



# Senate Environmental Resources and Energy Committee

Senator Mary Jo White  
Chairman

*Patrick Henderson, Executive Director*

Room 168 • State Capitol Building  
Mailing address: Senate Box 203021 • Harrisburg, PA 17120-3021  
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April 1, 2009

John Hanger, Acting Secretary  
Department of Environmental Protection  
16<sup>th</sup> Floor Rachel Carson Building  
Harrisburg, PA 17105

**Re: Pending Litigation**

Dear Acting Secretary Hanger:

As chairman of the Senate Environmental Resources and Energy Committee, and as part of the Senate's consideration of your nomination as Secretary of Environmental Protection, I am requesting information and a status report on the following litigation which involve the Department of Environmental Protection (DEP) and your former employer, Citizens for Pennsylvania's Future (Pennfuture). Please include reference to any cases where DEP's legal position was changed after you assumed your current position.

1) Covington Industrial Park – Lackawanna County

Re: Appeal by Pennfuture of water discharge permit issued to First Industrial Acquisitions

2) Mohegan Sun at Pocono Downs – Luzerne County

Re: Notice to sue filed by Pennfuture alleging Mohegan Sun at Pocono Downs failed to apply for and receive a CAFO water; notice further alleges DEP failed to properly enforce Clean Streams Law

3) Pocono Twp. Sewage Treatment Plant – Monroe County

Re: Pennfuture alleged DEP's action was "arbitrary, an abuse of discretion and contrary to law" in issuing NPDES stormwater discharge permit

4) Eagle Rock Resort – Luzerne County

Re: DEP and Eagle Rock Resort successfully depended issuance of stormwater construction permit against litigation by Pennfuture. Have any permits been modified or rescinded at your direction? Has DEP sought or recovered any reimbursement for legal fees from Pennfuture?

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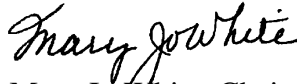
5) Pulte Homes Development – Delaware County

Re: Pennfuture appealed to Court of Common Pleas the Marble Twp. Board of Commissioners' decision on land use planning, alleging the development would impact high-quality streams. Have any DEP permits related to the construction of this development been issued/revoked or modified in any manner since you assumed your current position?

- 6) Any lawsuits filed by Pennfuture since June 2008 that DEP is aware of whereby a farm owner is alleged to not have obtained requisite CAFO/nutrient management permit or plan approval from DEP.
- 7) Any other lawsuits or notices of intent to sue filed by Pennfuture since June 2008 to which DEP is a party.
- 8) Any payments made to Pennfuture to reimburse Pennfuture for litigation costs in cases where the organization prevailed against DEP since 2003.

If you require any additional information or clarification concerning this request, please contact Patrick Henderson of my office at 787-9684. Thank you for your attention to this request.

Sincerely,



Mary Jo White, Chairman  
Senate Environmental Resources  
& Energy Committee