

----- Original message -----

From: Ed Rebitch <[xxxxxxxxxx@windstream.net](mailto:xxxxxxxxxx@windstream.net)>

Date: 8/22/17 7:13 PM (GMT-05:00)

To: [delmontborough@comcast.net](mailto:delmontborough@comcast.net)

Cc: [xxxxxxxxxx@comcast.net](mailto:xxxxxxxxxx@comcast.net), [dcounahan@pa.gov](mailto:dcounahan@pa.gov), [xxxxxxxxxx@aol.com](mailto:xxxxxxxxxx@aol.com)

Subject: Delmont Sewage Discharges/Storm Water

Karen,

Please forward this to all members of council and Mr. Hewitt.

FYI,

Late this afternoon we experienced sewage back up into our first floor powder room yet again;

Multiple manholes discharged the usual combination of raw sewage and storm water onto the property and into the streams;

Excessive storm water from the borough flowed directly onto the property causing significant erosion in and around those areas of sewage line repairs made by the borough at the end of June.

We consider these occurrences yet additional instances of trespass and damage by the borough on and to our property and property owned by the Trust.

Ed Rebitch

Sent from my Verizon, Samsung Galaxy smartphone



**DELMONT BOROUGH**

**77 Greensburg Street**

**Delmont, PA 15626**

**724-468-4422**

**[delmontborough@comcast.net](mailto:delmontborough@comcast.net)**

September 20, 2017

Mr. Edward Rebitch  
150 Rock Springs Road  
Delmont, PA 15626

Re: Property Concerns

Dear Mr. Rebitch:

As President of the Delmont Borough Council, I would like to take this opportunity to thank you for your email of August 23, 2017 identifying the continuing issues at your residence and the Trust property. As was noted during the September meeting of Council, this overflow was reported to DEP within the time frame mandated by statute.

In addition to the manhole discharges, your email referenced a sewage back-up into your home. In order to fully document the Borough's filings with DEP, please forward to the Borough office any photos of this interior discharge and/or any invoices for the repair or clean-up required. It is my understanding that you opted to not have the Borough's insurance carrier involved, so we are looking for documentation of the extent and nature of this portion of the matter.

Finally, in an attempt to minimize future interior back-ups, the Borough, at its expense, would like to install and maintain a back-flow protector at the lateral connection to your residence. We are requesting your permission for this installation because we anticipate that the equipment for installation may need to go beyond the permanent right-of-way at and near the point of connection.

Please advise in writing at your earliest convenience whether you will allow the equipment access at and on your property for the installation of this back-flow preventer.

Your consideration of this request is greatly appreciated.

Very truly yours,



Andrew L. Shissler

President, Delmont Borough Council

Cc: Chris Kriley, DEP

**SENT VIA U.S. MAIL AND EMAIL**

September 27, 2017

Mr. Andrew Shissler  
Delmont Borough  
77 Greensburg Street  
Delmont, PA 15626

RE: Property Damage

Dear Mr. Shissler:

As a representative of Rock Springs Trust and owner of the property located at 150 Rock Springs Road, I would like to thank you for responding to my email dated August 22, 2017, regarding the property damage which occurred on that same date. I have enclosed copies of my email and also your letter in response dated September 20, 2017, for reference. The email was sent, not to let you know of our concerns about the Borough's sewage and stormwater issues, but to inform you of yet another incident of the ongoing damages sustained to private property as a result of the Borough's negligence regarding the system and lack of control over its stormwater runoff. The Borough has been aware of the "concerns" for several decades. It is good to hear that you reported the Sanitary Sewer Overflow to the DEP. We would like to know the Borough's procedure in place for monitoring and identifying such overflows, past and present. We are seeking documentation on previous reports of overflows from the manholes and leaks from the force main on the Trust property. We would appreciate it if you could provide that documentation and those reports to us.

Regarding the sewage discharge from the toilet, we have a video documenting the occurrence. Please let us know when you would like to view it and we will arrange for that to happen. The damages to the bathroom were limited to the time spent on clean up as well as a nominal amount of cleaning supplies. About us not getting involved with the Borough's insurance carrier, I am a little confused. We do not have any contractual relationship with the Borough's insurance carrier and would have no reason to "get involved" directly with them. The issues we have related to any of these matters are with Delmont Borough. It is, however, refreshing to see that the Borough is finally admitting responsibility for the damages it has caused and is causing.

Regarding the frequency of the toilet backups, there is a direct correlation to the recent sealing of the manholes, located downstream from our lateral line. We contend the action taken to seal the manholes has absolutely no beneficial purpose but in fact has proven to be detrimental to the property. It is evident that the recent backups in our home are happening because the excessive sewage flows, which previously escaped the system from the manholes, as designed and intended, are building up in the system to our home during wet weather. Note that the collection system was not designed to have sealed manholes which are used primarily to keep stormwater out and not to seal sewage in a system. Since the gravity pipe is rarely full, sewage gases could accumulate within a sealed system, and they could create an explosion hazard. Provided the manholes remain installed and operating as designed to allow for the release of gases and excessive inflows, there is no problem with backups in our home. We trust that the Borough will take action to reverse any modifications that were recently made to seal the system. The

proper and logical course of action should be to minimize the inflows to fix the problem as opposed to just moving it.

