing the design,
9 installation, and operation of on-site
10 wastewater treatment disposal systems.

11 The permits would include effluent
12 limitations, monitoring and reporting
13 requirements, and other conditions designed
14 to ensure protection of public health and the
15 environment.

16 The current proposed draft
17 construction permit would require the
18 permittee to notify the Department at least
19 15 days prior to commencement of
20 construction. All systems are going to be
21 required to be either constructed or
22 installed by a DNREC licensed Class E-4
23 system contractor.

24 Proper construction or installation

1 of the components of the treatment disposal
2 system shall be certified in writing by the
3 design engineer and the manufacturer's
4 representative prior to startup of the
5 wastewater treatment and disposal system.

6 During construction, the design
7 engineer shall periodically review the
8 construction work being done and make sure
9 that it is in compliance with design
10 specifications.

11 The class four, or the Class E-4
12 system contractor shall contact the design
13 engineer, the licensed operator, and the
14 Department's Groundwater Discharges Section
15 to schedule an inspection prior of the newly
16 built facility prior to completion of
17 construction.

18 Upon completion of construction,
19 the permittee shall then provide the
20 Department's Groundwater Discharges Section a
21 number of items, including the design
22 engineer inspection report certifying that
23 the system has been constructed in accordance
24 with the approved design engineer report,

1 plans and technical specifications; that we
2 will also receive the wastewater treatment
3 system as-builts; and an amended operation
4 and maintenance plan for the new facility.

5 It's very weird. It's like my
6 slide times out and then will not allow me --
7 allow it to forward.

8 MS. VEST: That's okay.

9 MR. REBAR: Okay. So upon
10 completion of the proposed wastewater
11 treatment system authorized by a construction
12 permit, and upon the submission of all
13 required reports and other documentation, and
14 upon receiving written approval from the
15 Department, the new facility called SRRF will
16 be authorized to receive and treat wastewater
17 from within Artesian's service territories.

18 But this also requires an amendment
19 to the current operations permit to delineate
20 the operation requirements under phase one,
21 but the amendment will also include phase two
22 requirements, as well.

23 So the draft operations permit
24 amendment will change up the current influent

1 limitations. So, as I had mentioned
2 previously, currently the facility is
3 receiving Allen Harim effluent, treated
4 effluent, with an average daily flow of 1.5
5 MGD and a peak daily flow of 2 MGD.

6 The SRRF wastewater treatment
7 system will receive an average daily flow of
8 625,000 gallons per day with a peak daily
9 treatment capacity of 1.25 MGD.

10 And the resultant combination of
11 those two waste streams will result in a
12 combined average daily flow of 2.125 MGD and
13 a combined peak daily flow of 3.25 MGD.

14 So the design effluent nitrogen
15 concentration: Currently Allen Harim's waste
16 stream is received by the facility, and it's
17 designed to receive an effluent total
18 nitrogen concentration of 30 milligrams per
19 liter from the Allen Harim wastewater
20 treatment system.

21 The proposed phase two SRRF
22 wastewater treatment system is designed to
23 treat wastewater to a daily average total
24 nitrogen concentration of 10 milligrams per

1 liter.

2 And as I mentioned previously,
3 what's going to happen is those two waste
4 streams will flow into the storage lagoon,
5 which is designed to receive both flows for a
6 combined effluent daily average total
7 nitrogen concentration of approximately
8 24.1 milligrams per liter. And that total
9 nitrogen will then further be reduced via
10 plant uptake during spray operations.

11 So a couple of other changes to the
12 permit that are being proposed would be
13 changing the facility classification. It
14 will be increased to a class four
15 classification based on the regulations,
16 licensing operators of wastewater facilities.

17 This means that the SRRF facility
18 would be required to be under the direction
19 of a Class 4 licensed operator in direct
20 responsible charge of the facility.

21 The permit amendment proposes a
22 number of contingency plans for the new
23 treatment system.

24 The first one is for total

1 nitrogen. If the confirmed analytical result
2 determines that the effluent total nitrogen
3 concentration exceeds 10 milligrams per
4 liter, the permittee will perform certain
5 actions.

6 In this case they will submit
7 notification to the Department. The
8 Department will determine if diversion is
9 required.

10 The permittee will be required to
11 increase monitoring frequency and perform a
12 full system evaluation.

13 And once the total nitrogen no
14 longer exceeds 10 milligrams per liter,
15 normal operations will be allowed to be
16 returned to.

