

LAW OFFICES
PARKOWSKI, GUERKE & SWAYZE

PROFESSIONAL ASSOCIATION

116 WEST WATER STREET
P.O. BOX 598
DOVER, DELAWARE 19903
302-678-3262
FAX: 302-678-9415
www.pgslegal.com

THOMAS H. KOVACH
(also NJ & PA)
OF COUNSEL

F. MICHAEL PARKOWSKI
I. BARRY GUERKE
DAVID S. SWAYZE
CLAY T. JESTER
JEREMY W. HOMER (also PA)
JOHN C. ANDRADE
MARK F. DUNKLE (also GA & PA)
WILLIAM A. DENMAN
MICHAEL W. ARRINGTON (also MD & DC)
CHRISTINE P. SCHILTZ
MICHAEL W. TEICHMAN
KASHIF I. CHOWDHRY (also PA)
MICHAEL W. MCDERMOTT (also PA)

WILMINGTON OFFICE
800 KING STREET, SUITE 203
WILMINGTON, DE 19801
302-654-3300
FAX: 302-654-3033

GEORGETOWN OFFICE
16 S. FRONT STREET
GEORGETOWN, DE 19947
302-855-9090

August 11, 2010

VIA HAND DELIVERY

Chair, State Coastal Zone Industrial Control Board
c/o Ms. Gail Henderson
Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901

Dear Ms. Henderson:

Enclosed please find the appeal of Tidewater Environmental Services, Inc. in the Wandendale matter.

Yours truly,



JEREMY W. HOMER

JWHcl

Encl.

Cc: Gerard L. Esposito

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Statement of Reason of Appeal

Tidewater Environmental Services, Inc. (TESI) by and through its attorney, Parkowski, Guerke & Swayze, P.A., does hereby state its reason for appealing the Decision identified in the State Coastal Zone Industrial Control Board appeal form attached hereto. This appeal is filed in response to two appeals filed on August 10, 2010, by Widener University on behalf of four organizations. Those appeals were filed fifteen days after the Decision was “announced” within the meaning of Section 7007(b) of the Coastal Zone Act (CZA). Specifically, the Decision was released on July 26, 2010, as reflected on the web page of the Department of Natural Resources and Environmental Control (DNREC). Notwithstanding the filing of TESI’s appeal, TESI reserves the right to challenge the timeliness of the Widener appeals. TESI appeals the Decision for the following reason:

The activity authorized by the permit, namely the operation of the type of wastewater treatment plant and related facilities designed to serve residential properties, is not governed by the CZA and requires no permit. TESI agreed to proceed with the CZA permit application because DNREC staff indicated TESI needed to file for the permit, along with other DNREC permits that are clearly required. DNREC’s permit jurisdiction under the CZA is not invoked in this case because the use permitted by the Decision under Section 7004 is not a “manufacturing” use, as defined by Section 7002(d). Among other things, the facilities do not transform substances into “new products.”

Respectfully submitted,



JEREMY W. HOMER
Parkowski, Guerke & Swayze, P.A.
116 W. Water St., PO Box 598
Dover, DE 19903
302-678-3262
Attorney for Tidewater Environmental
Services, Inc.

PARKOWSKI, GUERKE & SWAYZE, P.A.
ATTORNEY OPERATING ACCOUNT

61541

CHECK

DATE	DESCRIPTION	INVOICE #	AMOUNT	DEDUCTION	NET AMOUNT
08/11/10	263.00 DNREC TIDEWATER UTILITIES - PERMIT APPEAL		100.00		100.00

CHECK DATE	CONTROL NUMBER	TOTALS ▶	Gross:	Ded:	Net:
08/11/10	61541		100.00	0.00	100.00

PARKOWSKI, GUERKE & SWAYZE, P.A.
ATTORNEY OPERATING ACCOUNT
116 W. WATER STREET
DOVER, DELAWARE 19904

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OF WYOMING
WYOMING, DEL. 19034
62-63-311



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TO THE
ORDER
OF

DNREC

08/11/10 61541 ****\$100.00

*** ONE HUNDRED & 00/100 DOLLARS

PARKOWSKI, GUERKE & SWAYZE

AUTHORIZED SIGNATURE

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