

In the Matter Of:

Department of Natural Resources & Environmental Control

WASTEWATER TREATMENT FACILITY

May 10, 2022



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

RE: Inland Bays Regional Wastewater
Treatment Facility

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Virtual Public Hearing
Dial-In Number: 1-408-418-9388
Event Number: 2334 080 1424

Tuesday, May 10, 2022
6:00 p.m.

..

BEFORE: Lisa Vest, Hearing Officer

FOR THE DIVISION: Derrick Caruthers, DNREC

-- Transcript of Proceedings --

WILCOX & FETZER
Registered Professional Reporters
1330 King Street - Wilmington, Delaware 19801

(302) 655-0477

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TABLE OF CONTENTS

	Page
Introduction by Ms. Vest	3
Presentation by Derrick Caruthers	11
Entry of Exhibits 1 through 23	20
Presentation by Applicants:	
Todd Lawson	22
Hans Medlarz	24
Entry of Applicant's Exhibit 1 - Pg. 21	
Public Comments:	
Donald Burdick	37
Dr. Gerry Bell	42
Chris Nolte	45
Conclusory Remarks by Ms. Vest.	48
Certificate of Reporter	51

1 MS. VEST: Good evening. I believe
2 that everyone is connected and ready, so we
3 are going to go ahead and begin tonight's
4 virtual public hearing.

5 I want to thank everybody for
6 taking the time out of their busy schedules
7 to attend and connect with us today.

8 The date is Tuesday, May 10, 2022,
9 and we are here this evening to provide the
10 virtual platform for DNREC to conduct its
11 public hearing on the pending permit of
12 Sussex County for Construction and Operating
13 Permits for the Inland Bays Regional
14 Wastewater Treatment Facility.

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

20 I do have some introductory remarks
21 before we get underway with the
22 presentations.

23 Pursuant to DNREC's standard
24 hearing protocols, this hearing is, of

1 course, being conducted virtually. No one is
2 gathered together in the same room. Everyone
3 is participating independently at their own
4 respective locations.

5 While there are no physical sign-in
6 sheets to document attendance tonight, the
7 WebEx platform does generate a list of those
8 who are virtually attending tonight, so the
9 Department still maintains that record. And,
10 again, I thank everyone for their interest in
11 being here.

12 At the conclusion of these remarks,
13 I will be turning the hearing over to
14 representatives for both the Department and
15 the Applicant so that both will make their
16 presentations for the hearing record that's
17 being generated in this case.

18 There is still a court reporter
19 virtually present. She will prepare a
20 verbatim transcript of the proceedings
21 tonight pursuant to the statutory requirement
22 for DNREC to do so. And, as always, that
23 transcript will be posted on the hearing
24 webpage dedicated to this matter as soon as

1 we receive it.

2 Following the presentations from
3 both the Department and the Applicant, we
4 will be accepting live comment tonight.
5 Anyone that goes on DNREC's webpage will find
6 in the Administrative Law Section there is an
7 entire page devoted to preregistration.

8 For anyone wishing to make live
9 comment at any DNREC public hearing, it is a
10 couple clicks, and you can be preregistered
11 to be recognized to be heard at any of our
12 public hearings.

13 We have six that have chosen to
14 preregister to be heard. We will get a
15 little bit more into detail once that time in
16 the proceedings tonight occurs, but, like I
17 said, we do have six. Each will be given
18 three minutes to speak.

19 And those comments are captured by
20 the court reporter that's preparing the
21 transcript of tonight's proceedings, and
22 those comments are automatically a part of
23 the hearing record generated in this matter.

24 DNREC, of course, wishes to ensure

1 that everyone that wishes to make a comment
2 for the Secretary's review is enabled to be
3 included. Therefore, as is the case with all
4 of DNREC's hearings, the record will not
5 close for public comment tonight, nor is it
6 even going to close at the standard 15 days
7 following the hearing.

8 Given the nature of tonight's
9 proceedings, the Department has extended the
10 time period for public comment, so persons
11 wishing to offer their written comments
12 subsequent to tonight's event has all the way
13 through June 7th of 2022 to offer comment,
14 should they wish to do so.

15 I would encourage those who are
16 watching tonight to check out DNREC's webpage
17 for public hearings. Again, it's under the
18 Administrative Law Section of our website for
19 more detail concerning this specific
20 permitting matter.

21 All of the presentations that you
22 will hear from watching tonight, along with a
23 lot of other documentation, such as the
24 exhibits that are being proposed to be

1 entered into the record, they are all up
2 there, they are posted on the hearing
3 webpage, and the public can gain a wealth of
4 information by checking that out.

5 Of course, all mechanisms
6 previously available by which to offer
7 comment remain. There is an electronic link
8 right off of the hearing webpage, there is
9 e-mail to DNRECHearingComments@delaware.gov
10 and, of course, just plain old written United
11 States Postal Service.

12 Also, please be advised that the
13 following protocols do remain in place for
14 all DNREC public hearings:

15 Number 1: All comment received
16 must be limited solely to the subject matter
17 of tonight's hearing. All comments pertinent
18 to the subject matter of this virtual hearing
19 are incorporated into the record that is
20 being generated in this matter.

21 Number 2: As I have previously
22 mentioned, in order to ensure that everyone
23 who wishes to offer comment for the
24 Secretary's consideration is fully

1 accommodated, the record shall remain open
2 for receipt of comment through June 7, 2022.

3 Number 3: There is only one
4 authentic record of the proceeding tonight,
5 and it is the official court reporter's
6 verbatim transcript, which again will be
7 posted on the hearing webpage once it has
8 been received.

9 Number 4: The statutory purpose of
10 tonight's hearing is to build the record with
11 regard to these proposed permitting matters.
12 A record, consisting of the transcript of the
13 hearing tonight, all written comments
14 received, all exhibits, and eventually the
15 Hearing Officer's Report, will be collected
16 and reviewed by Secretary Garvin. The
17 Secretary will then ultimately issue an order
18 following his review process, and that order
19 will contain his decision on the matter and
20 the reasons therefor.

21 Number 5: Lastly, it is very
22 important to note that no decision has been
23 made by the Department at this point, nor
24 will any decision be made tonight with regard

1 to these pending permitting matters.

2 Again, the record remains open
3 through June 7th so that members of the
4 public have ample opportunity to offer
5 comment for the Secretary's consideration,
6 should they wish to do so.

7 Comments may be submitted through a
8 comment form link on the hearing page, via
9 e-mail to DNRECHearingComments@Delaware gov,
10 or via the United States Postal Service at
11 the physical address for DNREC indicated on
12 the hearing page and the public notices that
13 have been previously issued regarding this
14 matter.

15 It should be noted that written
16 comments to DNREC may not be submitted on any
17 social media platforms such as Twitter,
18 Facebook, YouTube, or standardized text
19 messaging.

20 And, lastly, please remember that
21 all comment, whether it has already been
22 received in writing by the Department prior
23 to tonight, whether it comes in verbally as
24 the six members of the public that have

1 preregistered to do so will offer, or whether
2 it comes in in written format between now and
3 the point where the comment period closes on
4 June 7th, as long as it is pertinent to the
5 subject matter related to this particular
6 hearing, which, of course, is the Inland Bays
7 permitting matter, all comment bears the
8 exact same weight, all is incorporated into
9 the record, and all will be considered
10 equally by the Secretary prior to his making
11 a final decision in this matter.

12 As I said, the ultimate decision
13 regarding this permitting action is made by
14 Secretary Garvin, and this formal legal
15 proceeding tonight acts as a mechanism to
16 enable the Department to thoroughly vet this
17 matter to the public and to remind the public
18 of the various ways by which comment can be
19 submitted to the Department for the
20 Secretary's consideration.

21 That being said, I am now going to
22 turn the floor, as it were, over to
23 Department staff. We have Derrick Caruthers
24 from the Division of Water, and he will be

1 offering a brief presentation regarding this
2 action. So Derrick, when you are ready, you
3 may proceed.

4 MR. CARUTHERS: Thank you, Lisa.
5 Sussex County is currently authorized to
6 operate and maintain the Inland Bays Regional
7 Wastewater Treatment Facility under State
8 Permit 359141-05.

9 The operation of the facility is
10 divided into phases. Phase one was finished
11 in 2010 and involved the upgrading of the
12 wastewater treatment facility to include
13 biological nutrient removal process.

14 Sussex County has provided
15 application materials for the proposed phase
16 two activities, which include upgrading the
17 treatment facility to increase treatment and
18 disposal capacity, expanding the number of
19 spray irrigation and disposal areas,
20 constructing a wetland for a nutrient
21 reduction demonstration and research project,
22 and distributing treated wastewater to
23 farmers for beneficial reuse.

24 The purpose of this presentation is

1 to provide an overview of the phase two
2 application and, if approved, the proposed
3 construction and operation permits that would
4 follow.

5 The facility is currently -- um, as
6 previously stated, Sussex County operates the
7 Inland Bays Regional Wastewater Treatment
8 facility under an existing operations permit.

9 The facility is permitted to
10 receive wastewater from Sussex County's
11 wastewater service areas for treatment and
12 disposal onto spray irrigation fields.

13 The average daily flow of treated
14 effluent received at the facility is
15 1.5 million gallons per day, or MGD, with a
16 peak of 2 MGD.

17 The treated effluent is stored in
18 two synthetic-lined lagoons prior to being
19 discharged onto approximately 432.5 acres of
20 spray disposal fields. The fields are
21 County-owned agricultural fields located
22 around the wastewater treatment facility.

23 The disposal system's current
24 design capacity is 2.65 MGD.

1 The current permit includes
2 operational, monitoring, and reporting
3 requirements, as well as effluent limitations
4 that are designed to protect the health -- to
5 protect human health and the environment.

6 This is a map of the current
7 facility that shows the spray irrigation
8 fields outlined in yellow, along with
9 monitoring well network that includes
10 monitoring wells, lysimeters, and observation
11 wells.

12 The Department received an
13 application for a phase two construction
14 permit. This application proposes activities
15 associated with the upgrades and expansion of
16 the wastewater treatment and disposal system.
17 They include new screening and grit
18 facilities, a new aeration lagoon
19 distribution box, expansion of the Biolac
20 aeration treatment system, two new
21 clarifiers, expanding the pump and blower
22 building, expanding the sludge pump building,
23 a new effluent filtration facility, pump
24 station and effluent distribution

1 infrastructure, and expansion of County-owned
2 forested land.

3 The upgrades and expansion would
4 increase the treatment and disposal capacity
5 of the existing regional facility to meet the
6 County's current and future needs.

7 The County has proposed expansion,
8 infrastructure expansion, to allow the
9 distribution of treated wastewater to nearby
10 farmers for beneficial reuse.

