Riker Danzig Environmental Update May 2017

Publication:

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Coming of Age for Spill Act Liability: The State Is Not Considered a "Person" With Liability Until After 1977

Last month the New Jersey Supreme Court held that the State of New Jersey does not have cleanup liability for its actions that pre-date the 1977 enactment of the New Jersey Spill Compensation and Control Act (the "Spill Act"). NL Industries, Inc. v. State of New Jersey, 2017 WL 1131074 (Sup. Ct., March 27, 2017). This decision creates a disparity in liability for private parties, which have retroactive Spill Act liability, and the State, which does not. This case will certainly impact sites involving pre-1977 discharges where the State may have responsibility and now, as a result of this decision, will not have to contribute to the cost of the remediation. But, perhaps most striking about this decision is the Court's rigorous application of the rules of statutory construction in reviewing the enactment of and amendments to the Spill Act. As a result, after a detailed and somewhat convoluted review, the Court said it could find no evidence that the Legislature clearly and unambiguously intended to abrogate the State's sovereign immunity for pre-1977 discharges.

By way of brief background, NL Industries, Inc. ("NL") brought the case after being compelled to conduct an expensive remediation of the Raritan Bay Slag Superfund Site. NL brought its action against the State under the Spill Act based upon actions the State took, or failed to take, in the 1960's and early 1970's in connection with the construction of a seawall to address beach erosion in the Laurence Harbor. Material used in the construction included slag, an industrial byproduct, some of which was allegedly brought from the former NL secondary lead smelter in Perth Amboy. NL's complaint sought recovery from the State for providing a grant to riparian land owned by the State upon which the seawall was constructed. In addition, NL alleged that the State had liability because the New Jersey Department of Environmental Protection ("NJDEP") knew that slag was being used in the construction that was completed in the early 1970's, but took no action. All of the State's actions occurred prior to

the 1977 enactment of the Spill Act.

In response, the State moved to dismiss NL's complaint, arguing in part that sovereign immunity barred NL's claims. The parties did not dispute that, upon the enactment of the Spill Act in 1977, the State has potential liability because the State is expressly included in the Act's definition of "person." N.J.S.A. 58:10-23.11b. Rather, the question was whether that liability applies retroactively to encompass activities that occurred before the Spill Act became effective.

The Court engaged in a detailed review of the Spill Act and its various amendments looking for an express intent by the Legislature to have the statute apply retroactively to the State in abrogation of its sovereign immunity. Even though the Spill Act defines the State as a "person," and there were amendments that applied Spill Act liability retroactively and that provided the right to contribution from any "person" responsible for a discharge, the Court determined that it could not find the express intent that is needed.

Justice Albin, the lone dissenter, found that the majority engaged in "interpretive acrobatics" leading to an "absurd result" and that a clear reading of the Spill Act requires treating both private parties and the State the same way because they are both defined as "persons." Thus, to the extent the Spill Act applies retroactively to a private entity, it should also apply against the State.

While the effect of this decision is somewhat limited because it only applies to cases where the State may have liability for pre-1977 discharges, on a broader level, the NL decision appears to be a departure from the long line of cases in New Jersey that have applied the rules of statutory interpretation to limit the defenses available under the Spill Act. For example, as recently as 2015, the Supreme Court held that there is no statute of limitations for private party contribution claims because such a defense is not listed among the available defenses in the Act. Of course, this case addresses claims against the government, which involves overlapping, but not identical, policy considerations from matters affecting private entities. Whether in response to this decision the Legislature will act to unequivocally waive sovereign immunity for pre-1997 discharges by amending the Spill Act remains to be seen. Until that happens, however, do not look to the State to contribute to the cost of remediating their pre-1977 discharges.

Think Before You Dispose of That Corroded Pipe – It May Be Evidence Necessary to Pursue Future Claims

In a cautionary tale for all parties remediating contaminated sites who may want to pursue recovery of cleanup costs from another party, the New Jersey Appellate Division recently held that discarding piping and other physical material during the course of remediation constitutes spoliation of evidence warranting sanctions in the ensuing

contribution litigation. 18-01 Pollitt Drive, LLC v. Engel et al., 2016 WL 6407280 (App. Div., Oct. 31, 2016). Spoliation is the legal phrase used when evidence that is pertinent to a lawsuit is destroyed, interfering with the proper administration and disposition of the action. During the course of litigation, all parties have a duty to preserve relevant evidence. Significantly, the duty to preserve evidence arises before litigation is actually filed when the future litigant has knowledge of the likelihood of litigation. The destruction of evidence in contravention of that duty does not have to be intentional for the Court to issue sanctions against the "spoliator," which may range from adverse inferences related to the lost evidence to a complete dismissal of the case.