17 However, if this contingency plan
18 is enacted more than three times in a
19 12-month period, the permittee will be
20 required to submit an engineer report with
21 proposed corrective actions and system
22 upgrades.

23 There is also a contingency plan
24 for fecal coliform bacteria and turbidity.

1 If three analytical results within a 24-hour
2 period documents the effluent fecal coliform
3 bacteria or turbidity concentrations exceed
4 the permit limitations, again, there will be
5 notification submitted to the Department.

6 Diversion will be immediately
7 required. The facility will increase
8 monitoring frequency and filtration. And a
9 system analysis and evaluation will be
10 performed, as well.

11 If this contingency plan is enacted
12 more than three times in the 12-month period,
13 again the permittee will be required to
14 submit an engineer report with proposed
15 corrective actions and system upgrades.

16 Again, as with the current permit,
17 there will be additional influent/effluent
18 soil and vegetative monitoring.

19 So currently the influent from the
20 Allen Harim, um, the treated effluent from
21 the Allen Harim facility is being monitored.
22 This amended permit will require influent
23 entering the SRRF wastewater treatment system
24 to be monitored.

1 And, again, effluent coming out of
2 the SRRF treated wastewater treatment system
3 will be monitored at two points, both coming
4 out of the wastewater treatment system,
5 itself, to ensure that the treatment system
6 is operating appropriately, and then post
7 storage with the discharge of the blended
8 treated effluent.

9 Metals are going to be now required
10 to be tested in soil annually.

11 And vegetative monitoring will also
12 now be required annually.

13 So, in conclusion, a phase two
14 application has been received by the
15 Department. If approved, the Department
16 would then issue a construction permit and an
17 operations permit amendment.

18 Those permits which have been
19 drafted for the benefit of the public to be
20 able to comment on will include operational
21 requirements, monitoring, and reporting
22 requirements, contingency plans, et cetera,
23 all designed to protect public health and the
24 environment.

1 Madam Hearing Officer, that
2 concludes my presentation. I do have a list
3 of exhibits. Do I have to read those off,
4 or?

5 MS. VEST: You do not have to read
6 them off, John, but can you put up -- yeah,
7 there we go.

8 MR. REBAR: Okay.

9 MS. VEST: Okay. So I see that
10 there are public hearing exhibits. It looks
11 like it's 1 through 12.

12 MR. REBAR: 1 through 19.

13 MS. VEST: Oh, 1 through 19. There
14 we go. Just a couple quick questions for
15 clarification for the benefit of the record:
16 Are these the same list of exhibits as the
17 ones posted on the hearing webpage dedicated
18 to this matter?

19 MR. REBAR: Yes.

20 MS. VEST: And have they been
21 changed or altered in any way since their
22 posting?

23 MR. REBAR: No.

24 MS. VEST: Very good. Thank you

1 for your presentation. Let the record
2 reflect that DNREC's proposed Exhibits 1
3 through 19 are hereby entered into the formal
4 hearing record regarding this matter.

5 Does the Department have anything
6 further it wishes to offer at this time?

7 MR. REBAR: No.

8 MS. VEST: Okay. Thank you again,
9 John. I appreciate that. I am now going to
10 purposely mute you, and I'm going to try to
11 bring on the applicant.

12 Mr. Konstanski, I'm going to make
13 you a presenter. You should be able to now
14 have an opportunity to share your screen.

15 MR. KONSTANSKI: I believe so.
16 Give me just a second here.

17 MS. VEST: There you go.

18 MR. KONSTANSKI: Perfect.

19 MS. VEST: Okay. I can hear you.
20 I can see you. So you may proceed when
21 ready.

22 MR. KONSTANSKI: Perfect. Thank
23 you, Madam Hearing Officer. So my name is
24 Daniel Konstanski. I am the manager of

1 engineering at Artesian. And I'm going to go
2 through a brief presentation, which basically
3 will just kind of highlight a few items in
4 more detail that you just heard Mr. Rebar go
5 over, as well as show a few visuals so that
6 the public can get a sense of what the
7 improvements are actually going to look like
8 when constructed out in the field.

9 Just to briefly recap, and
10 Mr. Rebar already did a great job of going
11 over this: So this is phase two that we are
12 talking about now. Phase one, which
13 currently is the existing facilities out at
14 the site, again the items that he listed,
15 90 million-gallon treated effluent storage
16 lagoon, which currently is disposing of
17 treated wastewater from the Allen Harim
18 facility.