11 And the application includes a
12 submerged gravel wetland research and
13 demonstration project that is designed to
14 identify the effectiveness of constructed
15 wetland systems to remove nutrients for the
16 remediation of local groundwater, improve
17 wastewater quality prior to disposal, and
18 serve as an innovative and alternative method
19 to wastewater storage.

20 The Department has drafted a phase
21 two construction permit and an operation
22 permit for renewal and modification.

23 If approved, both of the permits
24 would be issued in accordance with provisions

1 of Chapter 60 in the regulations, covering
2 design installation and operation of on-site
3 wastewater treatment and disposal systems.

4 The permits would include effluent
5 limitations, operational, monitoring, and
6 reporting requirements, and other conditions
7 designed to ensure the protection of public
8 health and the environment.

9 The proposed draft construction
10 permit would require the permittee to notify
11 the Department at least 15 days prior to the
12 intent to initiate construction.

13 All systems must be constructed and
14 installed by a DNREC-licensed Class E.4
15 system contractor. The design engineer must
16 also periodically review the construction
17 work to ensure the construction is in
18 accordance with the design specifications.

19 Proper construction or installation
20 of the components of the treatment and
21 disposal system shall be certified in writing
22 by the design engineer and the manufacturer's
23 representative prior to the startup of the
24 wastewater treatment facility.

1 Department staff are also
2 authorized to perform inspections during
3 construction activities and perform the final
4 inspection and system test upon completion of
5 the construction activities.

6 The draft construction permit
7 requires the permittee to provide the
8 Department with a design engineer inspection
9 report that certifies the system was
10 constructed in accordance with the approved
11 design engineer report and plans and
12 technical specifications, to submit as-builts
13 for the system, and an amended operation and
14 maintenance plan for the facility.

15 Once the work is authorized by
16 the -- once the work authorized by the
17 construction permit is complete, all required
18 documentations are submitted, and written
19 approval is received from the Department, and
20 the operation permit application is approved,
21 the Inland Bays Regional Wastewater Treatment
22 Facility would be authorized to receive and
23 treat wastewater within Sussex County service
24 territories.

1 This will require the current
2 operation permit to be renewed and modified
3 to delineate the requirements between phase
4 one and phase two operations.

5 The draft operation permit renews
6 the Inland Bays Regional Wastewater Treatment
7 Facility's current operation.

8 The draft permit would also allow
9 the facility to operate the upgraded and
10 expanded portions, increase the total
11 treatment and disposal capacities, discharge
12 effluent to new County-owned forested areas,
13 distribute effluent to area farmers for
14 beneficial reuse, and discharge effluent to
15 the constructed wetlands project.

16 The draft operations permit
17 includes influent limitations for each phase,
18 with phase one limited to 2 MGD and phase two
19 increasing to 3 MGD on an annual average
20 basis, or 4 MGD on a maximum monthly basis.

21 The effluent limitations for both
22 phases require the treated wastewater to meet
23 10 milligrams per liter concentration of
24 total nitrogen.

1 Phase one disposal capacity is 2.65
2 MGD, and phase two increases to 2.94 MGD.
3 The draft operation permit requires
4 wastewater discharged under phase two to be
5 treated to meet a concentration of
6 8 milligrams per liter for total phosphorous.
7 The draft operations permit also limits the
8 chloride and sodium concentrations on an
9 average annual basis.

10 The draft operations permit
11 requires wastewater to be treated to public
12 access under phase one on the left and
13 increases the treatment level to unlimited
14 public access treatment levels under phase
15 two on the right column.

16 The draft operations permit will
17 require the effluent discharge to the spray
18 irrigation fields to be free from material,
19 and the amount of water sent to the fields
20 will be limited to prevent ponding,
21 oversaturation, and runoff.

22 The permittee must provide monthly
23 discharge reports, quarterly groundwater
24 sampling results of the lysimeters and

1 monitoring wells, yearly soil sampling,
2 including metal sampling, and a yearly
3 vegetative analysis. An annual report is
4 also required.

5 The facility would also continue to
6 be under the direction of a Class IV licensed
7 operator in direct responsible charge.

8 In conclusion, a phase two
9 application has been received by the
10 Department. If approved, the Department
11 would issue a construction permit and an
12 operations permit for the renewal and
13 modification.

14 The construction permit will ensure
15 proper construction, installation, and
16 documentation of all new systems and
17 equipment.

18 The operation permit will renew
19 current operations and authorize future
20 operations once expansions and upgrades are
21 finished.

22 The permit includes effluent
23 limitations, operational monitoring, and
24 reporting requirements, and contingency plans

1 designed to protect public health and the
2 environment.

3 This concludes my presentation.

4 And I offer the following exhibits for
5 reference.

6 MS. VEST: Okay. Thank you very
7 much for that thorough presentation. For a
8 little clarification purposes for the record,
9 the exhibits that you are now displaying on
10 your screen, are they the same ones as what
11 is known as DNREC proposed exhibits on the
12 hearing webpage dedicated to this matter?

13 MR. CARUTHERS: Yes.

14 MS. VEST: And are they the same
15 and have not been altered in any way from
16 what's posted on the website?

17 MR. CARUTHERS: Yes.

18 MS. VEST: Okay. Very good. Let
19 the record reflect that DNREC proposed
20 exhibits, as posted on the hearing page
21 dedicated to this matter, as well as what is
22 on the screen being displayed now, are hereby
23 entered into the hearing record and
24 identified as DNREC Exhibits 1 through 23.

1 And does the Department have
2 anything further that they wish to offer for
3 the record at this time?

4 MR. CARUTHERS: No.

5 MS. VEST: Okay. And thank you
6 very much, Derrick.

7 As I stated, now that the
8 Department has concluded its presentation,
9 the Applicant has a brief presentation of
10 their own to provide for the public.

11 Just a little note. We have been
12 provided with a copy of this Power Point
13 presentation that the applicant is going to
14 be giving, and it, too, is up on the hearing
15 webpage dedicated to this matter. So the
16 public can go back and residence this, you
17 know, should they be wanting to review it
18 prior to making written comments. I just
19 wanted to point out that it's up there along
20 with the DNREC exhibits.

21 That being said, I believe that we
22 are getting ready to go. We have Sussex
23 County's Power Point up. And Hans, can you
24 hear me?

1 MR. MEDLARZ: Yes, we can.

2 MS. VEST: Okay. You may proceed
3 when ready.

4 MR. LAWSON: Thank you, Lisa. This
5 is Todd Lawson speaking. I'm the Sussex
6 County Administrator, joined by our County
7 Engineer, Hans Medlarz.

8 I will start the County
9 presentation and then turn it over to Hans to
10 discuss some of the technical aspects of our
11 application.

12 I want to thank DNREC for hosting
13 tonight's public hearing and giving the
14 County the opportunity to present this
15 material.

16 I also want to thank DNREC staff
17 for all their assistance leading up to this
18 point. This is a great milestone for us to
19 reach, to finally get to the public hearing
20 for this application.

21 Next slide, please.

22 MS. VEST: John, we lost your
23 slides.

24 MR. REBAR: Hold on. Technical

1 difficulties.

2 MS. VEST: That's okay. Just
3 wanted to make sure you realized it. There
4 we go.

5 MR. LAWSON: There we go. Thank
6 you, John. Okay.

7 For tonight, the purpose of Sussex
8 County's presentation can be summarized in
9 these four goals:

10 Goal number one is to refer the
11 public to the County's website for the
12 August 2020 Comprehensive Project Overview
13 that the engineering department conducted
14 during our series of non-regulatory hearings.

15 Back in August of 2020, we hosted
16 sessions at the Conley's Church, whereby the
17 public was invited to come in and listen to
18 the preliminary presentations regarding this
19 application, which eventually turned into the
20 material that we have submitted to the
21 agency, as well as the materials that we will
22 review tonight.

23 There is a link that's provided on
24 the screen right now, as well as -- a link to

1 the presentation, as well as we will make
2 that part of the record for purposes of
3 reviewing in the future. That link goes to
4 the County's website where you can review the
5 presentation currently.

6 Goal number two: We are going to
7 highlight the non-regulatory project
8 components benefiting public health and the
9 environment. These are some of the
10 components that we are undertaking currently.

11 Goal number three: Highlight
12 alternative effluent outlets which do not
13 exceed permitted facility capacity but promote
14 operational flexibility. Mr. Medlarz will
15 get into more details related to that.

16 And finally, goal number four:
17 Assure the public of Sussex County's
18 continued, continued commitment to
19 100 percent DNREC permit compliance and full
20 transparency.

21 This is the goal for tonight's
22 presentation, and I will hand it over to Hans
23 to get into some of the details.

24 MR. MEDLARZ: And, John, before we

1 flip the slide, we want to say that we had
2 160 people registered for the informational
3 hearing in August of 2020, and about 150 plus
4 came and listened to our presentations. And
5 we had Q and A for each one of them. And
6 that was conducted through four different
7 meetings during that same day.

8 If we can switch to the next slide,
9 please.

10 So I would like to start with our
11 record on the septic remediation project.
12 And I would like to talk about the septic
13 remediation in the context of what we call
14 the north planning area. That is the area
15 north off the inlet. And these are all
16 projects which will be flowing and already
17 are flowing to the Inland Bays facility.

18 We already have converted some of
19 Herring Creek and some of Chapel Branch area,
20 and we are actively working on all of the
21 other ones.

22 And if you do the analysis of a
23 standard septic -- and remember, these are
24 not PFM-3 systems; these are standard septic

1 systems, many of them 40, 50 years old. When
2 you do a conservative analysis, you can
3 conclude that they produce about
4 45,000 pounds of nitrogen every year as long
5 as they operate.

6 We are looking here approximately
7 at a three-year convergence project, all
8 projects in motion, so three years from now
9 we expect to have all these projects
10 connected.

11 Next slide, please.

12 Now, let me add we do have other
13 projects in the Little Assawoman. We have
14 other projects in western Sussex and the
15 Chesapeake. But these are the ones we listed
16 on slides two, are the ones for the Inland
17 Bays, which this facility serves.

18 This one here is a project in the
19 Assawoman Bay. This is the Burbage Road
20 project under our proposed Clean Water
21 Enhancement Program.

22 We are working with the Department
23 in creating this program. We are in the
24 review round number two. We expect to have

1 the program up and running by the fall of
2 this year at the latest.

3 This is the Constructed Wetlands
4 Stream Restoration Project on this particular
5 tax ditch that used to be a straightforward
6 trapezoidal ditch piece. We did this for
7 several thousand feet with the help of the
8 Sussex Conservation District. You can
9 actually visit this site on Burbage Road, and
10 you can take a look at it.