About a backflow preventer, I contacted Nicklas Supply and had one delivered from their Cranberry location to their Murrysville store a day or two after the previous backup incident in June 2017. It was a flap style check valve. Our lateral is a six-inch pipe and not as common as the four-inch size types which they carry in stock. I was going to have it installed myself, however, after looking into problems that could occur with the flap-type check valve I opted not to do so. If backups occur inside our home again, I will install a manually operated gate valve on the line. At this time we will not require any involvement from the Borough for any modifications to our private lateral line.

We are still awaiting the Borough's plan to address and minimize ongoing property and environmental damages caused by the failing system and stormwater runoff. Specifically, we request that you provide us with the Borough's plans for remediation of existing contaminated soil as well as a response plan for future soil contamination. Also, let us know of the plans for identification and mitigation of the primary sources of inflow and infiltration and, relating to the corroding force main, the leak detection and monitoring or testing procedures in place. Finally, we request the Borough's plans for stormwater control to reduce the frequent flooding and erosion. All of these problems continue to adversely impact, not only private property but also the environment and the region's water quality.

Also, as previously discussed and as we agreed, please be sure to inform either myself or my brother Joe when the Borough will have its crew or contractors on the property to perform any work on or inspection of the Borough's system as a courtesy to us and to avoid any livestock safety or containment issues. We will have someone to open gates and allow for access, even if it is necessary to go beyond the legal right-of-way, to perform routine repairs and maintenance to the system. About system repairs, please let us know if and or when the Borough plans to correct any of the line sags near the stream as that work may interfere with our Growing Greener Watershed vegetation planting requirements. We have been holding off work until we know the Borough's plans. Please let us know if you require anything more from us that may help in performing any repairs.

Thank you again for your response, concerns and continued efforts in working toward a solution for these significant issues.

Your prompt reply would be appreciated.

Regards,

Ed Rebitch

Cc: Chris Kriley, DEP  
Dan Counahan, DEP  
Joann Krance, Trustee for Rock Springs Trust

**DELMONT BOROUGH**

**77 Greensburg Street**

**Delmont, PA 15626**

**724-468-4422**

**[delmontborough@comcast.net](mailto:delmontborough@comcast.net)**

October 10, 2017

Mr. Edward Rebitch  
150 Rock Springs Road  
Delmont, PA 15626

Re: Property Concerns

Dear Mr. Rebitch:

Thank you for your most recent correspondence. That information has been added to the Borough files and forwarded along to the DEP representatives with whom we are dealing on a regular basis.

As for your request for reports as filed with DEP, those are generally available through the DEP offices. It appears that written reports were not required by the prior DEP representative who was covering the general Delmont area. All recent incidents either discovered by Borough officials or reported by individuals such as yourself have been reported in writing within the required time frame under DEP regulations.

I am pleased to hear that the back-up in August resulted in minimal damage to your home. If it is possible to email or provide a digital copy of the video, we would like that to also be part of the files and provided to DEP. As to the question about the insurance coverage, I was advised by the sewage committee that there was an offer from Borough representatives to reach out to the Borough's insurance carrier for coverage and potential compensation, but that you declined. Please understand that the Borough's coverage is available to cover any expenses incurred by you or any other customer of the sewage system for damages resulting from a sewage back up into a residence.

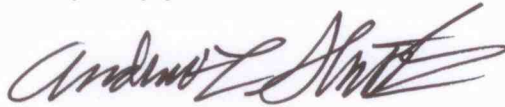
Based upon your letter, the Borough will take no action regarding the installation of a back-flow preventer at this time. If you change your mind later, the offer remains in place for the Borough to install and maintain this item in the area at the lateral connection of your home to the sewer line.

As to the ongoing plans of the Borough to address the site issues at your property and the long-term issue of sewage concerns, the Borough remains in negotiations with DEP as to what will

be acceptable and within what time frame. Until something is finalized with the Department, I cannot give you further details. Please understand that Borough representatives continue to "chase inflow" into the sanitary sewer system on a regular basis and remedial actions are taken when illegal connections or system leaks within the Borough boundaries are located.

On behalf of Delmont Borough and the Borough Council, I would again like to thank you for your cooperation and assistance and assure you that prior notice will be given whenever possible for any work to be done in the area of the family properties.

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrew L. Shissler". The signature is fluid and cursive, with a prominent initial "A" and "S".