19 And we are taking in and disposing
20 of that treated effluent on both cropland and
21 woodlands. So we've got 380 acres of active
22 farms cropland out there that is in use,
23 as well as 200 acres in the woods, that we
24 are spraying on through a combination of

1 sprinklers and solid sets and spray
2 irrigators.

3 And again that site, we've got
4 Route 30 here north to south, and then you've
5 got 16 running east to west. This is showing
6 those existing facilities.

7 We've got the 90 million-gallon
8 storage lagoon, which is the main SRRF site
9 which is where phase two is going to be
10 constructed, kind of around that lagoon. And
11 I'll show that in more detail here in a
12 moment. As well as then we've got the crop
13 recharge areas and the woodlands recharge
14 area.

15 So this is the existing facility
16 that makes up phase one of SRRF.

17 And as Mr. Rebar went over, we are
18 now talking about phase two, which primarily
19 consists of a 625,000-gallon per day on
20 average primary wastewater treatment
21 facility.

22 With that and surrounding it in
23 support of it, we are going to have a
24 3 million-gallon lagoon that will serve both

1 an influent equalization role as well as a
2 diversion role in the event that we need to
3 hold back some water for further treatment.

4 We have got headworks with
5 screening equipment, as well as tertiary
6 treatment, which are those cloth media
7 filters that he mentioned, as well as the
8 ultraviolet disinfection.

9 We have an on-site lab area that's
10 primarily going to be there for collecting
11 the samples that we send out to the
12 professional certified labs that do all of
13 our testing. That then is what we report
14 back to the State.

15 And then we have got -- he showed,
16 Mr. Rebar, showed the maps of all the
17 monitoring wells, and we are going to have
18 additional monitoring facilities throughout
19 this proposed treatment plant and all of its
20 surrounding infrastructure.

21 And just so everyone has a sense of
22 timing for the public's benefit, we expect
23 construction to take about 18 months after
24 receipt of a permit.

1 So, again, going back to that same
2 map, just to give a sense of where we are
3 talking about, most of the action here, or
4 all of the action, rather, for phase two is
5 going to take place surrounding the existing
6 lagoon on the kind of what we call the main
7 SRRF tract of land there right off of Route
8 30.

9 Zooming in on that area, again
10 we've been talking about these three big
11 pieces. So the flow will come in off of
12 pipelines on Route 30. It will come to the
13 headworks facility, where it will be screened
14 for removable solids and floatables.

15 From there, it will go into the
16 equalization bin. And the beauty of this
17 equalization basin, which is a
18 3 million-gallon lined lagoon, is that it
19 will allow us to absorb any of those daily
20 fluctuations and flow and allow us to load
21 the plant very consistently so that it sees
22 the same flow day in and day out, kind of no
23 matter what's happening out in the system or
24 also with the weather. This allows us a huge

1 amount of buffer in terms of how we load the
2 plant.

3 From there, it will come back.
4 There is a pump station immediately adjacent
5 to the headworks building which will pump it
6 to the primary treatment works, which is down
7 here.

8 So the main treatment facility is
9 this structure. And then we've also got the
10 building with the tertiary treatment,
11 as well as those other facilities that we
12 were talking about here.

13 And from there, it will be pumped
14 in and mixed with the flow coming in from
15 Allen so that they can be sprayed together
16 out onto the croplands and woodlands that
17 surround the site and that are currently in
18 use today.

19 Just to briefly cover the
20 capabilities, we talked about the
21 equalization volume. They are for buffering
22 of both the natural day-to-day fluctuations
23 in flow, as well as for weather events in the
24 event of a hurricane or something of a

1 similar nature.

2 We can process and treat up to
3 625,000 gallons per day of the flow that's
4 coming in from our various residential,
5 commercial, and industrial sources in
6 Artesian service area in Sussex County.

7 And we can handle the peak flows
8 far in excess of what we expect from weather
9 events in all of those various sources.

10 We can also divert and hold up to
11 four days of inflow in the event of an
12 emergency.

13 I would also like to point out that
14 we have set up the piping so that in the
15 event that we receive non-compliant waste
16 from Allen's, we would also have the ability
17 to further divert their flow. They have
18 their own diversion capabilities, but we
19 would also be able to divert additionally
20 flow coming from them in the event that it
21 was needed.