In Pollitt, the current owner of property discovered to be contaminated after purchase brought an action to recover investigation and remediation costs from former owners. The former owner Defendants argued that evidence relied on by Plaintiff to establish the timing and source of the discharges at the property had been destroyed during remediation, thus prejudicing the Defendants' ability to defend the claims. The trial court agreed and dismissed Plaintiff's complaint with prejudice, which is the most extreme sanction the court can impose.

In reviewing the case, the Appellate Division considered the destroyed evidence to assess the trial court's spoliation finding. The first item was a piece of corroded pipe destroyed during the course of remediation two years before the complaint was filed. Plaintiff's expert relied upon photos of the destroyed section of pipe and a replacement sample from a different pipe, which Plaintiff then lost, to opine on the timing of when the original pipe had breached and caused the contamination. The other unavailable physical evidence consisted of a sump pit and concrete floor that Plaintiff had excavated and destroyed after the litigation commenced. Again, Plaintiff's experts relied upon pictures and data collected prior to disposal to make conclusions about the source and timing of discharges. Defendants' experts argued it was not possible to verify or refute the opinions of Plaintiff's experts because the underlying physical evidence had been destroyed.

On appeal, Plaintiff argued that it had no duty to preserve the pipe because litigation was not contemplated at the time it was destroyed. The Appellate Division disagreed, finding that by the time the pipe was destroyed, Plaintiff knew that the property had significant contamination and was located next door to a Superfund site. In addition, Plaintiff was working with an environmental consultant and should have anticipated that it could become involved in litigation regarding the contamination. Thus, the Appellate Division found that Plaintiff had a legal duty to preserve the pipe at the time it was destroyed. With regard to the sump pit and the concrete floor, the Plaintiff argued there was no spoliation because it and the Defendants were equally hampered by the loss of that evidence. Unpersuaded by Plaintiff's argument, the Appellate Division held that Plaintiff's unilateral destruction of the physical evidence supporting its claims was a breach of its duty to preserve, and constituted spoliation of, relevant evidence. It is worth noting that the Appellate Division drew this conclusion even though Plaintiff's experts similarly did not have access to the destroyed evidence.

Notwithstanding Plaintiff's status as a "spoliator," the Appellate Division remanded the matter to the trial court to assess the appropriate sanction holding that dismissal of the case, at least at this juncture, was not appropriate. Because it is the harshest possible sanction, the New Jersey Supreme Court has required that dismissal should only be imposed if there is no lesser sanction that will negate the prejudice to other litigants caused by the lost evidence. Here, the trial court did not consider whether less severe sanctions, such as an adverse inference, would offset the prejudice to the Defendants caused by Plaintiff's destruction of the pipe, sump pit and concrete floor. While Plaintiff dodged the bullet of dismissal for now, it remains to be seen whether it can prove its case without the destroyed evidence.

Remediating parties need to be cognizant of the potentially harsh consequences of being a "spoliator" if they later seek to recover their costs or otherwise become involved in litigation regarding the contamination. Accordingly, parties remediating contaminated sites and their environmental professionals, in consultation with an environmental attorney, should implement procedures to prevent the destruction of evidence discovered during remediation that may be relevant to a claim seeking to hold another party responsible for the contamination. Failure to do so may breach the duty to preserve relevant evidence and cut short any effort to recover remedial costs.

Appellate Court Finds Responsible Party Cannot Rely Upon Previous NFA Letters for Current ISRA Compliance

The New Jersey Appellate Court recently found that a responsible party cannot rely solely upon previously issued No Further Action ("NFA") letters from the NJDEP when complying with a new trigger under the Industrial Site Recovery Act ("ISRA"). Drytech, Inc. v. New Jersey Department of Environmental Protection, 2016 WL 7474392 (App Div., Dec. 29, 2016). The Court in Drytech explained that with the passage of the Site Remediation Reform Act ("SRRA"), a party, when complying with ISRA, is required to hire a Licensed Site Remediation Professional ("LSRP") to exercise independent judgment and identify and obtain whatever data and other information the LSRP deems is necessary to support the issuance of a Response Action Outcome ("RAO").