11 We also have a forestry project, a
12 forestry enhancement project in the Guinea
13 Creek, which is downstream of the Inland Bays
14 facility.

15 And we have two projects in the
16 Angola and the Route 54. And these are
17 forestation projects that are completed. One
18 of them is in the Inland Bays drainage, and
19 one of them is in the Assawoman drainage.

20 This year alone, we have
21 budgeted -- and we just got that approved
22 yesterday, at least preliminarily, I should
23 say -- \$350,000 for further Clean Water
24 Enhancement Projects.

1 So every year the County is
2 doing -- and these are non-point-source
3 reduction. We are trying to further the TMDL
4 compliance on the non-point-source side.
5 Non-regulatory, not prompted by anybody other
6 than the County government.

7 Next slide please, John.

8 This one is our flagged projects.
9 We are standing by for advertisement. And
10 this is the Drainage and Constructed Wetland
11 component.

12 So what you see here is all the
13 blue around Cannon and Inland Bays Road is
14 the drainage improvement, and that is a major
15 infiltration practice, a series of bio swales
16 and wetland swales, and they are all designed
17 for drainage and for water quality
18 enhancement.

19 The square you can see is the first
20 phase of the wetland, of the constructed
21 wetland project. And, again, this is a
22 non-permitted, non-capacity-required project
23 which generates flexibility, because it's a
24 year-round discharge into the wetlands.

1 And it's structured in such a way
2 that the base flow, which is a combined
3 groundwater/effluent flow, is only there to
4 maintain the water level necessary for the
5 plants.

6 We have an infiltration gallery
7 which will handle up to the design storm,
8 which is a ten-year storm. And then we have
9 storage capacity above that bench which
10 allows us to handle the 100-year flood event,
11 all without a single discharge.

12 That is the intent. We have
13 monitor wells which will tell us the
14 reduction between the incoming total nitrogen
15 and the outgoing total nitrogen at the very
16 end of the cell.

17 So that's the demonstration
18 research project. It's structured in a
19 five-year initial and a five-year expansion,
20 so at the end of the ten years we expect to
21 have excellent data and some very good
22 groundwater remediation.

23 Let me say for the record the
24 effluent we are putting in there, we are

1 adding to this wetland, is running about six
2 parts per million on average.

3 The groundwater we will be
4 withdrawing and adding to the wetland is
5 running in the mid teens.

6 So, as you can see, we expect to
7 see a reduction in the actual groundwater
8 pollution which predates, which is of
9 historic record. So that is truly a
10 remediation and a polishing project.

11 Next slide, please.

12 This shows you that DRMM. You may
13 not all be familiar with this from the DNREC
14 site or listening in here, as well as the
15 public. DRMM stands for the required
16 software package we use to calculate the
17 pollution reduction for stormwater project.

18 It's codified under the DNREC
19 stormwater regulation. So if you use the
20 DRMM for the infiltration part alone -- we
21 have not yet added the bio swale and the
22 wetland swale -- just for the pond alone,
23 every year after we complete it, we will be
24 reducing almost 780 pounds of nitrogen per

1 year for the rest of the life of the
2 facility. And that is starting as soon as we
3 complete this project.

4 And, as I said, this is a non-DNREC
5 permitted project. We will be constructing
6 this under the Sussex Conservation District
7 permit.

8 Next slide, please.

9 This shows you our spray partners.
10 Again, this gives you, gives us flexibility.
11 Just like the wetlands, just like any of
12 these other things we are trying to
13 entertain, we like to have flexibility.

14 And the flexibility for this is
15 what you see here our four spray partners.
16 Three of them have, we have signed agreements
17 with. One of the three are still in
18 communication, trying to establish a final
19 agreement.

20 The effluent loop will allow us to
21 distribute tertiary effluent to not only our
22 spray partners but also our own fields and
23 forests.

24 Now, what the key thing here is

1 goal number two, we also have
2 communication -- and there's a secret word
3 for fiber connection -- which allows the
4 partners to call in and say we would like to
5 start a rake on field number X, and the SCADA
6 can -- the SCADA control can start this.

7 So we do not make the decision to
8 start an irrigation rig. Only the farmer
9 makes the irrigation rig come on by
10 contacting us or by going directly to the
11 site. And you can also manually start it.

12 So I wanted to make sure that
13 everybody understands we do not control it,
14 and this does not add capacity under the
15 permit.

16 So if you go to the last slide,
17 please.

18 That came out a little grainy. But
19 this shows all the monitor wells and the
20 lysimeters.

21 So if we obtain the permit, which
22 we certainly hope, we would double the
23 current locations of our lysimeters and test
24 wells and observation wells, and we'll have

1 over 60 -- I counted them again today -- if
2 all the new fields are permitted, we would
3 have 61 total.

4 And if you, I go through the permit
5 requirements of the operating permit, and you
6 multiply out what each well has to be
7 analyzed for per year, you can roughly
8 calculate over 7,000 groundwater quality data
9 point will be collected to be consistent for
10 permit compliance.

11 And this directly ties in with goal
12 number four, as stated by our administrator,
13 and that is the -- our goal is 100 percent
14 permit compliance all the time.

15 Back to the administrator.

16 MR. LAWSON: That concludes our
17 presentation. I want to thank DNREC again
18 for the opportunity. And we will stand by.
19 Thanks, Lisa.

20 MR. MEDLARZ: Thank you.

21 MS. VEST: Thank you, gentlemen,
22 for your thorough presentation, as well.

23 And as I indicated right before you
24 gentlemen began, we have received a copy of

1 the Power Point that we just reviewed now.
2 It is up right immediately below all of the
3 DNREC exhibits that have been entered into
4 the record.

5 It was labeled as the Applicant's
6 Proposed Exhibit. For the benefit of the
7 record right now, I'm going to go ahead and
8 officially mark the Power Point that the
9 applicants just provided as Applicant Exhibit
10 Number 1.

11 And, again, for those of you that
12 may be in attendance watching this and
13 wanting to learn more, I would sincerely
14 suggest that you check out that website,
15 because there is a lot of information on that
16 hearing page about this pending matter.

17 Now that both the presentations for
18 the Department and the Applicant have been
19 concluded, we are going to move to the live
20 comment portion of tonight's hearing.

21 So while Janella is getting that
22 screen ready, just some protocol things
23 again:

24 Again, there is a protocol to being

1 able to be recognized to speak at our
2 hearings. There is a preregistration
3 subsection to the hearing website page. It's
4 very easily navigable. Anybody can go in
5 there and just sign up. And that
6 registration period is open from the time the
7 legal notice hits and is published all the
8 way up until noon of the day of our hearings.

9 And what we do then is, based on
10 who has preregistered, we then acknowledge
11 those people and recognize them at the time
12 of the hearing, and they are each given three
13 minutes to speak and offer their comment.

14 Those comments are, as I said
15 before, completely captured by the court
16 reporter in the transcript that is prepared,
17 and that is posted on the website, as well.

18 So for those of you that may be
19 joined later, or maybe you are reading this
20 transcript and you didn't have the
21 opportunity to watch us tonight live,
22 everything that is said, everything that is
23 presented, it's all made as part of the
24 record. It gets incorporated for inclusion

1 into the record. And, again, we will post
2 that transcript as soon as it is received.

3 A couple things, like I said, each
4 person that is getting ready to be recognized
5 has three minutes to speak. At the
6 conclusion of three minutes, the system will
7 put those microphones of the speaker back on
8 mute.

9 But, again, in no way do we want to
10 preclude anyone that wishes to make a
11 comment. This is a very detailed permitting
12 matter. So, you know, it is completely
13 foreseeable that comments may exceed the
14 three-minute mark.

15 So if you are one of the speakers
16 tonight, and you don't get it all in, or you
17 do get your comments in, but then you think
18 about something else you wanted to say two
19 hours after we are done tonight, don't worry.
20 Like I mentioned at the beginning, each and
21 every comment that comes in all bears the
22 same weight. It's all incorporated into the
23 record, whether we get it in writing or
24 whether it's offered tonight.

1 And as long as it's received up
2 through June 7th, it all gets incorporated
3 into the record, and it will all be forwarded
4 to Secretary Garvin for his review prior to
5 making a final decision in this matter.

6 That being said, we are going to go
7 ahead and start with the first of our six
8 speakers. Mr. Donald Burdick is the first
9 person up, so to speak. I believe that
10 Janella has gone ahead and found him.
11 Mr. Burdick, can you hear me?

12 MR. BURDICK: Yes. Can you hear
13 me?

14 MS. VEST: I can hear you loud and
15 clear. The timer will begin once you begin
16 speaking, so when you are ready, take it
17 away.

18 MR. BURDICK: My name is Donald
19 Burdick. The 2018 Sussex County Council was
20 issued a notice of noncompliance regarding
21 failures at Inland Bays. None of the
22 corrective demands were made. The permit
23 expired in 2017.

24 High nitrates were reported in 2010

1 and continue through today. My community's
2 water is contaminated with high nitrate and
3 BFAS. The public was never warned and
4 suffers severe health issues.

5 Mountaire Farm dumped sludge on
6 that facility. See Page 119, Item 5, of the
7 settlement document on
8 mountairesettlement.com.

9 Until settlement, class members
10 were not told. The State did not cite or
11 fine Mountaire or Sussex County, even though
12 Council alerted DNREC. Mountaire dumped
13 astounding levels of domestic waste in
14 coliform bacteria.

15 Historical rainfall data showed
16 that 2017 was a wet year, culminating in 3.83
17 inches of rain on the violation date. Do the
18 math.

19 Inland Bays sprays and windy
20 conditions causing citizens to cough so hard
21 we can't catch our breath. Spraying and
22 raining causes massive runoff. No crops were
23 planted this winter. County Engineer, Hans
24 Medlarz, says snow geese ate all 432.5 acres

1 up to the edge where the grass is healthy.

2 It is nothing but weeds.

3 Major excavation is underway.

4 Mr. Medlarz said no excavation was done.

5 Photographs and witnesses say otherwise.

6 When told my community was burning
7 and bleeding, Mr. Medlarz said he couldn't
8 stop spraying or others wouldn't be able to
9 flush their toilets.

10 The public notice has errors. One
11 parcel is non-existent. One isn't in the
12 County mapping application. All are claimed
13 to be forested; none are. All are claimed to
14 be publicly owned; one is private. Soil and
15 hydrologic reports are based on data prior to
16 Mountaire Farms polluting.

17 DNREC's presentation is pending, so
18 we don't know the plan. The contact is
19 retired. Phase two includes a research
20 project, as though we are lab rats.