22 And we've got the ability to meet
23 the unlimited public access treatment
24 as well as reduce the nitrogen concentrations

1 to well below the 10 milligrams per liter,
2 the drinking water limits.

3 And as Mr. Rebar mentioned, we have
4 the monitoring wells which we are now
5 supplementing with additional equipment and
6 sensors throughout the treatment process to
7 monitor and make sure that we are meeting
8 those effluent limitations both throughout
9 the treatment process and ultimately when it
10 gets to the end of it.

11 I want to briefly cover the
12 environmental benefits that adding this
13 facility are going to bring to SRRF.

14 We continue to be able to serve the
15 farming community with the additional
16 fertilization as well as reclaiming water.
17 Both of these are very beneficial to the
18 farms surrounding the SRRF facility that
19 utilizes the treated effluent, both in terms
20 of reducing the amount of fertilizer they
21 apply each year as well as reducing
22 tremendously the amount of water that they
23 pull out of the aquifer, which is a major
24 benefit to the surrounding area, preserving

1 those resources. We also are reducing or
2 eliminating discharges to local streams,
3 rivers, and the inland bays. And, again,
4 that equalization facility is a safeguard.

5 A lot of the customers that are
6 going to be coming to SRRF come from
7 communities that, if they were served by
8 small community systems, could struggle in
9 the event of detrimental weather or just the
10 normal wear and tear that comes to a plant
11 and a facility of this nature. You get much
12 more economies of scale and also the benefits
13 of having some of those, again the
14 equalization and diversion to flatten out
15 some of the natural and weather-related
16 events that can come along.

17 So I want to briefly turn now for a
18 moment and just talk about what the facility
19 will look like, try to give the public a
20 sense of what they will see as they drive by
21 the site once it is completed.

22 And we have strategically placed
23 this treatment plant in the back of the site,
24 the SRRF. The main SRRF area is a rather

1 large tract of land. And so we have put the
2 treatment facility about as far away from the
3 road as possible. It tucks back behind the
4 lagoon on the back side of the site.

5 The primary treatment facility will
6 consist of above-ground basins, and then next
7 to that there will be a building for the
8 tertiary treatment facilities, and then some
9 of the other it's like office space and the
10 lab area we mentioned.

11 And then we're also going to have a
12 building for the headworks and the screening
13 that will happen up next to the diversion and
14 equalization lagoon.

15 And then around the entire site,
16 anywhere where it borders a road, we're going
17 to have a landscape buffer that will further
18 obscure the view of the facility.

19 I've got a few images here just to,
20 again, try to paint a picture of what this
21 will look like.

22 This is the primary treatment
23 facility, and it's got, as you can see with
24 these arrows, matching trains. So these are

1 redundant trains, exactly the same. Each one
2 of these concrete basins is responsible for
3 treatment of a different constituent.

4 And so that in the event that one
5 would have some sort of problem, we will be
6 able to treat through the other one and,
7 obviously, hold back additional flow in the
8 equalization lagoon so we don't overload that
9 one train.

10 So it will basically come through
11 each of these basins, having different
12 constituents treated for, and then it goes
13 back this way before merging and being
14 directed through the pump station and
15 ultimately the 90-million-gallon lagoon that
16 is already out there.

17 And, again, just to try to paint
18 the picture: So this, you can see here we've
19 got some renderings that show what -- this is
20 that concrete structure that we just looked
21 at on the previous slide.

22 This is to scale what it will look
23 like from Route 30 at our driveway to the
24 SRRF facility.

1 And this is a little bit closer,
2 again just to try to give a sense of the
3 size, so you can see some of the electrical
4 poles here.

5 This is what the primary treatment
6 facility will look like once you came up onto
7 our site. And this is about 1,200 feet in
8 from Route 30.

9 You can see again here is the
10 existing lagoon, the earth and wall, all of
11 that, and it is tucked into the back there,
12 again trying to keep it as far away from the
13 road as possible so that it is mostly hidden
14 from view.

15 The buildings, themselves, that
16 will sit next to it, and then over at the
17 headworks are going to be poled barns that
18 are very much in keeping with a lot of the
19 agricultural buildings that you see in the
20 surrounding area in Sussex.

21 And that is my presentation. So
22 with that, I will turn it back over to staff.
23 Thank you very much for giving us the
24 opportunity to go through that.