The plaintiff in Drytech owned and operated a manufacturing facility that triggered compliance with ISRA on four separate occasions, in 1998, 2001, 2002 and 2013. With respect to the ISRA triggers in 1998, 2001 and 2002, Plaintiff identified and addressed contamination at its property and received NFA letters from the NJDEP stating that no further action was necessary and Plaintiff was in compliance with ISRA. The NFA letters also contained a covenant by the NJDEP not to sue Plaintiff with respect to the remediation conducted. The 2013 ISRA trigger, however, occurred after the implementation of the SRRA that now requires an entity subject to ISRA to hire an LSRP to issue an RAO for the site. Plaintiff, not wanting to hire an LSRP, argued that it was not subject to SRRA because it could rely upon previous NFA letters for ISRA compliance since no new areas of concern were

identified for the site. On this basis, Plaintiff sought a "waiver" from the NJDEP of the SRRA requirements.

Prior to requesting the waiver, Plaintiff contacted several LSRPs and was advised by each that they could not issue an RAO without "completely re-investigating" the site, including the previous remediation work conducted in connection with the NFA letters, at a cost in excess of $12,000. Plaintiff, concerned about the expense of a re-investigation and believing that the NFA letters resulted in compliance with ISRA and were binding on the LSRP, asked the NJDEP for a "waiver" of the requirement to retain an LSRP to issue an RAO for the site. Because the NJDEP did not immediately respond to Plaintiff's request, Plaintiff filed a declaratory judgment action seeking a court decision that a waiver was appropriate. In turn, the NJDEP moved to dismiss Plaintiff's complaint asserting that Plaintiff failed to state a claim.

The trial court granted NJDEP's motion finding that there was no authority for Plaintiff's waiver request. The trial court explained that the SRRA requires an assessment by an LSRP of Plaintiff's property and "previous determinations under a prior law are not binding on an LSRP's determination under new laws." Moreover, the court found that an LSRP is required to exercise independent professional judgment when issuing an RAO for a site, which includes assessing the data and information necessary to support the RAO. Plaintiff appealed the trial court decision and the Appellate Court upheld the dismissal. The Appellate Court explained that the SRRA required an LSRP to conduct a detailed review of the site and did not allow the NJDEP to waive this requirement based on prior compliance with ISRA. Consistent with the trial court decision, the Appellate Court found that the SRRA imposes new obligations on Plaintiff with which Plaintiff must comply. The Court also stated that the covenants not to sue in the NFA letters did not relieve Plaintiff of its obligations to comply with future laws and regulations.

The Drytech decision clarifies that a responsible party cannot rely upon a previous NFA letter to provide current ISRA compliance. It also confirms that an LSRP has an obligation to exercise professional judgment and determine what is necessary to support the issuance of an RAO. Some may construe Drytech to impose additional obligations on a party that previously obtained closure for a site through an NFA letter. But it is more reasonable to interpret Drytech for the simple proposition that in order to comply with ISRA for a new transfer of ownership or other trigger, a responsible party must hire an LSRP to conduct a thorough investigation of a site, including a review of prior NFA letters, before issuing an RAO.

Bad Tanks Make Bad Neighbors: Appellate Division Approves Equitable Sharing of Costs to Investigate Underground Storage Tank Leak at Condominium

In a recent decision, the Appellate Division upheld a Chancery Division injunction ordering five neighboring condominium owners to share the costs of investigating a discharge before the plaintiff condominium owner could

demonstrate which, if any, of its neighbors contributed to the contamination. Matejek v. Watson, 449 N.J.Super. 179 (App. Div. Mar. 3, 2017). The Appellate Division ratified the trial court's "inventive solution" to the common dilemma of assigning responsibility to investigate pollution where it is not known which party caused it. Although the Matejek courts invoked their equitable powers to require all parties to share in the cost of an investigation and remediation, this decision does not relieve parties seeking contribution under the Spill Compensation and Control Act ("Spill Act") of their burden to ultimately prove the defendant's nexus to the contamination.