21 Satellite imagery proves that the
22 FOIA has been mismanaged since it has opened.
23 Paid to dare that SCD and the State and EPA
24 were warned that land application would fail.

1 It did, and my community was literally
2 tortured.

3 My EPA FOIA request proves I
4 contacted Jennifer Rausch, who in charge of
5 the Facilities; Secretary Garvin; Attorney
6 General Jennings; and Governor Carney. I
7 contacted all State and Federal
8 representatives' offices. None helped. It
9 is like Hurricane Katrina hit, and five years
10 later citizens have zero assistance.

11 Sussex County needs modern
12 facilities to handle the explosive population
13 growth and cannot be gained by ruthless
14 corporations.

15 The County has proven year after
16 year they have no interest in running a safe
17 facility. This permit should not be granted.
18 For more information, go to brokenbambi.com
19 and click on the link titled, "Evidence of
20 Public Corruption and Federal Government Lies
21 and Coverup." You will see gruesome photos
22 of victims and the EPA FOIA documents. Show
23 a little mercy on the taxpayers and citizens
24 of Delaware.

1 MS. VEST: Okay. Thank you,
2 Mr. Burdick. I believe that all got in there
3 within the three minutes. And, as I said
4 before, every comment that is received live
5 tonight is absolutely captured by the court
6 reporter's transcript and is incorporated
7 into the hearing record.

8 And I thank you for those comments.

9 Next up on the list of those that
10 have preregistered is Diane Longo.

11 Ms. Longo, can you hear me?

12 MS. SAPP: Um, Lisa, it's Janella.
13 I do not see Ms. Longo on.

14 MS. VEST: Okay. That's fine.
15 What we will do is we will go on to the next
16 person, and then we will try her again at the
17 conclusion. Maybe she just had to go, or
18 maybe she is not on yet.

19 So we will put a pause on that.
20 The third person preregistered is Dr. Gerry
21 Bell. Dr. Bell, can you hear me?

22 DR. BELL: Yes, I can. Can you
23 hear me?

24 MS. VEST: I can hear you loud and

1 clear, sir. The timer is reset, I believe,
2 so it will begin when you are ready. So
3 proceed when you are ready.

4 DR. BELL: I'm Dr. Gerry Bell, and
5 I hold a doctoral degree in meteorology. I
6 retired after a 30-year career with the
7 Climate Prediction Center of the National
8 Weather Service. I am an expert in both
9 large and small-scale weather patterns.

10 Since 2003, I have lived downstream
11 of the Inland Bays facility. I have seen and
12 lived the horrors of what that facility has
13 done to locals and to my own family.

14 As with the current facility, I
15 expect the expansion to fail because of its
16 inherent design mismanagement, corruption,
17 not operating according to permits, and not
18 fixing known problems as they arise.

19 There are also two main
20 meteorological reasons why the facility can
21 fail.

22 First, they say the expansion can
23 handle a 100-year event. A hundred-year
24 event is based on past experience. It is not

1 a predictor of what to expect going forward.

2 Who knows, we could see two or more rain
3 events in the next few years.

4 For example, on May 20, '13, we got
5 more than 8 inches of rain in just a few
6 hours.

7 The facility sprays wastewater
8 during rain and when the ground is saturated.
9 Saturated ground is often more important than
10 a single storm. This rain cannot go into
11 saturated ground, and it runs off.

12 Our ground gets saturated for many
13 reasons, not just from a 100-year storm. A
14 few heavy rain events, even over a short
15 period, can saturate the ground, as can a
16 slow-moving tropical storm. Even an extra
17 wet month or two can saturate. Remember back
18 in 2010, a series of winter storms produced
19 standing water for two months.

20 Another meteorological reason why
21 the facility can fail is longer-term weather
22 patterns. One such pattern, the North
23 Atlantic Oscillation, or NAO, acts on
24 cooler-season temperatures. The NAO is a

1 cold and warm phase. We were in a cold phase
2 during the 1950s, 60s, and 70s. Remember the
3 cold winters back then?

4 Frozen ground can't uptake the
5 wastewater in the spray, and it rolls off.

6 We have now been in a warm NAO
7 phase since the mid 1980s, but we can shift
8 out of it any year. That winter of 2010 had
9 one of the strongest, cold air NAO phases in
10 40 years.

11 Climate patterns can also combine
12 to saturate the ground. In 2010, the
13 (inaudible) combined with the cold NAO to
14 produce that cold, snowy, saturated winter.

15 Other significant issues are not
16 meteorological. One is the facility design,
17 which ensures its own failure. It is not
18 modern.

19 The expansion should not reflect a
20 research project designed by the very people
21 who mismanaged the existing facility and
22 violated its permits.

23 The current system in DNREC has no
24 credibility. I don't believe them, nor

1 should you.

2 For instance, their statement of
3 continued 100 percent compliance of DNREC's
4 permits is bunk, since there are numerous
5 ongoing permit violations.

6 Get rid of those in charge now.
7 Get rid of corruption locally and at DNREC.
8 Then (audio mutes).

9 MS. VEST: Okay, Dr. Bell, I
10 apologize. The three minutes did expire.
11 But, as I said, all comments bear the same
12 weight. So, by all means, please submit your
13 full comments on or before June 7th, because
14 we would appreciate hearing the entirety of
15 your comment. And thank you again.

16 Next up is Chris Nolte, I believe,
17 who preregistered. Chris, are you on the
18 line? Can you hear me?

19 MR. NOLTE: I am.

20 MS. VEST: Okay. Very good. The
21 timer has reset. You may -- it will begin
22 when you proceed, so proceed when ready.

23 MR. NOLTE: I live locally here and
24 moved here from Long Island. I had a lot of

1 experience with pollution.

2 I'm not an expert on the subject,
3 but I am very interested in this meeting and
4 to see where things are headed.

5 Um, I live in the community. I
6 know from neighbors and others that there is
7 a lot of issues within our community with the
8 water. And there seems to be quite a bit of
9 controversy about who and why.

10 And it's unsettling, as a consumer
11 and, you know, what you thought might be a
12 great retirement community, to find that you
13 could have a problem with your well or you
14 could have a problem with this, you could
15 have a problem with that.

16 And you know, I'm a simple guy, but
17 I understand a little bit about how, you
18 know, runoff can go and erosion. And it's a
19 real shame what happened to a beautiful
20 place. And I hope you guys can straighten it
21 out. That's it for me.

22 MS. VEST: Okay. Thank you, Chris.
23 Again, I appreciate your comments. Next up
24 we have Loretta Simon. Ms. Simon, are you on

1 the line, and can you hear me?

2 MS. SAPP: Lisa, that is another
3 person. I don't see Ms. Simon.

4 MS. VEST: Okay. That's fine. We
5 will give it a couple more minutes, and
6 hopefully she'll pop in.

7 The sixth person that signed up to
8 speak is Joseph Faraci, or Faraci. I
9 apologize if I'm saying your last name wrong.
10 Joseph, are you on the line?

11 MR. FARACI: Lisa, I'm very soft
12 spoken but (inaudible)

13 MS. VEST: Sir, are you on the
14 line? Hello?

15 MR. FARACI: Can you hear me?

16 UNIDENTIFIED SPEAKER: She can't.

17 MS. VEST: Okay. I don't know that
18 we have got a connection there. That is the
19 sixth person that was preregistered to speak.
20 Janella, for the ones that were not
21 previously on there, do you see either Diane
22 Longo or Vereta Simon?

23 MS. SAPP: Let me take a look down
24 the whole list.

1 MS. VEST: Sure.

2 MS. SAPP: No, I don't see them
3 listed.

4 MS. VEST: Okay. All right. Okay,
5 we are going to move on. Again it doesn't
6 matter whether they are offering comment live
7 at the hearing or whether they write it in.
8 As long as it's received on or about June 7,
9 it will bear the same weight as if they did
10 speak.

11 So apologies to Diane Longo and
12 Vereta Simon and Joseph Faraci, or Faraci --
13 I'm not sure how that is pronounced. If you
14 were on or the connection is bad or somehow
15 we missed you, my sincere apologies. And
16 please feel free to write in your written
17 comments, as I mentioned before.

18 At this point we are going to go
19 ahead to move to conclude tonight's
20 proceedings.

21 Again, there is a lot of
22 information that you have heard tonight.
23 There is a lot of information that's
24 available on the hearing page on the DNREC

1 website that's dedicated to this matter. And
2 I would encourage everybody to go check it
3 out.

4 The court reporter's transcript, it
5 usually takes about a week to get that. We
6 usually get it within seven days. But the
7 minute that it comes in, we will post it
8 immediately.

9 So if you don't see it in a couple
10 days, just keep checking back. But check it
11 out, read it once it's there, look at the
12 exhibits, look at the transcript. And by all
13 means, as I said before, if you did offer
14 comment tonight and you have additional
15 comments, or you just want to reiterate what
16 it was that you said live, by all means, we
17 welcome your comments. It's the reason we
18 are extending the comment period, so that
19 everybody that wishes to be heard has an
20 opportunity to do so.

21 Again, I want to thank the
22 Department staff as well as the Applicant
23 staff for giving their presentations. They
24 were quite informative. Everyone be safe.

1 Have a great evening. This hearing is hereby
2 adjourned.

3 (Concluded at 6:45 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 17th day of May 2022.