1 MS. VEST: Thank you very much,
2 Mr. Konstanski. And I just want to note that
3 that presentation is going to be a part of
4 the hearing webpage dedicated to this matter.

5 I'm going to go a little bit
6 further and formally enter it as Applicant's
7 Exhibit 1 for the record.

8 And, again, you will be able, if
9 anyone is interested, you can review it
10 again, especially once the transcript has
11 been produced by the court reporter. You can
12 read the transcript and review that again,
13 because we will make sure it's posted.

14 And, again, I appreciate the
15 applicant taking the time to do that.

16 We are turning now to the portion
17 of tonight's hearing dedicated to live
18 comment. As I said in the beginning of
19 tonight's event, we do have three members of
20 the public that preregistered to speak. They
21 are in no particular order of importance.
22 Rather, we just go down the list, and we
23 recognize persons that have preregistered in
24 the order in which they did that.

1 So I'm going to peek a little bit
2 behind the screen right now and see if Deana
3 is ready to put the three-minute timer up on
4 there to help our commenters kind of gauge
5 their discussion. Deana, are you good?

6 MS. KARPAVAGE: I think I need
7 Daniel to stop sharing.

8 MS. VEST: Okay. I think you are
9 up now.

10 MS. KARPAVAGE: All right. For
11 some reason, it's not letting me bring this
12 up. Hold on.

13 MS. VEST: You are the host. You
14 are listed as the host. So you should be
15 able to do this.

16 MS. KARPAVAGE: Yes.

17 MS. VEST: Sorry. I'm not trying
18 to make you nervous.

19 MS. KARPAVAGE: I'm sorry. Just
20 give me a second.

21 MS. VEST: That's okay. While you
22 are doing that -- go ahead.

23 MS. KARPAVAGE: Now it's just
24 giving me a second. It's still not showing

1 up. Now it's giving me a second. It's not
2 showing up.

3 MS. VEST: There we go. It's
4 starting to share.

5 MS. KARPAVAGE: It's showing up
6 now.

7 MS. VEST: Verizon must have a lot
8 going on on their network today.

9 MS. KARPAVAGE: Okay. Good.

10 MS. VEST: Okay. So the three
11 persons today that are going to be offering
12 their comments tonight for the record, the
13 first one up is Maria Payan.

14 After Maria is done, Shelly Cohen,
15 if she is available and if she is attending.
16 I haven't looked just now, but she was
17 hopeful that she would be able to attend.
18 Assuming Shelly is here and offers her
19 comment, the third and final commenter
20 tonight will be Anthony Scarpa.

21 So that being said, I want to see
22 if Maria is here. And, of course, if we have
23 some difficulty, we can always change the
24 order of these commenters. So don't worry,

1 you know, if Shelly is not here but she gets
2 in here. You know, we can certainly circle
3 back around.

4 Deana, have you had an opportunity
5 to look for Maria?

6 MS. KARPAVAGE: Yes.

7 MS. VEST: Okay.

8 MS. KARPAVAGE: She is ready to go.

9 MS. VEST: All right. Maria, can
10 you hear me?

11 MS. PAYAN: Yes, I can.

12 MS. VEST: Okay. Deana, I don't
13 know whether you have got a bandwidth problem
14 or, like I said, whether Verizon has just got
15 a lot going on, because John seemed to have
16 an issue tonight as well.

17 Okay. Now, here we go. I think
18 there is a definite lag here. So just to be
19 on the safe side, Maria, I'm going to start
20 my timer that I have on my phone, as well,
21 just so we can keep track of it, because I
22 don't want you to be hurt in any way if this
23 thing is just slow or whatever is going
24 through it.

1 Are you ready to begin?

2 MS. PAYAN: Sure.

3 MS. VEST: Okay. Well, I'll start
4 my timer when you're ready. You may begin
5 when you are ready.

6 MS. PAYAN: Okay. So I know that
7 the phase one unit is operating now. And I'm
8 wondering if we can see, be provided with the
9 groundwater monitoring reports, if they are
10 doing them.

11 I know there is a lot of concern
12 about Clean Delaware and the contamination of
13 the site from there and what's going to
14 happen when we add more effluent.

15 The second thing that I want to
16 talk about is how is this emergency diversion
17 going to work? So if sampling has to be sent
18 out and the effluent is mixed, how could you
19 possibly, if you got something back saying
20 the limits were over, how could you possibly
21 send mixed water back? I would assume before
22 they were talking about to the treatment
23 plant?