In this case, the NJDEP found oil in a stream behind the condominium in 2006. NJDEP responded by removing each of the underground storage tanks from five adjacent condominium units. However, NJDEP did not determine which tank or tanks had leaked and contaminated the stream. To dispel the cloud on their title from NJDEP's open file on the matter, the Matejeks, owners of one unit, sought an injunction compelling their four neighboring owners to share the cost of investigating and remediating the discharge. The Chancery Division agreed with the Matejeks and ordered the parties to hire a Licensed Site Remediation Professional ("LSRP") to investigate and, if necessary, remediate, with the costs shared equally among the five neighbors.

Affirming the injunction, the Appellate Division rejected the objecting neighbors' argument that they could not be compelled to contribute without proof that the underground storage tank attached to their particular unit had leaked. Despite implicitly agreeing with the defendants' argument that recovery under the Spill Act required proof of a nexus between the discharge and the alleged discharger, see New Jersey Department of Environmental Protection v. Dimant, 212 N.J. 153 (Sup. Ct., Sep. 26, 2012), the court nevertheless "found the circumstances did not preclude imposition of an equitable remedy by which that evidence [of a nexus] might be revealed." The court determined that an injunction compelling all the neighbors to contribute equally to the investigation was appropriate because, without that injunction, the Matejeks would "solely bear the expense of investigation and remediation" before they could seek contribution from their neighbors under the Spill Act. Furthermore, as the trial court noted, the fact that DEP removed each of the neighbors' underground storage tanks sufficiently connected the neighbors to the contamination such that they could be compelled to participate in the investigation.

Despite the court's refusal to require that the Matejeks prove their neighbors' tanks leaked, Matejek does not necessarily deviate from the New Jersey Supreme Court's holding in Dimant, which requires that the plaintiff prove the defendant's nexus to the discharge to recover cleanup costs under the Spill Act. The Matejek court acknowledged the possibility of future litigation depending on the outcome of the investigation. If the investigation exonerates a unit owner, that unit owner would not be liable for remediation and might even recoup its share of the investigation costs.

Matejek continues a trend of courts looking for remedies outside the Spill Act to assist parties beginning the remediation process. For example, in Bradley v, Kovelesky, 2016 WL 4262531 (App. Div., Aug. 15, 2016), the

Appellate Division permitted a current property owner to seek an Environmental Rights Act injunction ordering a prior owner to begin remediation. Under the relevant Spill Act precedents, a party beginning remediation must spend its own money before it can obtain contribution from other potentially responsible parties, which can impose significant burdens on parties who take the lead on cleanups. Matejek may mitigate this hardship in certain cases by permitting contribution claims earlier in the cleanup process while reserving a final allocation of liability for a later proceeding after the cleanup reveals the relevant facts about who caused or contributed to the contamination.

NJDEP to Expand Site Remediation Municipal Ticketing Initiative

The NJDEP (or the "Department") Site Remediation Program ("SRP") has been experimenting in recent years with expedited enforcement proceedings utilizing its "Municipal Ticketing Initiative." Through the Municipal Ticketing Initiative, NJDEP issues "tickets" for certain obvious violations of the Site Remediation Reform Act, primarily including the failure to retain a Licensed Site Remediation Professional. Upon issuance of a ticket, the applicable municipal court will set a hearing date, and a state attorney will send a letter to the offender proposing to settle the violation upon compliance with the applicable requirements. If the offender and the state attorney cannot reach a settlement, the matter will go to trial in municipal court. From start to finish, this process takes between three to six months.

Traditionally, NJDEP has enforced the requirements of the SRP through the administrative order and civil penalty process. The Department still relies on administrative proceedings to prosecute complicated enforcement matters, but this process can take several years to complete. As a result, NJDEP is looking to expand its use of the Municipal Ticketing Initiative wherever possible. In fact, NJDEP is working to automate the ticketing process and to expand the ticketed violations so that responsible parties will receive tickets for other types of violations, including failure to conduct a receptor evaluation, failure to establish a classification exception area, failure to obtain a remedial action permit, or failure to comply with other mandatory aspects of the SRP.

