



COMMONWEALTH OF PENNSYLVANIA  
ENVIRONMENTAL HEARING BOARD  
2ND FLOOR - RACHEL CARSON STATE OFFICE BUILDING  
400 MARKET STREET, P.O. BOX 8457  
HARRISBURG, PA 17105-8457

(717) 787-3483  
TELECOPIER (717) 783-4738  
<http://ehb.courtapps.com>

WILLIAM T. PHILLIPY IV  
SECRETARY TO THE BOARD

HENRY A. AND BARBARA M. JORDAN

v.

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION and WEST PIKELAND  
TOWNSHIP, Permittee

EHB Docket No. 2009-046-C

ORDER

AND NOW, this 12<sup>th</sup> day of May, 2009, in consideration of Appellants' request for a supersedeas and the Appellees' opposition thereto and after hearing and closing arguments of counsel for the parties, and for the purposes of protecting the tributary and wetland at issue in this matter from any risk associated with the incomplete condition of the soccer field, it is HEREBY ORDERD that the NPDES Permit No PA1011508070 ("Permit") issued by the Department of Environmental Protection ("Department") to West Pikeland Township ("West Pikeland") on April 3, 2009 shall remain in full force and effect to allow West Pikeland to do the following under the following conditions:

- (a) complete the installation and the addition of the top soil and the amended soils;
- (b) bring the project site to final grade;
- (c) rake, seed and stabilize the project;
- (d) allow the repair of swales caused by washout until the vegetation stabilizes the

earth;



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(e) allow for the discharge of storm water in accordance with the approvals under the Permit for the project;

(f) West Pikeland shall not apply any fertilizer or nitrate/nitrogen containing substances (other than the soil amendments permitted under the permit) to the project, whether to soil, soil amendment or otherwise, during the period of time that this Order is in effect;

(g) this Order shall not relieve West Pikeland from any and all risks associated with completing the actions in sub-paragraph (a) through (g) prior to a final resolution of this matter. However, this Order is not a determination that West Pikeland's actions hereunder constitute a violation.

It is FURTHER ORDERED the Department shall inspect and police the progress of the work to assure that all actions permitted by this Order are done to the Department's satisfaction and substantially in accordance with the plans approved under the Permit for the project. In discharging this responsibility, the Department may rely upon the Chester County Conservation District ("the District") to (1) perform inspections, (2) produce reports and communicate with the parties with respect to site conditions and compliance with the directives of this Order, and (3) issue such directives as is within its jurisdiction. Copies of any reports and notices shall be provided to the parties.

And it is FURTHER ORDERED that following West Pikeland's completion of the actions set forth in sub-paragraphs (a) through (g) of this Order, West Pikeland agrees to cease any construction activities, except for sub-paragraphs (d) and (e), for thirty days.

And it is FURTHER ORDERED that West Pikeland shall provide written notice to all parties promptly upon completion of the actions set forth in sub-paragraphs (a) through (d). During the

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thirty-day period after West Pikeland completes the actions, the parties shall engage in negotiations and attempt to resolve the issues underlying the pending appeal. At the end of the thirty-day period a status conference shall be held, at which time a determination will be made whether the terms of this Order will remain in effect, or will be modified or terminated. All communications related to these negotiations shall remain confidential (except as necessary to inform the Court) and shall be excluded from any and all future legal proceedings of any kind.

And it is FURTHER ORDERED, that the Board reserves the issue of posting funds in escrow to be determined at a later date once such issue is fully brought before the Board.

**ENVIRONMENTAL HEARING BOARD**

  
MICHELLE A. COLEMAN  
Judge

**DATED: May 12, 2009**

**VIA FAX AND FIRST CLASS MAIL**

**c: For the Commonwealth of PA, DEP:**  
Anderson Hartzell, Esquire  
Southeast Region – Office of Chief Counsel

**For Appellants:**  
George Asimos, Esquire  
David J. Raphael, Esquire  
SAUL EWING, LLP  
2 North Second St., 7<sup>th</sup> Floor  
Harrisburg, PA 17101-1619

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**For Permittee:**

Guy Donatelli, Esquire  
LAMB McERLANE  
P.O. Box 565  
24 E. Market Street  
West Chester PA 19381-0565

John J. Mahoney, Esquire  
Michael W. Aitken, Esquire  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425

jac

# FAX TRANSMISSION

ENVIRONMENTAL HEARING BOARD  
2nd Floor, Rachel Carson State Office Bldg.  
Harrisburg, PA 17105-8457  
717-787-3483  
Fax: 717-783-4738

**To:** Anderson L. Hartzell, Esquire  
Southeast Regional Office

**Date:** May 12, 2009

George Asimos, Esquire  
David J. Raphael, Esquire  
257-7583

Guy Donatelli, Esquire  
610-692-0877

John J. Mahoney, Esquire ✓  
Michael W. Aitken, Esquire  
610-321-5531

**Fax #:** As above

**Pages:** 5, including this cover sheet.

**From:** Michelle A. Coleman  
Judge

**Subject:** 2009-046-C  
Henry A. & Barbara M. Jordan v. DEP & West Pikeland Twp.

## COMMENTS

**IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION PLEASE CALL Jean  
at 717-783-2370 or AT THE ABOVE TELEPHONE NUMBER.**