24 I don't see how that can be done if

1 waste is being commingled, how it would be
2 accepted by the Harim plant with other waste
3 and sent back through the plant.

4 And Delaware, as we know, has a bad
5 stain on their record with spray fields and
6 poultry processing wastewater.

7 Something that I read today caused
8 me great concern. As you know, there is
9 avian now in Delaware. And, to me, we talked
10 about -- we talk about fecal bacteria.

11 I read a study today going back to
12 the 2015 influenza outbreak, Avian Influenza
13 Virus RNA Groundwater Wells Supplying Poultry
14 Farms affected by the 2015 Influenza
15 Outbreak.

16 These spray fields are all very
17 close to residential homes. If this gets
18 into the groundwater, how are we protecting
19 public health?

20 And the last thing that I want to
21 talk about is the preservation of
22 agricultural lands. I do not think that this
23 is the intent if you look into land
24 preservation. I actually think that it's

1 bastardizing the program.

2 And I will be sending in written
3 comments, but I wanted to see the hearing
4 tonight.

5 MS. VEST: Okay. Thank you so
6 much, Maria. You kind of timed that
7 perfectly. You hit three minutes almost
8 exactly. And I do apologize for the visual.
9 It's lagging so badly.

10 So, Deana, don't worry about it. I
11 know you are probably stressing. I don't
12 want you to worry about it. I have got a
13 timer here at my desk, and I can keep track
14 of that.

15 But thank you again, Ms. Payan, for
16 your comments. They will be incorporated
17 into the record.

18 Shelly Cohen. Ms. Cohen, if you
19 are here -- Deana, do you see Ms. Cohen
20 anywhere?

21 MS. COHEN: Yes.

22 MS. VEST: Okay.

23 MS. COHEN: I'm not sure, because I
24 know you are in control of the muting and

1 everything. Okay. So can you hear me now?

2 MS. VEST: I can hear you now. The
3 system has un-muted you. We're un-muting and
4 then re-muting as we go down the list of
5 commenters.

6 And again, I do apologize. We do
7 have a visual, but there is something going
8 on. Mr. Rebar had the same thing going on
9 with his presentation. And it's just lagging
10 so bad, I think it would be more of a
11 distraction than a help.

12 MS. COHEN: Okay. As long as you
13 have got the timer, that's fine.

14 MS. VEST: I have got the timer,
15 and I will start it when you start talking,
16 so you may proceed.

17 MS. COHEN: Okay. So like Maria,
18 I'm also curious about the test well results
19 for the area in general, but also the Allen
20 Harim testing from their own treatment,
21 whatever their reduced treatment standards
22 are right now. That was one thing.

23 But the biggest thing I wanted to
24 talk about is the capacity of this wastewater

1 treatment plant. It's supposed to be
2 625,000 gallons per day. Just recently, they
3 have taken on -- I will skip all the
4 legalities, but they have taken on the Town
5 of Milton's wastewater treatment.

6 And because that's a whole big
7 thing, but that's -- well, based on old
8 stats, that's 350,000 gallons per day.
9 Milton is going to be doubling in size in the
10 next couple of years, easily doubling in size
11 probably more than that. So that would put
12 it at 700, about 700,000 gallons a day just
13 for Milton.

14 And in addition to that, they have
15 agreed to take on 150,000 gallons from
16 Georgetown, because Georgetown hasn't been
17 able to adequately treat their own waste,
18 apparently.

19 They have also agreed to take on --
20 I think it's in the application where they
21 have agreed to take on the wastewater
22 treatment for several other subdivisions.

23 And then just last week at the PLUS
24 meeting, which PLUS is an acronym for a bunch

1 of agencies to get together and review the
2 applications of other subdivisions, in that
3 meeting last week, the Artesian supposedly
4 has provided letters saying they can take on
5 the capacity, the wastewater treatment
6 capacity of two more new communities that
7 will probably be in excess of 400 homes
8 there.

9 And I think there is other types of
10 things, like there was something for a thing
11 called re-farm where it was supposed to be
12 industrial waste. I don't think that one
13 actually got approved by the County.

14 Anyway, there is a lot of extra
15 capacity. And to me this sounds like the
16 Brooklyn Bridge being sold over and over
17 again. You know, it's just, I don't know,
18 something that I think DNREC should pay
19 attention to.