As of February 2017, the Department reported that, through its Municipal Ticketing Initiative, it had issued 55 tickets at 37 contaminated sites, and had collected over $160,000 in penalties. As noted above, legal counsel may assist with negotiating settlement and reducing penalties sought by NJDEP in connection with tickets. Negotiated penalties often are significantly lower than the applicable penalty, and have ranged from $1,500 to $12,500. In contrast, the Department may seek to impose penalties of up to $50,000 per day for continuing violations, and may request a bench warrant if an offender fails to appear for a scheduled hearing. As a result, it is beneficial to address tickets in a timely manner, but it is important to note that NJDEP may still seek a penalty even if the offender comes into compliance after receiving the ticket. New Jersey Department of Environmental Protection v. Hood, 2016 WL 6518596 (App. Div. Nov. 3, 2016).

Regulatory Update

New Jersey Department of Protection

Remedial Action Permit ("RAP) Compliance Notice

On April 12, 2017, the NJDEP issued a Compliance Notice directed to persons responsible for conducting remediation who have received a limited restricted use or restricted use no further action letter ("NFA"), but have not fulfilled the requirement to obtain a remedial action permit ("RAP").

The Brownfield and Contaminated Site Remediation Act ("Brownfield Act") requires persons responsible for conducting remediation to ensure that an institutional and/or engineering control remains protective of public health, safety and the environment through the submission of a biennial certification. (N.J.S.A. 58:10B-1 et seq.) The Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.) authorizes the NJDEP to issue a RAP as the mechanism to regulate compliance with this protectiveness obligation. Accordingly, any site that uses institutional and/or engineering controls as part of its remediation must obtain a RAP.

The person responsible for conducting the remediation must retain a Licensed Site Remediation Professional for the preparation and submission of the RAP application and biennial certifications. In the event that a site utilizes an engineering control, the person responsible for conducting the remediation also may be required to post financial assurance for the costs associated with monitoring and maintaining the control.

Non-compliance with these requirements allows the NJDEP to rescind the NFA, assess civil administrative penalties and initiate other enforcement actions. A list of non-compliant sites is available on the DEP website.

For more information please visit www.nj.gov/dep .

United States Environmental Protection Agency

Proposed Regulation of Trichloroethylene

The United States Environmental Protection Agency ("EPA") has proposed a ban on the manufacture, processing, distribution and use of trichloroethylene ("TCE") in commercial vapor degreasing and as a spot agent in dry cleaning, citing concerns over health risks. TCE is a volatile organic compound, which is a carcinogen to humans by all routes of exposure.

Section 6(a) of the Toxic Substances Control Act ("TSCA") provides EPA with the authority to ban or restrict the manufacture, processing distribution, use or disposal of chemical substances. In its June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, EPA determined that the use of TCE for vapor degreasing and spot removal associated with dry cleaning presents unreasonable and significant risks to human health.

For more information please see www.epa.gov .

New Jersey Legislative Update

Recently Enacted Environmental Bills

P.L.2016, c.85 (S909) Exempts person who remediates property in environmental opportunity zone from remediation funding source requirement.

P.L.2016, c.87 (S981) Revises Electronic Waste Management Act concerning electronic waste recycling, amending and supplementing P.L.2007, c.347, and repealing various parts of the statutory law.

P.L.2016, c.95 (A793) Requires Department of Agriculture and NJDEP to work with the U.S. Army Corps of Engineers to establish joint permit application process for aquaculture projects.

P.L.2016, c.96 (A794) Requires Department of Agriculture and NJDEP to adopt coordinated permit application and review program for aquaculture projects.

Recently Introduced Environmental Bills

A4058 / S2467: Creates the New Jersey Criminal Justice Information Sharing Environment Coordinating Council. Status: Pending in Assembly Judiciary Committee; pending in Senate Budget and Appropriations Committee.

A4092 / S2490: Provides for protection of public's rights under public trust doctrine. Status: Pending in Assembly Appropriations Committee; pending in Senate Budget and Appropriations Committee.

A4341: Exempts widening of Route 24 from certain State environmental review. Status: Pending in Assembly Environment and Solid Waste Committee.

A4350 / S2914: Precludes NJDEP from imposing certain certification requirements on installers of individual subsurface sewage disposal systems. Status: Passed by Assembly; out of Senate Environment and Energy Committee

with Amendments, second reading in Senate.

A4395: Requires continuing identification and remediation of waste tire sites. Status: Passed by Assembly; pending in Senate Environment and Energy Committee.

