



## PUBLIC INTEREST LAW CENTER OF PHILADELPHIA

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### For Immediate Release

#### **CONTROVERSIAL MINE FILLING PROJECT CHALLENGED BY HAZELTON, PA RESIDENTS**

Environmental organizations say permit for project allows potentially hazardous materials into the community

S.U.F.F.E.R. (Save Us From Future Environmental Risks), a group of concerned Hazleton citizens, today challenged Pennsylvania's Department of Environmental Protection (DEP)'s extraordinary decision to allow a developer to fill a local mine pit with over two million tons of a potentially hazardous mixture of waste materials. The group claims that the DEP misapplied a special research and development (R&D) permit process to allow the project to go forward. In an unprecedented departure, DEP has granted the developer approval to use 40,000 times the standard 50-ton quantity of waste materials usually allowed. The Public Interest Law Center of Philadelphia's Public Health and Environmental Justice Project, representing S.U.F.F.E.R., asked the state Environmental Hearing Board to overturn the decision and to stay any dumping activities until the appeal is decided on the merits.

In March 2010, DEP approved developer Hazleton Creek Properties, LLC's (HCP) permit application, which would allow the Hazleton-area developer to fill a portion of an abandoned coal mine and former city landfill with approximately two million tons of a potentially harmful mixture of residual wastes including dredged materials, regulated fill materials, and crushed construction and demolition waste materials (also known as "C&D fines"). The permit at issue was originally designed to demonstrate new beneficial uses of certain wastes through 50-ton, one-year demonstration projects. S.U.F.F.E.R.'s appeal asserts that DEP's decision to approve the two-million ton, five-year long project under the general R&D permit was an arbitrary and unreasonable exercise of its authority and an abuse of its discretion under the law. S.U.F.F.E.R. further alleges that the waste mixture that DEP has approved will not be subjected to rigorous enough testing or monitoring to ensure the safety of residents and avoid environmental harms.

Adam Cutler, Director of the Public Health and Environmental Justice Law Project at the Public Interest Law Center of Philadelphia, which is representing S.U.F.F.E.R. in the appeal, summed up the challenge as "focusing on a decision by the DEP to expand the research and development permit beyond its intended use for small-scale, short term projects. Usually, those projects are designed to test the efficacy and safety of these new uses of residual waste before moving forward to a larger-scale deployment. Here, DEP has stretched the small-scale R&D permit beyond recognition to authorize the placement of an experimental mixture of wastes in quantities vastly greater than the R&D permit contemplates. This has never been tried anywhere before. The site chosen for these activities is an already contaminated and highly complex former mine site and former landfill. As a result, the opportunities for leaching of pollutants into local groundwater – particularly given the use of C&D fines, which can contain fairly high levels of potentially harmful substances like gypsum and a range of heavy metals like lead and mercury – are much more pronounced."

“The DEP approved a project using two million tons of waste under a permit that was designed for projects using fifty tons of waste. The residents of Hazleton and the neighboring communities around this site don’t want to be the subjects of this risky experiment. Therefore, the DEP and HCP have given us no choice but to take action to protect our communities ourselves,” said William Lockwood, the President of S.U.F.F.E.R. “A successful appeal not only will prevent the proposed HCP project from causing more pollution of our communities’ air, groundwater, and waterways, but also will set a good precedent and send a strong message to the DEP that it needs to view risky projects of this size with a much more critical eye.”

According to Hazleton resident and S.U.F.F.E.R. board member Anne Marie Shelby, “The Hazleton area is already viewed as a dumping ground for waste from other far away communities. Many of us who have health problems are, as the saying goes, ‘sick and tired of being sick and tired.’ This permit will potentially worsen our health problems.” Lockwood added, “We find it interesting that DEP approved this project, and then less than two weeks later its own regional solid waste staff called that decision into question,” referencing recent news reports concerning an internal DEP memorandum that addresses the HCP permit approval. “Hopefully this action will encourage the DEP to recognize that it has stretched the R&D permit too far at this site.”

The Notice of Appeal was filed with the Environmental Hearing Board on April 26<sup>th</sup> and sets out several arguments supporting the revocation of DEP’s approval. The Petition for Supersedeas focuses on the allegation that DEP abused its discretion by approving the full scope of HCP’s project under the small-scale R&D Permit. The Environmental Hearing Board has assigned the appeal Docket Number 2010-055-L.

The HCP project under the R&D permit would take place at the Hazleton Mine Reclamation Project Site, a property bounded by Routes 924 and 309 and Broad Street in Hazleton, Luzerne County, Pennsylvania. HCP’s activities at the site have long been the focus of opposition from residents as well as county and state elected officials due to questions concerning the environmental and health effects of the mixture of waste materials proposed to fill the former mine.

**About us:**

The Public Interest Law Center of Philadelphia is dedicated to advancing the Constitutional promise of equal citizenship to all persons irrespective of race, ethnicity, national origin, disability, gender or poverty. We use public education, continuing education of our clients and client organizations, research, negotiation and, when necessary, the courts to achieve systemic reforms that advance the central goals of self-advocacy, social justice and equal protection of the law for all members of society.

The mission of the Law Center’s Public Health and Environmental Justice Project (the “EJ Project”) is to provide legal and technical expertise and assistance to local communities of color and poverty that seek to overcome the disproportionate burdens of environmental impacts.

**For more information contact:**

Adam H. Cutler, Director, Public Health and Environmental Justice Project  
267-546-1304, [acutler@pilcop.org](mailto:acutler@pilcop.org)