

6/2/2009

**Terry Mutchler, Executive Director  
Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120**

**Re: Right-to-Know Law Request No. 5310-09-004**

**Dear Mr. Mutchler,**

As indicated in the May 21, 2009 denial, I have made this request before. I am now writing a brief explanation as to the reason for my determination in acquiring this record.

Sometime around November of 2004, I noticed a brown substance leaking from an enormous dump of coal fly ash. The material was being collected into a pond or lagoon.

I filed a formal complaint with the Pottsville District Mining Office that this material was seeping from this lagoon into a nearby wetland. This wetland was the result of a \$10, 000, 000 mine land reclamation project.

Shortly after my complaint the damn burst and flooded this wetland with pollution. I filed another complaint and asked for the test results from their investigation and provided numerous photos of the damage.

I spent years trying to collect a document that showed the test results from this pollution. At first DEP claimed that they were not required by law to provide me with these test results.

I filed more complaints and DEP still refused to test the wetland soil to substantiate their claims that this coal fly ash dump did not pollute the wet land. After years of wasting my time and countless RTKL requests, I received an indignant letter from Keith B.C. Brady, P.G.; Chief Surface Mine Section. Mr. Brady stated that his department only conducts investigations based on "verifiable facts" and "scientific data". The RTKL request before you is my second attempt to acquire these documents after that letter. DEP listed three reasons for the denial:

1. I find the reason behind my denial confusing and I am requesting the reason for denial clarified. In one paragraph my request is denied because it is part of "investigative materials...".
2. In the next paragraph DEP denies my request because the records do not exist and DEP is forbidden -to create records -to satisfy my RTKL request
3. Then the PA DEP is denying my RTKL request because I have made this request before. How can they use this as a reason if I was denied my records in the past that they never had in the first place?

I find the reasons for denial contradicting and confusing. How can I be refused documents that were part of an investigation that did not exist? Since I have waited since November of 2004 to hear that DEP does not have "verifiable facts" or "scientific data" from their investigation into my complaint, I am requesting a denial that makes sense. Preferably in a short and concise signed affidavit from Thomas Callaghan, P.G. that these records never existed.

I allege that Keith B.C. Brady, P.G.; Randy Shustack, SMCi Supervisor and Thomas Callaghan, PG. District Mining Manager are guilty of government corruption, fraud and conspiracy to obstruct justice.

I allege that they used my past RTKL denials to cover-up the fact that these documents never existed while claiming the need to preserve the integrity of the investigation. As I have stated in the past this was nothing more than a scam perpetuated by the PA DEP.

Please investigate this record and the true motive for this denial. Do not let the Pottsville District Mining Office pervert the new RTKL as they have done for years in the past.

Sincerely,

Steven Dreyer

Enclosures

cc: John Hanger, Secretary, PA DEP  
David G. Argall, 29th State Senatorial District  
Robin M. Hittie, Chief Counsel State Ethics Commission  
James P. Goodman, Schuylkill County District Attorney  
Thomas Callaghan, District Mining Manager PA DEP