

Sarah Bernardi

v.

West Penn Power/First Energy

Exceptions/Request to Appeal

November 15, 2015

C2014-2453852

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

When I initiated this Formal Complaint with the PUC, I believed I would be presenting my case to an impartial judge who was capable of ruling on the Pennsylvania Code; unfortunately, that didn't happen. Judge Colwell does not have the authority to rule on Pennsylvania State Environmental Laws.

My Right and the people of Pennsylvanias' Right to Clean Water has been violated. This violation has been perpetrated not only by FirstEnergy but also The DEP and the Department of Agriculture who are enabling FirstEnergy to conduct their illegal herbicide ROW maintenance program. The DEP and the Department of Agriculture are permitting FirstEnergy to release point source pesticides closer than 100 feet to the Waters of the Commonwealth. The release of pesticides closer than 100 feet to the Waters of the Commonwealth threatens the contamination of those waters, the ground water and our well water.

Pennsylvania State Codes regulating pesticide use were enacted to protect the Waters of the Commonwealth from individuals who place their own needs above the health and safety of others. The DEP and the Department of Agriculture have denied my neighbors and my pleas to stop FirstEnergy from broadcasting poison along streams in areas where our wells are located. After countless attempts, and being directed from one agency to the next, the Department of Agriculture's response to our cries for help was 'FirstEnergy has the right to maintain their ROWs however they see fit' The DEPs response was "This isn't within our jurisdiction". Yet, both agencies were sent extensive photographs of the stream destroyed by FirstEnergy.

Judge Colwells' decision to prohibit the broad cast spraying of herbicides and allow the herbicide treatment of stumps along the transmission ROW does not coincide with: **7 PA Code 130d.45 Prohibited Applications**, which addresses the prohibition of soil contaminated by agricultural chemicals within 100 feet of a stream. The Judges' ruling also ignores **25 PA Code 109.1 Definitions**, pertaining to Well Head Protection Areas.

Judge Colwells' decision prohibits FirstEnergy from poisoning the ground via broadcast spraying but allows for ground stump poisoning within the 100 foot stream protection area. This ruling is inconsistent with the Pennsylvania Codes regulating pesticide use: **25 PA Code 93.6 General Water Quality Criteria and 25 PA Code 91.33 Incidents causing or threatening pollution**. This verdict is not enforceable because the ROW in question is within the 100 foot stream protection zone. This area is also a "Well Head Protection Area." The application of pesticides near streams or in areas where contaminated soil may erode into streams which supply ground water is prohibited within ½ mile radius of the protected well head.

The laws protecting the Waters of the Commonwealth are very specific; yet, these laws are being violated on a daily basis by FirstEnergy, The Department of Agriculture and the DEP.

Judge Colwell stated that **"FirstEnergy must maintain the ROW of Sarah Bernardi consistent with the applicable laws of the commonwealth of PA and its agencies as well as consistent with applicable Federal laws and labeling of the herbicides which may appropriately be used"**.

This ruling is inconsistent. FirstEnergy cannot follow the applicable laws if they're also being directed to violate the applicable laws.

For these reasons and others I've already stated during the Formal PUC telephonic hearing, I wish to appeal Judge Colwells' decision. FirstEnergy, the Department of Agriculture and the DEP should be prosecuted to the fullest extent of the law for their **Willful and Intentional violation of Pennsylvania State Codes**. It is my intention to expose FirstEnergy's illegal herbicide spraying program and force the Department of Agriculture and the DEP to once again stand accountable to the people of Pennsylvania and enforce the Pennsylvania State Codes *regulating pesticide use*. I intend to seek council and present this complaint to a judge who's able to enforce Pennsylvania State Code and inflict criminal penalty.

I am certain that justice will eventually prevail. I will accept nothing less.

Sarah L Bernardi



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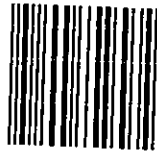
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