Lorena J. Hartnett
Registered Professional Reporter

Wastewater Treatment Facility - May 10, 2022

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Wastewater Treatment Facility - May 10, 2022

approximately 12:19 26:6
area 17:13 25:14,19
areas 11:19 12:11 17:12
arise 42:18
as-builts 16:12
aspects 22:10
Assawoman 26:13,19 27:19
assistance 22:17 40:10
Assure 24:17
astounding 38:13
ate 38:24
Atlantic 43:23
attend 3:7
attendance 4:6 34:12
attending 4:8
Attorney 40:5
audio 45:8
August 23:12,15 25:3
authentic 8:4
authorize 19:19
authorized 11:5 16:2,15,16,22
automatically 5:22
average 12:13 17:19 18:9 30:2

B

back 21:16 23:15 33:15 36:7 43:17
 44:3
bacteria 38:14
base 29:2
based 35:9 39:15 42:24
basis 17:20 18:9
Bay 26:19
Bays 3:13 10:6 11:6 12:7 16:21 17:6
 25:17 26:17 27:13,18 28:13 37:21
 38:19 42:11
bear 45:11
bears 10:7 36:21
beautiful 46:19

began 33:24
begin 3:3 37:15 42:2 45:21
beginning 36:20
Bell 41:21,22 42:4 45:9
bench 29:9
beneficial 11:23 14:10 17:14
benefit 34:6
benefiting 24:8
BFAS 38:3
bio 28:15 30:21
Biolac 13:19
biological 11:13
bit 5:15 46:8,17
bleeding 39:7
blower 13:21
blue 28:13
box 13:19
Branch 25:19
breath 38:21
brokenbambi.com 40:18

budgeted 27:21
build 8:10
building 13:22
bunk 45:4
Burbage 26:19 27:9
Burdick 37:8,11,12,18,19 41:2
burning 39:6
busy 3:6

C

calculate 30:16 33:8
call 25:13 32:4
Cannon 28:13
capacities 17:11
capacity 11:18 12:24 14:4 18:1
 24:13 29:9 32:14
captured 5:19 35:15 41:5

career 42:6
Carney 40:6
Caruthers 10:23 11:4 20:13,17 21:4
case 4:17 6:3
catch 38:21
causing 38:20
cell 29:16
Center 42:7
certified 15:21
certifies 16:9
Chapel 25:19
Chapter 15:1
charge 19:7 40:4 45:6
check 6:16 34:14
checking 7:4
Chesapeake 26:15
chloride 18:8
chosen 5:13
Chris 45:16,17 46:22
Church 23:16
cite 38:10
citizens 38:20 40:10,23
claimed 39:12,13
clarification 20:8
clarifiers 13:21
class 15:14 19:6 38:9
Clean 26:20 27:23
clear 37:15 42:1
click 40:19
clicks 5:10
Climate 42:7 44:11
close 6:5,6
closes 10:3
codified 30:18
cold 44:1,3,9,13,14
coliform 38:14
collected 8:15 33:9

Wastewater Treatment Facility - May 10, 2022

<p>column 18:15</p> <p>combine 44:11</p> <p>combined 29:2 44:13</p> <p>comment 5:4,9 6:1,5,10,13 7:7,15, 23 8:2 9:5,8,21 10:3,7,18 34:20 35:13 36:11,21 41:4 45:15</p> <p>comments 5:19,22 6:11 7:17 8:13 9:7,16 21:18 35:14 36:13,17 41:8 45:11,13 46:23</p> <p>commitment 24:18</p> <p>communication 31:18 32:2</p> <p>community 39:6 40:1 46:5,7,12</p> <p>community's 38:1</p> <p>complete 16:17 30:23 31:3</p> <p>completed 27:17</p> <p>completely 35:15 36:12</p> <p>completion 16:4</p> <p>compliance 24:19 28:4 33:10,14 45:3</p> <p>component 28:11</p> <p>components 15:20 24:8,10</p> <p>Comprehensive 23:12</p> <p>concentration 17:23 18:5</p> <p>concentrations 18:8</p> <p>conclude 26:3</p> <p>concluded 21:8 34:19</p> <p>concludes 20:3 33:16</p> <p>conclusion 4:12 19:8 36:6 41:17</p> <p>conditions 15:6 38:20</p> <p>conduct 3:10</p> <p>conducted 4:1 23:13 25:6</p> <p>Conley's 23:16</p> <p>connect 3:7</p> <p>connected 3:2 26:10</p> <p>connection 32:3 47:18</p> <p>Conservation 27:8 31:6</p> <p>conservative 26:2</p> <p>consideration 7:24 9:5 10:20</p> <p>considered 10:9</p>	<p>consistent 33:9</p> <p>consisting 8:12</p> <p>constructed 14:14 15:13 16:10 17:15 27:3 28:10,20</p> <p>constructing 11:20 31:5</p> <p>construction 3:12 12:3 13:13 14:21 15:9,12,16,17,19 16:3,5,6,17 19:11, 14,15</p> <p>consumer 46:10</p> <p>contact 39:18</p> <p>contacted 40:4,7</p> <p>contacting 32:10</p> <p>contaminated 38:2</p> <p>context 25:13</p> <p>contingency 19:24</p> <p>continue 19:5 38:1</p> <p>continued 24:18 45:3</p> <p>contractor 15:15</p> <p>control 32:6,13</p> <p>controversy 46:9</p> <p>convergence 26:7</p> <p>converted 25:18</p> <p>cooler-season 43:24</p> <p>copy 21:12 33:24</p> <p>corporations 40:14</p> <p>corrective 37:22</p> <p>corruption 40:20 42:16 45:7</p> <p>cough 38:20</p> <p>Council 37:19 38:12</p> <p>counted 33:1</p> <p>County 3:12 11:5,14 12:6 14:7 16:23 22:6,8,14 28:1,6 37:19 38:11,23 39:12 40:11,15</p> <p>County's 12:10 14:6 21:23 23:8,11 24:4,17</p> <p>County-owned 12:21 14:1 17:12</p> <p>couple 5:10 36:3 47:5</p> <p>court 4:18 5:20 8:5 35:15 41:5</p> <p>covering 15:1</p>	<p>Coverup 40:21</p> <p>creating 26:23</p> <p>credibility 44:24</p> <p>Creek 25:19 27:13</p> <p>crops 38:22</p> <p>culminating 38:16</p> <p>current 12:23 13:1,6 14:6 17:1,7 19:19 32:23 42:14 44:23</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>daily 12:13</p> <p>dare 39:23</p> <p>data 29:21 33:8 38:15 39:15</p> <p>date 3:8 38:17</p> <p>day 12:15 25:7 35:8</p> <p>days 6:6 15:11</p> <p>decision 8:19,22,24 10:11,12 32:7 37:5</p> <p>dedicated 4:24 20:12,21 21:15</p> <p>degree 42:5</p> <p>Delaware 40:24</p> <p>delineate 17:3</p> <p>demands 37:22</p> <p>demonstration 11:21 14:13 29:17</p> <p>department 4:9,14 5:3 6:9 8:23 9:22 10:16,19,23 13:12 14:20 15:11 16:1, 8,19 19:10 21:1,8 23:13 26:22 34:18</p> <p>Derrick 10:23 11:2 21:6</p> <p>design 12:24 15:2,15,18,22 16:8,11 29:7 42:16 44:16</p> <p>designated 3:17</p> <p>designed 13:4 14:13 15:7 20:1 28:16 44:20</p> <p>detail 5:15 6:19</p> <p>detailed 36:11</p> <p>details 24:15,23</p> <p>devoted 5:7</p> <p>Diane 41:10 47:21</p> <p>difficulties 23:1</p>
---	--	--

Wastewater Treatment Facility - May 10, 2022

<p>direct 19:7</p> <p>direction 19:6</p> <p>directly 32:10 33:11</p> <p>discharge 17:11,14 18:17,23 28:24 29:11</p> <p>discharged 12:19 18:4</p> <p>discuss 22:10</p> <p>displayed 20:22</p> <p>displaying 20:9</p> <p>disposal 11:18,19 12:12,20,23 13:16 14:4,17 15:3,21 17:11 18:1</p> <p>distribute 17:13 31:21</p> <p>distributing 11:22</p> <p>distribution 13:19,24 14:9</p> <p>District 27:8 31:6</p> <p>ditch 27:5,6</p> <p>divided 11:10</p> <p>Division 10:24</p> <p>DNREC 3:10 4:22 5:9,24 7:14 9:11, 16 20:11,19,24 21:20 22:12,16 24:19 30:13,18 33:17 34:3 38:12 44:23 45:7</p> <p>DNREC's 3:23 5:5 6:4,16 39:17 45:3</p> <p>DNREC-LICENSED 15:14</p> <p>DNRECHEARINGCOMMENTS@DELAWARE 9:9</p> <p>DNRECHEARINGCOMMENTS@DELAWARE.GOV 7:9</p> <p>doctoral 42:5</p> <p>document 4:6 38:7</p> <p>documentation 6:23 19:16</p> <p>documentations 16:18</p> <p>documents 40:22</p> <p>domestic 38:13</p> <p>Donald 37:8,18</p> <p>double 32:22</p> <p>downstream 27:13 42:10</p> <p>draft 15:9 16:6 17:5,8,16 18:3,7,10, 16</p> <p>drafted 14:20</p>	<p>drainage 27:18,19 28:10,14,17</p> <p>DRMM 30:12,15,20</p> <p>dumped 38:5,12</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e-mail 7:9 9:9</p> <p>E.4 15:14</p> <p>easily 35:4</p> <p>edge 39:1</p> <p>effectiveness 14:14</p> <p>effluent 12:14,17 13:3,23,24 15:4 17:12,13,14,21 18:17 19:22 24:12 29:24 31:20,21</p> <p>electronic 7:7</p> <p>enable 10:16</p> <p>enabled 6:2</p> <p>encourage 6:15</p> <p>end 29:16,20</p> <p>engineer 15:15,22 16:8,11 22:7 38:23</p> <p>engineering 23:13</p> <p>enhancement 26:21 27:12,24 28:18</p> <p>ensure 5:24 7:22 15:7,17 19:14</p> <p>ensures 44:17</p> <p>entered 7:1 20:23 34:3</p> <p>entertain 31:13</p> <p>entire 5:7</p> <p>entirety 45:14</p> <p>environment 13:5 15:8 20:2 24:9</p> <p>EPA 39:23 40:3,22</p> <p>equally 10:10</p> <p>equipment 19:17</p> <p>erosion 46:18</p> <p>errors 39:10</p> <p>establish 31:18</p> <p>evening 3:1,9</p> <p>event 6:12 29:10 42:23,24</p> <p>events 43:3,14</p>	<p>eventually 8:14 23:19</p> <p>Evidence 40:19</p> <p>exact 10:8</p> <p>excavation 39:3,4</p> <p>exceed 36:13</p> <p>excellent 29:21</p> <p>Exhibit 34:6,9</p> <p>exhibits 6:24 8:14 20:4,9,11,20,24 21:20 34:3</p> <p>existing 12:8 14:5 44:21</p> <p>expanded 17:10</p> <p>expanding 11:18 13:21,22</p> <p>expansion 13:15,19 14:1,3,7,8 29:19 42:15,22 44:19</p> <p>expansions 19:20</p> <p>expect 26:9,24 29:20 30:6 42:15 43:1</p> <p>experience 42:24 46:1</p> <p>expert 42:8 46:2</p> <p>expire 45:10</p> <p>expired 37:23</p> <p>explosive 40:12</p> <p>extended 6:9</p> <p>extra 43:16</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>Facebook 9:18</p> <p>facilities 13:18 40:5,12</p> <p>facility 3:14 11:7,9,12,17 12:5,8,9, 14,22 13:7,23 14:5 15:24 16:14,22 17:9 19:5 24:13 25:17 26:17 27:14 31:2 38:6 40:17 42:11,12,14,20 43:7, 21 44:16,21</p> <p>Facility's 17:7</p> <p>fail 39:24 42:15,21 43:21</p> <p>failure 44:17</p> <p>failures 37:21</p> <p>fall 27:1</p> <p>familiar 30:13</p>
---	--	---