20 You need due diligence here. What
21 is the actual capacity? What did they
22 promise? You know, what's actually going on?

23 I also wanted to get an
24 explanation -- I don't know if you are

1 answering questions during this hearing, but
2 when they talk about the tertiary and the --
3 and I'm probably mispronouncing bardenpho --
4 I think tertiary can have other meanings, so
5 I just wanted clarification on that. Is that
6 the final membranes that you would be passing
7 wastewater through?

8 I'm not sure, because I think
9 tertiary could also be something where you
10 pump wastewater into a lagoon, and then you
11 expect it, just by the weight of the water,
12 to clean itself somehow. It goes into the
13 land.

14 MS. VEST: Okay.

15 MS. COHEN: So I think you need
16 more clarification there. I have other
17 things that I wanted to comment too. I was
18 also concerned about the diversion like
19 Maria.

20 MS. VEST: Right. Right.

21 MS. COHEN: And also with the
22 reporting, is this going to be on an honor
23 system, or does DNREC have assigned
24 inspectors to pull this information, review

1 it, and hold Artesian's feet to the fire to
2 make sure they are performing correctly?

3 MS. VEST: Okay. I appreciate all
4 of those questions. And we will certainly
5 strive to get those clarifications into the
6 record. Thank you, Ms. Cohen.

7 And, absolutely, you know, as Maria
8 had previously offered, I hope that you will
9 put your comments in writing in full so that
10 we can submit them into the record.

11 MS. COHEN: I will do that.

12 MS. VEST: So thank you for your
13 time. I know you were worried about whether
14 you would make it tonight, so I appreciate
15 you taking the time.

16 MS. COHEN: Hundreds of thousands
17 of people live in this area, and all this
18 water is going to drain into their water
19 supply, which is the aquifer. Whether we are
20 on private wells, HOA wells, or the town's
21 municipal well, this affects all of us. And
22 that's a public health problem. Thank you.

23 MS. VEST: Thank you. And, again,
24 I look forward to receiving all of your

1 comments in writing, as well, so that we can
2 make sure to get them all into the record.

3 Moving on, the final commenter
4 tonight, Anthony Scarpa. Mr. Scarpa, are you
5 there, and can you hear me?

6 MR. SCARPA: Yes, I'm here, and I
7 can hear you. Thank you.

8 MS. VEST: Awesome. Again, I do
9 apologize. I see that we've got the timer
10 back up, but I'm good with keeping manual
11 time on the comments, if you are okay with
12 that.

13 MR. SCARPA: Yes, ma'am.

14 MS. VEST: I will begin my clock
15 when you start.

16 MR. SCARPA: Thank you. My name is
17 Anthony Scarpa. I represent Keep Our Wells
18 Clean in Milton.

19 And our group is opposed to the
20 Artesian SRFF project facility phase two.

21 I question how can DNREC even hold
22 this hearing when there is an appeal pending
23 before the Environmental Appeal Board at
24 DNREC for the phase one operating permit.

1 So we are questioning why should
2 this hearing even be going on until that
3 phase one operating permit issue is resolved
4 through the Environmental Appeal Board.

5 In Section 7101 of the Groundwater
6 Discharge Section regulations, we feel that
7 the Artesian site is not suitable for
8 wastewater discharge for the following
9 reason:

10 DNREC has carefully hidden from the
11 public and the records of the highly
12 contaminated street directly across the
13 street on Route 30 from the Artesian Spray
14 Field G. This property is contiguous to the
15 Artesian SRRF facility, and it's directly
16 across the street from Artesian Field G.

17 This site has been contaminated for
18 over 20 years and has contaminated a
19 neighborhood, which is a what we would call a
20 social justice neighborhood.

21 Their wells are so contaminated in
22 this area that whatever gets sprayed on Field
23 G, in a wooded area on Field G, will
24 ultimately end up directly across the street

1 in this facility that accepts septic
2 wastewater and dumps it on their fields and
3 has contaminated the neighborhoods of Slim,
4 Collins, and Russell.

5 When the original application came
6 before DNREC for Artesian for this proposal
7 back in 2006 or '08, this site was never
8 considered. And it should have been. It
9 should have been looked at as the entire
10 area, not just isolating the Artesian site
11 into one just standalone site, but they
12 should have looked at this industrial site
13 also that's been spraying septic wastewater
14 and sludge and grease from restaurants on
15 their fields for years and years and has
16 contaminated the wells in this neighborhood.