Andrew L. Shissler  
President, Delmont Borough Council

**SENT VIA U.S. MAIL AND EMAIL**

October 18, 2017

Mr. Andrew Shissler  
Delmont Borough  
77 Greensburg Street  
Delmont, PA 15626

RE: Property Damage

Dear Mr. Shissler:

This communication is in response to your letter of October 10, 2017, a copy of which I attach here.

**The Sanctioning by the DEP of the Flouting of the Law by Delmont Borough**

You state that Delmont Borough has in the past simply defied federal and state statute in not filing proper written reports with the PA DEP because “it appears those reports were not required by the prior DEP representative who was covering the general Delmont area.” Please provide the name and title of this individual. An internal investigation by the PA DEP into this matter is clearly warranted. Any employee of the PA DEP that encourages or allows a Pennsylvania community to habitually flout the law should be summarily fired.

The LAW is the LAW, however. Its tenets and requirements do not ebb and flow on the basis of specific personnel within the PA DEP or even whether the PA DEP exists at all. The PA DEP does not create environmental law; it is merely tasked with enforcement. The fact that representatives of the PA DEP may inappropriately, unethically, and possibly illegally, actively and specifically choose not to enforce the law does not change Delmont Borough’s, or any community’s, obligation to FOLLOW it. Delmont Borough solicitor Mr. Hewitt of a certainty has so advised members of Borough council throughout the years.

**Long-Term Negligence on the Part of the Borough with Regard to the Issues at Hand**

I am grateful that through your letter the Borough has officially admitted to the long-term nature of these issues in writing. Of course, other written documents and photos dating back many years support this as fact as well. As Mr. Hewitt likely has advised, municipal immunity can only be invoked if the Borough could not reasonably anticipate that action or inaction on the part of the Borough could result in damage to property, or injury to person, or both. Your acknowledgment of “the site issues at [our] property and the long-term issue of sewage concerns” coupled with the Borough’s lack of any discernable remedial action relevant thereto or resources brought to bear thereupon through many years clearly demonstrates that the Borough long ago moved from negligence to gross negligence in these matters.



**Negotiations between the Borough and the PA DEP as to what the DEP will deem “acceptable” in addressing these Issues and “within what time frame”**

A number of individuals in positions of authority in local governmental agencies, including governing bodies and municipal authorities, in close physical proximity to Delmont Borough, as well as local business owners and private citizens, have approached me to indicate support in demanding the Borough rectify matters it has long ignored with regard to its failing sewer system and to express their strong interest in what the substance will be of any PA DEP mandate handed down to the Borough relative to the fines and mandates levied upon other local communities, municipal authorities, and businesses for simple non-compliance issues and for environmental-impact law violations far less significant and substantive and of far less consequence than those long perpetrated by Delmont Borough.

We also look forward to learning of the substance of whatever mandate the PA DEP hands down. In the meantime, I suppose we are to expect that Delmont Borough feels no obligation to act on its own to remedy these circumstances in spite of the fact that all of the causal factors of these long-standing, ongoing issues originate in the Borough.

The ongoing “chasing of inflow” into the Borough’s sanitary sewer system, to which you refer in your letter should have long ago been completed, and any related remedial actions on this and other matters such as storm water runoff control long ago taken, given the Borough’s admitted long-term knowledge of these matters.

Whether or not the PA DEP chooses to enforce the law, as is its mandate, is irrelevant. The responsibility to inspect, maintain, and repair/replace the Borough’s sanitary sewer infrastructure and to remedy damages caused as a result of the Borough’s long-term neglect, including full remediation of contaminated soil on the subject property, resides solely with the Borough.

**Video of the sewage back up and discharge into our residence as a result of Borough action taken to move the Borough’s sanitary sewer overflows**

There are two separate instances recently recorded. Both occurred after the Borough determined to “lock down” the manhole cover on the stack that has been widely featured in recent months on the DelmontSewageIssue.com website and Facebook page and other platforms for its frequent hours-long discharges of raw sewage into the Beaver Run, Westmoreland County’s primary drinking water source. These discharges and discharges from multiple other manholes on the subject property are habitual, are well documented, and are in clear violation of the PA Clean Streams Act.

The most appropriate viewing of these would be on a monitor, perhaps at a public meeting of Delmont Borough council. I will place the caveat, however, that the videos do not properly convey the stench of the sewage backup.



As it relates to the insurance issue, I am still confused. We did not file a claim, which is generally the way the process is initiated. In this case, an agent just showed up at our home.

I look forward to your timely response with regard to these matters and with regard to the specific requests of my previous correspondence dated September 27, 2017.

Ed Rebitch

cc: Ron Schwartz, Acting Regional Director, SW Regional Office, DEP  
Chris Kriley, Environmental Program Manager, DEP  
Dan Counahan, DEP  
Joann Krance, Trustee for Rock Springs Trust  
All Members of Delmont Borough Council  
Dan Hewitt, Delmont Borough solicitor