Wastewater Treatment Facility - May 10, 2022

<p>family 42:13</p> <p>Faraci 47:8,11,15</p> <p>Farm 38:5</p> <p>farmer 32:8</p> <p>farmers 11:23 14:10 17:13</p> <p>Farms 39:16</p> <p>Federal 40:7,20</p> <p>feet 27:7</p> <p>fiber 32:3</p> <p>field 32:5</p> <p>fields 12:12,20,21 13:8 18:18,19 31:22 33:2</p> <p>filtration 13:23</p> <p>final 10:11 16:3 31:18 37:5</p> <p>finally 22:19 24:16</p> <p>find 5:5 46:12</p> <p>fine 38:11 41:14 47:4</p> <p>finished 11:10 19:21</p> <p>five-year 29:19</p> <p>fixing 42:18</p> <p>flagged 28:8</p> <p>flexibility 24:14 28:23 31:10,13,14</p> <p>flip 25:1</p> <p>flood 29:10</p> <p>floor 10:22</p> <p>flow 12:13 29:2,3</p> <p>flowing 25:16,17</p> <p>flush 39:9</p> <p>FOIA 39:22 40:3,22</p> <p>follow 12:4</p> <p>foreseeable 36:13</p> <p>forestation 27:17</p> <p>forested 14:2 17:12 39:13</p> <p>forestry 27:11,12</p> <p>forests 31:23</p> <p>form 9:8</p> <p>formal 10:14</p> <p>format 10:2</p>	<p>forward 43:1</p> <p>forwarded 37:3</p> <p>found 37:10</p> <p>free 18:18</p> <p>Frozen 44:4</p> <p>full 24:19 45:13</p> <p>fully 7:24</p> <p>future 14:6 19:19 24:3</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gain 7:3</p> <p>gained 40:13</p> <p>gallery 29:6</p> <p>gallons 12:15</p> <p>Garvin 3:17 8:16 10:14 37:4 40:5</p> <p>gathered 4:2</p> <p>geese 38:24</p> <p>General 40:6</p> <p>generate 4:7</p> <p>generated 4:17 5:23 7:20</p> <p>generates 28:23</p> <p>gentlemen 33:21,24</p> <p>Gerry 41:20 42:4</p> <p>give 47:5</p> <p>giving 21:14 22:13</p> <p>goal 23:10 24:6,11,16,21 32:1 33:11, 13</p> <p>goals 23:9</p> <p>good 3:1 20:18 29:21 45:20</p> <p>gov 9:9</p> <p>government 28:6 40:20</p> <p>Governor 40:6</p> <p>grainy 32:18</p> <p>granted 40:17</p> <p>grass 39:1</p> <p>gravel 14:12</p> <p>great 22:18 46:12</p>	<p>grit 13:17</p> <p>ground 43:8,9,11,12,15 44:4,12</p> <p>groundwater 14:16 18:23 29:22 30:3,7 33:8</p> <p>groundwater/effluent 29:3</p> <p>growth 40:13</p> <p>gruesome 40:21</p> <p>Guinea 27:12</p> <p>guy 46:16</p> <p>guys 46:20</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hand 24:22</p> <p>handle 29:7,10 40:12 42:23</p> <p>Hans 21:23 22:7,9 24:22 38:23</p> <p>happened 46:19</p> <p>hard 38:20</p> <p>headed 46:4</p> <p>health 13:4,5 15:8 20:1 24:8 38:4</p> <p>healthy 39:1</p> <p>hear 6:22 21:24 37:11,12,14 41:11, 21,23,24 45:18 47:1,15</p> <p>heard 5:11,14</p> <p>hearing 3:4,11,18,24 4:13,16,23 5:9, 23 6:7 7:2,8,17,18 8:7,10,13,15 9:8, 12 10:6 20:12,20,23 21:14 22:13,19 25:3 34:16,20 35:3,12 41:7 45:14</p> <p>hearings 5:12 6:4,17 7:14 23:14 35:2,8</p> <p>heavy 43:14</p> <p>helped 40:8</p> <p>Herring 25:19</p> <p>high 37:24 38:2</p> <p>highlight 24:7,11</p> <p>historic 30:9</p> <p>Historical 38:15</p> <p>hit 40:9</p> <p>hits 35:7</p> <p>hold 22:24 42:5</p>
--	---	---

Wastewater Treatment Facility - May 10, 2022

<p>hope 32:22 46:20</p> <p>horrors 42:12</p> <p>hosted 23:15</p> <p>hosting 22:12</p> <p>hours 36:19 43:6</p> <p>human 13:5</p> <p>hundred-year 42:23</p> <p>Hurricane 40:9</p> <p>hydrologic 39:15</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>identified 20:24</p> <p>identify 14:14</p> <p>imagery 39:21</p> <p>immediately 34:2</p> <p>important 8:22 43:9</p> <p>improve 14:16</p> <p>improvement 28:14</p> <p>inaudible 44:13 47:12</p> <p>inches 38:17 43:5</p> <p>include 11:12,16 13:17 15:4</p> <p>included 6:3</p> <p>includes 13:1,9 14:11 17:17 19:22 39:19</p> <p>including 19:2</p> <p>inclusion 35:24</p> <p>incoming 29:14</p> <p>incorporated 7:19 10:8 35:24 36:22 37:2 41:6</p> <p>increase 11:17 14:4 17:10</p> <p>increases 18:2,13</p> <p>increasing 17:19</p> <p>independently 4:3</p> <p>infiltration 28:15 29:6 30:20</p> <p>influent 17:17</p> <p>information 7:4 34:15 40:18</p> <p>informational 25:2</p> <p>infrastructure 14:1,8</p>	<p>inherent 42:16</p> <p>initial 29:19</p> <p>initiate 15:12</p> <p>Inland 3:13 10:6 11:6 12:7 16:21 17:6 25:17 26:16 27:13,18 28:13 37:21 38:19 42:11</p> <p>inlet 25:15</p> <p>innovative 14:18</p> <p>inspection 16:4,8</p> <p>inspections 16:2</p> <p>installation 15:2,19 19:15</p> <p>installed 15:14</p> <p>instance 45:2</p> <p>intent 15:12 29:12</p> <p>interest 4:10 40:16</p> <p>interested 46:3</p> <p>introductory 3:20</p> <p>invited 23:17</p> <p>involved 11:11</p> <p>irrigation 11:19 12:12 13:7 18:18 32:8,9</p> <p>Island 45:24</p> <p>issue 8:17 19:11</p> <p>issued 9:13 14:24 37:20</p> <p>issues 38:4 44:15 46:7</p> <p>Item 38:6</p> <p>IV 19:6</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Janella 34:21 37:10 41:12 47:20</p> <p>Jennifer 40:4</p> <p>Jennings 40:6</p> <p>John 22:22 23:6 24:24 28:7</p> <p>joined 22:6 35:19</p> <p>Joseph 47:8,10</p> <p>June 6:13 8:2 9:3 10:4 37:2 45:13</p>	<hr/> <p style="text-align: center;">K</p> <hr/> <p>Katrina 40:9</p> <p>key 31:24</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lab 39:20</p> <p>labeled 34:5</p> <p>lagoon 13:18</p> <p>lagoons 12:18</p> <p>land 14:2 39:24</p> <p>large 42:9</p> <p>lastly 8:21 9:20</p> <p>latest 27:2</p> <p>Law 5:6 6:18</p> <p>Lawson 22:4,5 23:5 33:16</p> <p>leading 22:17</p> <p>learn 34:13</p> <p>left 18:12</p> <p>legal 10:14 35:7</p> <p>level 18:13 29:4</p> <p>levels 18:14 38:13</p> <p>licensed 19:6</p> <p>Lies 40:20</p> <p>life 31:1</p> <p>limitations 13:3 15:5 17:17,21 19:23</p> <p>limited 7:16 17:18 18:20</p> <p>limits 18:7</p> <p>link 7:7 9:8 23:23,24 24:3 40:19</p> <p>Lisa 3:16 11:4 22:4 33:19 41:12 47:2, 11</p> <p>list 4:7 41:9 47:24</p> <p>listed 26:15</p> <p>listen 23:17</p> <p>listened 25:4</p> <p>listening 30:14</p> <p>liter 17:23 18:6</p>
--	---	--

Wastewater Treatment Facility - May 10, 2022

literally 40:1
live 5:4,8 34:19 35:21 41:4 45:23 46:5
lived 42:10,12
local 14:16
locally 45:7,23
locals 42:13
located 12:21
locations 4:4 32:23
long 10:4 26:4 37:1 45:24
longer-term 43:21
Longo 41:10,11,13 47:22
loop 31:20
Loretta 46:24
lost 22:22
lot 6:23 34:15 45:24 46:7
loud 37:14 41:24
lysimeters 13:10 18:24 32:20,23

M

made 8:23,24 10:13 35:23 37:22
main 42:19
maintain 11:6 29:4
maintains 4:9
maintenance 16:14
major 28:14 39:3
make 4:15 5:8 6:1 23:3 24:1 32:7,12 36:10
makes 32:9
making 10:10 21:18 37:5
manually 32:11
manufacturer's 15:22
map 13:6
mapping 39:12
mark 34:8 36:14
massive 38:22
material 18:18 22:15 23:20
materials 11:15 23:21

math 38:18
matter 4:24 5:23 6:20 7:16,18,20 8:19 9:14 10:5,7,11,17 20:12,21 21:15 34:16 36:12 37:5
matters 8:11 9:1
maximum 17:20
means 45:12
mechanism 10:15
mechanisms 7:5
media 9:17
Medlarz 22:1,7 24:14,24 33:20 38:24 39:4,7
meet 14:5 17:22 18:5
meeting 46:3
meetings 25:7
members 9:3,24 38:9
mentioned 7:22 36:20
mercy 40:23
messaging 9:19
metal 19:2
meteorological 42:20 43:20 44:16
meteorology 42:5
method 14:18
MGD 12:15,16,24 17:18,19,20 18:2
microphones 36:7
mid 30:5 44:7
milestone 22:18
milligrams 17:23 18:6
million 12:15 30:2
minutes 5:18 35:13 36:5,6 41:3 45:10 47:5
mismanaged 39:22 44:21
mismanagement 42:16
modern 40:11 44:18
modification 14:22 19:13
modified 17:2
monitor 29:13 32:19
monitoring 13:2,9,10 15:5 19:1,23
month 43:17

monthly 17:20 18:22
months 43:19
motion 26:8
Mountaire 38:5,11,12 39:16
mountairesettlement.com. 38:8
move 34:19
moved 45:24
multiply 33:6
mute 36:8
muters 45:8