A4484 / S2884: Declares that deed restrictions or agreements that prevent raising or constructing of a structure to certain flood elevation standards are unenforceable. Status: Passed by Senate; out of Assembly Environment and Solid Waste Committee, second Reading in Assembly.

A4525 / S2920: Requires institutions of higher education to test for lead in drinking water annually, report test results, and install lead filters or treatment devices. Status: Pending in Assembly Higher Education Committee; pending in Senate Higher Education Committee.

A4631 / S3027: Establishes State food waste reduction goal of 50 percent by 2030. Status: Pending in Assembly Environment and Solid Waste Committee; out of Senate Environment and Energy Committee, second reading in Senate.

A4647 / S3043: Limits Highlands Water Protection and Planning Act exemption for certain forestry activities to privately owned lands. Status: Pending in Assembly Agriculture and Natural Resources Committee; pending in Senate Environment and Energy Committee.

AR219 / SR107: Urges relevant federal and State authorities to investigate actions taken by Argentinian state oil company to discharge Superfund obligations through bankruptcy proceedings. Status: Pending in Assembly Environment and Solid Waste Committee; pending in Senate Environment and Energy Committee.

S2712: Prohibits dumping dredge spoils on and around certain islands without municipal approval. Status: Pending in Senate Environment and Energy Committee.

Updated Status of Previously Reported Environmental Bills

A1954 / S1237: Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund. Status: Passed by the Assembly; pending in Senate Environment and Energy Committee.

A2463 / S806: Requires owner or operator of certain trains to have discharge response, cleanup, and contingency plans to transport certain hazardous materials by rail; requires NJDOT to request bridge inspection reports from USDOT. Status: Passed both Houses; S806 Substituted for A2463.

A2686 (Last Session Bill Number: A4397): Requires composting or recycling of food waste by large volume

generators. Status: Withdrawn from Consideration.

A3398 / S2076: Requires pesticide applicator to notify beekeeper when applying pesticide within three miles of registered honey or native beehive or beeyard. Status: Passed by Senate; pending in Assembly Agriculture and Natural Resources Committee.

A4093 / S2422: Requires recycling of scrap tires and licensing of scrap tire haulers. Status: Passed by Senate; pending in Assembly Environment and Solid Waste Committee.

A4095 / S2468: Directs NJDEP to adopt standards for certain drinking water contaminants based upon recommendations of Drinking Water Quality Institute. Status: Pending in Assembly Appropriations Committee; pending in Senate Budget and Appropriations Committee.

A4127 / S2673: Increases civil penalties for certain natural gas or hazardous liquid facility safety violations. Status: Passed by Assembly; pending in Senate Economic Growth Committee.

A4139 / S2497: Requires health care facilities to test for and remediate lead in drinking water, and disclose test results. Status: Out of Assembly Environment and Solid Waste Committee, second reading in Assembly; out of Senate Health, Human Services and Senior Citizens Committee, second reading in Senate.

A4304 / S2957: Requires compilation of, and public access to, tests of soil lead levels conducted and reported to any State or local environmental or health department or agency in the state. Status: Pending in Assembly Appropriations Committee; pending in Senate Environment and Energy Committee.

A4305 / S2956: Requires soil testing to determine lead content prior to certain home sales. Status: Pending in Assembly Appropriations Committee; pending in Senate Environment and Energy Committee.

A4306: Requires NJDEP to adopt statewide plan to reduce lead exposure from contaminated soils and drinking water. Status: Pending in Assembly Appropriations Committee.

A4309: Establishes licensing and permit requirements and provides for adoption of standards and regulations for inspection of asbestos in certain structures. Status: Passed by Assembly; pending in Senate Environment and Energy Committee.

ACR127 / SCR39: Amends Constitution to dedicate for certain environmental purposes all monies collected by the State from settlements and awards in cases of environmental contamination relating to natural resource damages. Status: Passed both Houses; SCR39 substituted for ACR127; filed with Secretary of State.

AR175 / SR80: Opposes construction of hazardous waste incinerator in Falls Township, Pennsylvania due to the high probability of pollution from both permitted and accidental discharges that would affect air quality in the region and the water quality of the Delaware River, the Delaware Bay, the Chesapeake Bay, and other bodies of water. Status: Out of Assembly Environment and Solid Waste Committee with Amendments, second Reading in Assembly; pending in Senate Environment and Energy Committee.

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