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AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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Manko, Gold, Katcher & Fox Examined Changes to the Act 2 Standards and Their Impact on the Management of Fill



Pictured: (L-R): MGKF Partner, Michael Meloy; MGKF Technical Consultant Michael Nines; James Wentzel, DEP's SERO; Troy Conrad, Manager of DEP's Act 2 Program; MGKF: Technical Consultant Darryl Borrelli, Partner Jonathan Rinde; Technical Consultant Will Hitchcock; and Managing Partner Jonathan Spergel.

Philadelphia, PA (November 17, 2016) – The environmental, energy, safety, land use law and litigation firm of Manko, Gold, Katcher & Fox (MGKF), located just outside of Philadelphia, presented “Dirty Dirt & Development in Pennsylvania” on Tuesday, November 15. This hot topic garnered the interest of area

builders, developers, real estate brokers, waste handlers and other businesses as changes to the Act 2 Standards and Management of Fill Policy will impact their current operations, contract provisions and compliance programs. Act 2 is Pennsylvania's voluntary site remediation program and the Management of Fill Policy sets forth a procedure to determine clean fill in Pennsylvania.

The speakers included MGKF partners Michael Meloy and Jonathan Rinde, joined by the firm's three in-house technical consultants, Darryl Borrelli, Michael Nines and William Hitchcock. Rounding out the panel were representatives from the Pennsylvania Department of Environmental Protection (DEP), including Troy Conrad, Manager of DEP's Land Recycling Program (Act 2) and James Wentzel, DEP's Southeast Regional Manager of the Waste Management Program.

Conrad provided a short history on the state of the Act 2 Program and the Management of Fill Policy, and then discussed some of the changes to the Act 2 Program which were published in the Pennsylvania Bulletin on August 27, 2016. Among those changes are reductions in the allowable concentrations of certain constituents to meet Act 2 standards. Conrad discussed DEP's concern regarding the challenges these changes pose to both completed cleanups and those in-progress, as well as issues surrounding historic fill, naturally occurring contaminants and area-wide contamination.

Hitchcock provided a deeper explanation of some of the changes to the Act 2 cleanup standards, along with a closer look at some of the newly regulated substances. Meloy shared examples of how prior remediation projects could be subject to the new standards through purchases, leases and loans.

Rinde discussed the scope of the Fill Policy as this generally covers soil and other materials that are excavated or moved in connection with construction, demolition, infrastructure, redevelopment and remediation. Nines highlighted some of the potential changes to clean fill limits and the importance of proper advanced planning fill management.

Meloy and Borrelli closed the program discussing vapor intrusion—its history, complexity, increasing importance in remediations, and expense to characterize and remediate impacted sites. Borrelli shared his experience that vapor mitigation may be simple and cost-effective for new construction, but may pose additional challenges for existing structures. MGKF is planning another program in early 2017 to examine the complexities of vapor intrusion in greater detail so watch for more information in the coming weeks.

If you missed the “Dirty Dirt & Development” program or have questions about Act 2, the Fill Policy or Vapor Intrusion, feel free to contact any of the MGKF speakers for further clarification. They can be reached at 484-430-5700 or via email: [Michael Meloy](#), [Jonathan Rinde](#), [Darryl Borrelli](#), [Michael Nines](#) or [Will Hitchcock](#).

MGKF concentrates its practice in environmental, energy, litigation, safety, and land use law. It represents clients ranging from Fortune 100 corporations to small, privately held enterprises, both in the Mid-Atlantic region and on a national basis. For the 13th consecutive year, MGKF has been listed in the top tier for environmental law in Chambers USA—America’s Leading Lawyers for Business. Offices are located at: 401 City Avenue, Suite 901, Bala Cynwyd, Pennsylvania; 535 Route 38, Suite 145A, Cherry Hill, New Jersey; and at 25 West Third Street, Suite 303, Williamsport, Pennsylvania. For additional information, visit www.mankogold.com or call 484-430-5700, 856-317-1299, or 570-567-7325.

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