N

NAO 43:23,24 44:6,9,13
National 42:7
nature 6:8
navigable 35:4
nearby 14:9
neighbors 46:6
network 13:9
niece 24:13
nitrate 38:2
nitrates 37:24
nitrogen 17:24 26:4 29:14,15 30:24
Nolte 45:16,19,23
non-capacity-required 28:22
non-dnrec 31:4
non-existent 39:11
non-permitted 28:22
non-point-source 28:2,4
non-regulatory 23:14 24:7 28:5
noncompliance 37:20
noon 35:8
north 25:14,15 43:22
note 8:22 21:11
noted 9:15
notice 35:7 37:20 39:10
notices 9:12

Wastewater Treatment Facility - May 10, 2022

<p>notify 15:10</p> <p>number 7:15,21 8:3,9,21 11:18 23:10 24:6,11,16 26:24 32:1,5 33:12 34:10</p> <p>numerous 45:4</p> <p>nutrient 11:13,20</p> <p>nutrients 14:15</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>observation 13:10 32:24</p> <p>obtain 32:21</p> <p>occurs 5:16</p> <p>offer 6:11,13 7:6,23 9:4 10:1 20:4 21:2 35:13</p> <p>offered 36:24</p> <p>offering 11:1</p> <p>officer 3:18</p> <p>Officer's 8:15</p> <p>offices 40:8</p> <p>official 8:5</p> <p>officially 34:8</p> <p>on-site 15:2</p> <p>ongoing 45:5</p> <p>open 8:1 9:2 35:6</p> <p>opened 39:22</p> <p>operate 11:6 17:9 26:5</p> <p>operates 12:6</p> <p>operating 3:12 33:5 42:17</p> <p>operation 11:9 12:3 14:21 15:2 16:13,20 17:2,5,7 18:3 19:18</p> <p>operational 13:2 15:5 19:23 24:14</p> <p>operations 12:8 17:4,16 18:7,10,16 19:12,19,20</p> <p>operator 19:7</p> <p>opportunity 9:4 22:14 33:18 35:21</p> <p>order 7:22 8:17,18</p> <p>Oscillation 43:23</p> <p>outgoing 29:15</p> <p>outlets 24:12</p>	<p>outlined 13:8</p> <p>oversaturation 18:21</p> <p>overview 12:1 23:12</p> <p>owned 39:14</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>package 30:16</p> <p>Paid 39:23</p> <p>parcel 39:11</p> <p>part 5:22 24:2 30:20 35:23</p> <p>participating 4:3</p> <p>partners 31:9,15,22 32:4</p> <p>parts 30:2</p> <p>past 42:24</p> <p>pattern 43:22</p> <p>patterns 42:9 43:22 44:11</p> <p>pause 41:19</p> <p>peak 12:16</p> <p>pending 3:11 9:1 34:16 39:17</p> <p>people 25:2 35:11 44:20</p> <p>percent 24:19 33:13 45:3</p> <p>perform 16:2,3</p> <p>period 6:10 10:3 35:6 43:15</p> <p>periodically 15:16</p> <p>permit 3:11 11:8 12:8 13:1,14 14:21, 22 15:10 16:6,17,20 17:2,5,8,16 18:3, 7,10,16 19:11,12,14,18,22 24:19 31:7 32:15,21 33:4,5,10,14 37:22 40:17 45:5</p> <p>permits 3:13 12:3 14:23 15:4 42:17 44:22 45:4</p> <p>permitted 12:9 24:13 31:5 33:2</p> <p>permittee 15:10 16:7 18:22</p> <p>permitting 6:20 8:11 9:1 10:7,13 36:11</p> <p>person 36:4 37:9 41:16,20 47:3,7,19</p> <p>persons 6:10</p> <p>pertinent 7:17 10:4</p> <p>PFM-3 25:24</p>	<p>phase 11:10,15 12:1 13:13 14:20 17:3,4,17,18 18:1,2,4,12,14 19:8 28:20 39:19 44:1,7</p> <p>phases 11:10 17:22 44:9</p> <p>phosphorous 18:6</p> <p>Photographs 39:5</p> <p>photos 40:21</p> <p>physical 4:5 9:11</p> <p>piece 27:6</p> <p>place 7:13 46:20</p> <p>plain 7:10</p> <p>plan 16:14 39:18</p> <p>planning 25:14</p> <p>plans 16:11 19:24</p> <p>planted 38:23</p> <p>plants 29:5</p> <p>platform 3:10 4:7</p> <p>platforms 9:17</p> <p>point 8:23 10:3 21:12,19,23 22:18 33:9 34:1,8</p> <p>polishing 30:10</p> <p>polluting 39:16</p> <p>pollution 30:8,17 46:1</p> <p>pond 30:22</p> <p>ponding 18:20</p> <p>pop 47:6</p> <p>population 40:12</p> <p>portion 34:20</p> <p>portions 17:10</p> <p>post 36:1</p> <p>Postal 7:11 9:10</p> <p>posted 4:23 7:2 8:7 20:16,20 35:17</p> <p>pounds 26:4 30:24</p> <p>Power 21:12,23 34:1,8</p> <p>practice 28:15</p> <p>preclude 36:10</p> <p>predates 30:8</p> <p>Prediction 42:7</p>
--	--	---

Wastewater Treatment Facility - May 10, 2022

<p>predictor 43:1</p> <p>preliminarily 27:22</p> <p>preliminary 23:18</p> <p>prepare 4:19</p> <p>prepared 35:16</p> <p>preparing 5:20</p> <p>preregister 5:14</p> <p>preregistered 5:10 10:1 35:10 41:10,20 45:17 47:19</p> <p>preregistration 5:7 35:2</p> <p>present 4:19 22:14</p> <p>presentation 11:1,24 20:3,7 21:8,9, 13 22:9 23:8 24:1,5,22 33:17,22 39:17</p> <p>presentations 3:22 4:16 5:2 6:21 23:18 25:4 34:17</p> <p>presented 35:23</p> <p>prevent 18:20</p> <p>previously 7:6,21 9:13 12:6 47:21</p> <p>prior 9:22 10:10 12:18 14:17 15:11, 23 21:18 37:4 39:15</p> <p>private 39:14</p> <p>problem 46:13,14,15</p> <p>problems 42:18</p> <p>proceed 11:3 22:2 42:3 45:22</p> <p>proceeding 8:4 10:15</p> <p>proceedings 3:19 4:20 5:16,21 6:9</p> <p>process 8:18 11:13</p> <p>produce 26:3 44:14</p> <p>produced 43:18</p> <p>program 26:21,23 27:1</p> <p>project 11:21 14:13 17:15 23:12 24:7 25:11 26:7,18,20 27:4,11,12 28:21,22 29:18 30:10,17 31:3,5 39:20 44:20</p> <p>projects 25:16 26:8,9,13,14 27:15, 17,24 28:8</p> <p>promote 24:13</p> <p>prompted 28:5</p> <p>proper 15:19 19:15</p> <p>proposed 6:24 8:11 11:15 12:2 14:7 15:9 20:11,19 26:20 34:6</p>	<p>proposes 13:14</p> <p>protect 13:4,5 20:1</p> <p>protection 15:7</p> <p>protocol 34:22,24</p> <p>protocols 3:24 7:13</p> <p>proven 40:15</p> <p>proves 39:21 40:3</p> <p>provide 3:9 12:1 16:7 18:22 21:10</p> <p>provided 11:14 21:12 23:23 34:9</p> <p>provisions 14:24</p> <p>public 3:4,11 5:9,12 6:5,10,17 7:3,14 9:4,12,24 10:17 15:7 18:11,14 20:1 21:10,16 22:13,19 23:11,17 24:8,17 30:15 38:3 39:10 40:20</p> <p>publicly 39:14</p> <p>published 35:7</p> <p>pump 13:21,22,23</p> <p>purpose 8:9 11:24 23:7</p> <p>purposes 20:8 24:2</p> <p>pursuant 3:23 4:21</p> <p>put 36:7 41:19</p> <p>putting 29:24</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quality 14:17 28:17 33:8</p> <p>quarterly 18:23</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>rain 38:17 43:2,5,8,10,14</p> <p>rainfall 38:15</p> <p>raining 38:22</p> <p>rake 32:5</p> <p>rats 39:20</p> <p>Rausch 40:4</p> <p>reach 22:19</p> <p>reading 35:19</p> <p>ready 3:2 11:2 21:22 22:3 34:22 36:4 37:16 42:2,3 45:22</p>	<p>real 46:19</p> <p>realized 23:3</p> <p>reason 43:20</p> <p>reasons 8:20 42:20 43:13</p> <p>REBAR 22:24</p> <p>receipt 8:2</p> <p>receive 5:1 12:10 16:22</p> <p>received 7:15 8:8,14 9:22 12:14 13:12 16:19 19:9 33:24 36:2 37:1 41:4</p> <p>recognize 3:16 35:11</p> <p>recognized 5:11 35:1 36:4</p> <p>record 4:9,16 5:23 6:4 7:1,19 8:1,4, 10,12 9:2 10:9 20:8,19,23 21:3 24:2 25:11 29:23 30:9 34:4,7 35:24 36:1, 23 37:3 41:7</p> <p>reducing 30:24</p> <p>reduction 11:21 28:3 29:14 30:7,17</p> <p>refer 23:10</p> <p>reference 20:5</p> <p>reflect 20:19 44:19</p> <p>regard 8:11,24</p> <p>regional 3:13 11:6 12:7 14:5 16:21 17:6</p> <p>registered 25:2</p> <p>registration 35:6</p> <p>regulation 30:19</p> <p>regulations 15:1</p> <p>related 10:5 24:15</p> <p>remain 7:7,13 8:1</p> <p>remains 9:2</p> <p>remarks 3:20 4:12</p> <p>remediation 14:16 25:11,13 29:22 30:10</p> <p>remember 9:20 25:23 43:17 44:2</p> <p>remind 10:17</p> <p>removal 11:13</p> <p>remove 14:15</p> <p>renew 19:18</p> <p>renewal 14:22 19:12</p>
--	---	--