17 But instead, DNREC chose not to
18 look at it. Artesian never mentioned it in
19 any of their applications. So this
20 neighborhood is racially mixed. It's a group
21 of homeowners and tenants that can't afford
22 to fight back. They certainly can't afford
23 to fight against Artesian. They can't afford
24 to fight against DNREC, who supports

1 Artesian.

2 So I'm not sure why DNREC has
3 1,700 acres -- or I'm sorry -- Artesian has
4 1,700 acres of spray fields. Why do they
5 locate their largest, most concentrated spray
6 field directly across the street from this
7 industrial site that DNREC knows is
8 contaminated?

9 You monitor the wells. You know
10 what's going on. Your nitrate readings in
11 those wells approach 90 milligrams per liter
12 of nitrate.

13 So if you think by reducing the
14 nitrates load in the spray heads down to
15 10 milligrams a liter, and that gets into the
16 groundwater, that it's not going to increase
17 what's going on across the street is foolish.

18 They could have taken this spray
19 from Field G and moved it certainly up to A,
20 B, C, D, or F and gotten it away from this
21 site and gotten it away from potentially
22 harming these homeowners' wells even more
23 than they have already been harmed.

24 MS. VEST: Okay.

1 MR. SCARPA: I also want to point
2 out that in Table 4-2 in the exhibits that
3 Artesian submitted, the sampling data that
4 they show for Allen Harim goes back to 2017.

5 Guys, can't you even submit data
6 that's current? We have seen no well test
7 data from the Clean Delaware site. We have
8 seen no test well data from the Artesian for
9 the G site.

10 We have seen no attempt to even
11 contact the neighbors that have contaminated
12 wells in the Slim Collins and Russell
13 neighborhood to see what baseline there is
14 now currently before you start spraying.

15 So I think it's remiss on the part
16 of Artesian. If you want to be good citizens
17 in this community, then start acting like it,
18 and start taking the interests of other
19 people at heart and not just think about your
20 own economic interests, but think about what
21 your spraying is going to do to an already
22 bad situation in an already contaminated
23 industrial site directly across the street.

24 Plus there is an stream, the Ingram

1 Branch that separates both the Artesian site
2 and the Clean Delaware site.

3 Is any monitoring being done in the
4 Ingram Branch to see what the spray that you
5 have already done in the wooded area and the
6 fields, what impact that's having on that
7 site?

8 So I think there is a lot of things
9 here that DNREC needs to look at. I will
10 submit my public comments, my written
11 comments.

12 But I think everyone should be on
13 notice here that, you know, you have got to
14 look at this as a neighborhood. This isn't
15 just an isolated site, as Artesian wants us
16 to think it is. This has an impact that goes
17 well beyond your borders and your property.
18 So I think we need to look at this. Thank
19 you.

20 MS. VEST: Okay. Thank you very
21 much, Mr. Scarpa. I appreciate your
22 comments. And as I said to both Ms. Payan
23 and Ms. Cohen, I look forward to receiving
24 your entire comments so that we can include

1 them into the record for the Secretary's
2 consideration.

3 That concludes the live comment
4 portion of tonight's hearing. So I'm going
5 to just take a couple seconds here and thank
6 everybody again for taking time out of their
7 busy schedules to join us.

8 Again, I do apologize for some of
9 the sluggishness. I'm not sure what's going
10 on with it. But, you know, we do the best we
11 can with what we have. And, again, I do
12 appreciate those that offered their live
13 comment.

14 As I said at the beginning of
15 tonight's proceedings, the record will remain
16 open for additional comment to be received.
17 And whether it came in tonight, as was the
18 case from the three commenters just now, or
19 whether it came in prior to tonight's
20 hearing, or whether it comes in now from the
21 time I close this and bang this gavel all the
22 way up until March 10th of next month,
23 whether it's written, whether it was live, it
24 all bears the same weight.

1 As long as it is germane to the
2 subject matter of the hearing tonight it will
3 be included into the hearing record, and it
4 will be all submitted for the Secretary's
5 consideration.

6 Again, I do appreciate everybody
7 taking the time out of their busy schedules
8 to be here tonight. I wish you well. Have a
9 great rest of the week. And this hearing is
10 hereby adjourned.

11 (Concluded at 6:56 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 1st day of March 2022.



Lorena J. Hartnett
Registered Professional Reporter

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