Wastewater Treatment Facility - May 10, 2022

<p>renewed 17:2</p> <p>renews 17:5</p> <p>report 8:15 16:9,11 19:3</p> <p>reported 37:24</p> <p>reporter 4:18 5:20 35:16</p> <p>reporter's 8:5 41:6</p> <p>reporting 13:2 15:6 19:24</p> <p>reports 18:23 39:15</p> <p>representative 15:23</p> <p>representatives 4:14</p> <p>representatives' 40:8</p> <p>request 40:3</p> <p>require 15:10 17:1,22 18:17</p> <p>required 16:17 19:4 30:15</p> <p>requirement 4:21</p> <p>requirements 13:3 15:6 17:3 19:24 33:5</p> <p>requires 16:7 18:3,11</p> <p>research 11:21 14:12 29:18 39:19 44:20</p> <p>reset 42:1 45:21</p> <p>residence 21:16</p> <p>respective 4:4</p> <p>responsible 19:7</p> <p>rest 31:1</p> <p>Restoration 27:4</p> <p>results 18:24</p> <p>retired 39:19 42:6</p> <p>retirement 46:12</p> <p>reuse 11:23 14:10 17:14</p> <p>review 6:2 8:18 15:16 21:17 23:22 24:4 26:24 37:4</p> <p>reviewed 8:16 34:1</p> <p>reviewing 24:3</p> <p>rid 45:6,7</p> <p>rig 32:8,9</p> <p>Road 26:19 27:9 28:13</p> <p>rolls 44:5</p>	<p>room 4:2</p> <p>roughly 33:7</p> <p>round 26:24</p> <p>Route 27:16</p> <p>running 27:1 30:1,5 40:16</p> <p>runoff 18:21 38:22 46:18</p> <p>runs 43:11</p> <p>ruthless 40:13</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safe 40:16</p> <p>sampling 18:24 19:1,2</p> <p>SAPP 41:12 47:2,23</p> <p>Satellite 39:21</p> <p>saturate 43:15,17 44:12</p> <p>saturated 43:8,9,11,12 44:14</p> <p>SCADA 32:5,6</p> <p>SCD 39:23</p> <p>schedules 3:6</p> <p>screen 20:10,22 23:24 34:22</p> <p>screening 13:17</p> <p>secret 32:2</p> <p>Secretary 3:17 8:16,17 10:10,14 37:4 40:5</p> <p>Secretary's 6:2 7:24 9:5 10:20</p> <p>Section 5:6 6:18</p> <p>septic 25:11,12,23,24</p> <p>series 23:14 28:15 43:18</p> <p>serve 3:17 14:18</p> <p>serves 26:17</p> <p>service 7:11 9:10 12:11 16:23 42:8</p> <p>sessions 23:16</p> <p>settlement 38:7,9</p> <p>severe 38:4</p> <p>shame 46:19</p> <p>she'll 47:6</p> <p>sheets 4:6</p>	<p>shift 44:7</p> <p>short 43:14</p> <p>Show 40:22</p> <p>showed 38:15</p> <p>shows 13:7 30:12 31:9 32:19</p> <p>side 28:4</p> <p>sign 35:5</p> <p>sign-in 4:5</p> <p>signed 31:16 47:7</p> <p>significant 44:15</p> <p>Simon 46:24 47:3,22</p> <p>simple 46:16</p> <p>sincerely 34:13</p> <p>single 29:11 43:10</p> <p>sir 42:1 47:13</p> <p>site 27:9 30:14 32:11</p> <p>sixth 47:7,19</p> <p>slide 22:21 25:1,8 26:11 28:7 30:11 31:8 32:16</p> <p>slides 22:23 26:16</p> <p>slow-moving 43:16</p> <p>sludge 13:22 38:5</p> <p>small-scale 42:9</p> <p>snow 38:24</p> <p>snowy 44:14</p> <p>social 9:17</p> <p>sodium 18:8</p> <p>soft 47:11</p> <p>software 30:16</p> <p>soil 19:1 39:14</p> <p>solely 7:16</p> <p>speak 5:18 35:1,13 36:5 37:9 47:8,19</p> <p>speaker 36:7 47:16</p> <p>speakers 36:15 37:8</p> <p>speaking 22:5 37:16</p> <p>specific 6:19</p> <p>specifications 15:18 16:12</p> <p>spoken 47:12</p>
--	--	---

Wastewater Treatment Facility - May 10, 2022

<p>spray 11:19 12:12,20 13:7 18:17 31:9,15,22 44:5</p> <p>spraying 38:21 39:8</p> <p>sprays 38:19 43:7</p> <p>square 28:19</p> <p>staff 10:23 16:1 22:16</p> <p>stand 33:18</p> <p>standard 3:23 6:6 25:23,24</p> <p>standardized 9:18</p> <p>standing 28:9 43:19</p> <p>stands 30:15</p> <p>start 22:8 25:10 32:5,6,8,11 37:7</p> <p>starting 31:2</p> <p>startup 15:23</p> <p>State 11:7 38:10 39:23 40:7</p> <p>stated 12:6 21:7 33:12</p> <p>statement 45:2</p> <p>States 7:11 9:10</p> <p>station 13:24</p> <p>statutory 4:21 8:9</p> <p>stop 39:8</p> <p>storage 14:19 29:9</p> <p>stored 12:17</p> <p>storm 29:7,8 43:10,13,16</p> <p>storms 43:18</p> <p>stormwater 30:17,19</p> <p>straighten 46:20</p> <p>straightforward 27:5</p> <p>Stream 27:4</p> <p>strongest 44:9</p> <p>structured 29:1,18</p> <p>subject 7:16,18 10:5 46:2</p> <p>submerged 14:12</p> <p>submit 16:12 45:12</p> <p>submitted 9:7,16 10:19 16:18 23:20</p> <p>subsection 35:3</p> <p>subsequent 6:12</p> <p>suffers 38:4</p>	<p>suggest 34:14</p> <p>summarized 23:8</p> <p>Sussex 3:12 11:5,14 12:6,10 16:23 21:22 22:5 23:7 24:17 26:14 27:8 31:6 37:19 38:11 40:11</p> <p>swale 30:21,22</p> <p>swales 28:15,16</p> <p>switch 25:8</p> <p>synthetic-lined 12:18</p> <p>system 13:16,20 15:15,21 16:4,9,13 36:6 44:23</p> <p>system's 12:23</p> <p>systems 14:15 15:3,13 19:16 25:24 26:1</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>taking 3:6</p> <p>talk 25:12</p> <p>tax 27:5</p> <p>taxpayers 40:23</p> <p>technical 16:12 22:10,24</p> <p>teens 30:5</p> <p>temperatures 43:24</p> <p>ten 29:20</p> <p>ten-year 29:8</p> <p>territories 16:24</p> <p>tertiary 31:21</p> <p>test 16:4 32:23</p> <p>text 9:18</p> <p>therefor 8:20</p> <p>thing 31:24</p> <p>things 31:12 34:22 36:3 46:4</p> <p>thought 46:11</p> <p>thousand 27:7</p> <p>three-minute 36:14</p> <p>three-year 26:7</p> <p>ties 33:11</p> <p>time 3:6 5:15 6:10 21:3 33:14 35:6,11</p>	<p>timer 37:15 42:1 45:21</p> <p>titled 40:19</p> <p>TMDL 28:3</p> <p>today 3:7 33:1 38:1</p> <p>Todd 22:5</p> <p>toilets 39:9</p> <p>told 38:10 39:6</p> <p>tonight 4:6,8,21 5:4,16 6:5,16,22 8:4,13,24 9:23 10:15 23:7,22 35:21 36:16,19,24 41:5</p> <p>tonight's 3:3,18 5:21 6:8,12 7:17 8:10 22:13 24:21 34:20</p> <p>tortured 40:2</p> <p>total 17:10,24 18:6 29:14,15 33:3</p> <p>transcript 4:20,23 5:21 8:6,12 35:16, 20 36:2 41:6</p> <p>transparency 24:20</p> <p>trapezoidal 27:6</p> <p>treat 16:23</p> <p>treated 11:22 12:13,17 14:9 17:22 18:5,11</p> <p>treatment 3:14 11:7,12,17 12:7,11, 22 13:16,20 14:4 15:3,20,24 16:21 17:6,11 18:13,14</p> <p>tropical 43:16</p> <p>Tuesday 3:8</p> <p>turn 10:22 22:9</p> <p>turned 23:19</p> <p>turning 4:13</p> <p>Twitter 9:17</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimate 10:12</p> <p>ultimately 8:17</p> <p>understand 46:17</p> <p>understands 32:13</p> <p>undertaking 24:10</p> <p>underway 3:21 39:3</p> <p>UNIDENTIFIED 47:16</p>
--	--	--

Wastewater Treatment Facility - May 10, 2022

United 7:10 9:10

unlimited 18:13

unsettling 46:10

upgraded 17:9

upgrades 13:15 14:3 19:20

upgrading 11:11,16

uptake 44:4

V

vegetative 19:3

verbally 9:23

verbatim 4:20 8:6

Vereta 47:22

Vest 3:1,16 20:6,14,18 21:5 22:2,22
23:2 33:21 37:14 41:1,14,24 45:9,20
46:22 47:4,13,17

vet 10:16

victims 40:22

violated 44:22

violation 38:17

violations 45:5

virtual 3:4,10 7:18

virtually 4:1,8,19

visit 27:9

W

wanted 21:19 23:3 32:12 36:18

wanting 21:17 34:13

warm 44:1,6

warned 38:3 39:24

waste 38:13

wastewater 3:14 11:7,12,22 12:7,
10,11,22 13:16 14:9,17,19 15:3,24
16:21,23 17:6,22 18:4,11 43:7 44:5

watch 35:21

watching 6:16,22 34:12

water 10:24 18:19 26:20 27:23 28:17
29:4 38:2 43:19 46:8

ways 10:18

wealth 7:3

weather 42:8,9 43:21

Webex 4:7

webpage 4:24 5:5 6:16 7:3,8 8:7
20:12 21:15

website 6:18 20:16 23:11 24:4 34:14
35:3,17

weeds 39:2

weight 10:8 36:22 45:12

wells 13:10,11 19:1 29:13 32:19,24

western 26:14

wet 38:16 43:17

wetland 11:20 14:12,15 28:10,16,20,
21 30:1,4,22

wetlands 17:15 27:3 28:24 31:11

windy 38:19

winter 38:23 43:18 44:8,14

winters 44:3

wishes 5:24 6:1 7:23 36:10

wishing 5:8 6:11

withdrawing 30:4

witnesses 39:5

word 32:2

work 15:17 16:15,16

working 25:20 26:22

worry 36:19

writing 9:22 15:21 36:23

written 6:11 7:10 8:13 9:15 10:2
16:18 21:18

wrong 47:9

Y

year 26:4 27:2,20 28:1 30:23 31:1
33:7 38:16 40:15,16 44:8

year-round 28:24

yearly 19:1,2

years 26:1,8 29:20 40:9 43:3 44:10

yellow 13:8

yesterday 27:22

Youtube 9:18