



Opposition  
Exhibit

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February 10, 2021

Robert C. Wheatley  
Chairman, Sussex County Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19947

RECEIVED

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SUSSEX COUNTY  
PLANNING & ZONING

*Submitted via email to: [pandz@sussexcountype.gov](mailto:pandz@sussexcountype.gov)*

Re: Bio Energy Development Group, LLC, proposed CU 2258

Dear Mr. Wheatley,

I submit these comments on behalf of Food & Water Watch (“FWW”) and Sussex Health & Environmental Network (“SHEN”) (collectively “Commenters”) and their Delaware members and supporters regarding the Bioenergy Development Group, LLC<sup>1</sup> (“Bioenergy”) application for new Conditional Use 2258. We urge the Sussex County Planning & Zoning Commission (“Commission”) to recommend that the Sussex County Council not adopt the zoning amendment as presented for the reasons provided herein. This industrial gas production facility would present environmental, public safety, and community health risks that are bad for local residents and Sussex County, and is not compatible with current AR-1 zoning for the proposed site.

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<sup>1</sup> Bioenergy appears to be operating under several different entities with varying registered and/or d/b/a names. These comments are intended to refer to any and all such entities that have, are, or will be doing business within the State of Delaware associated with the Bioenergy Innovation Center site.

## **Interests of Commenters**

FWW is a national, nonprofit membership organization that mobilizes regular people to build political power to move bold and uncompromised solutions to the most pressing food, water, and climate problems of our time. FWW uses grassroots organizing, media outreach, public education, research, policy analysis, and litigation to protect people's health, communities, and democracy from the growing destructive power of the most powerful economic interests. FWW's focus areas include climate, energy systems, and factory farming. Development of factory farm biogas projects like Bioenergy's proposed buildout present a confluence of these issues, with potentially devastating results.

SHEN is a coalition of stakeholders in Sussex County working to ensure a clean, healthy environment for current and future generations. SHEN brings attention to environmental health threats and environmental justice issues in Sussex County by partnering with local businesses, non-profit groups, community ambassadors, and residents to hold local, state, and federal government accountable.

## **The Planning & Zoning Commission Should Recommend that the County Council Not Adopt CU 2258**

For the reasons outlined below, and those presented by other interested residents and commenters in opposition to this proposed project and proposed CU 2258, Commenters ask that the Commission recommend denial of Bioenergy's application and that the County not amend Sussex County code to allow for this new, potentially hazardous use.

### **I. The Text of CU 2258 Contradicts Bioenergy's Proposed Operation and Underscores a Fundamental Misunderstanding of Bioenergy's Proposed Use**



The proposed text of CU 2258 and the proposed findings of fact submitted by Bioenergy obfuscate the true nature and scope of the proposed new use for this site and do not conform to Bioenergy's description of how it would operate this site if approved by Sussex County. Proposed CU 2258 reads, in pertinent part, "[a]n ordinance to grant a Conditional Use of land in an AR-1 . . . to permit the processing and handling of poultry litter to include nutrient recovery for natural gas and electrical generation." *See also* Staff Analysis Memorandum at 2 (Feb. 5, 2021). But this text contains at least two fundamental errors: 1) Bioenergy is proposing to handle, process, compost, and extract biogas from a variety of feedstocks in addition to poultry litter, and 2) "nutrient recovery" has nothing to do with "natural gas and electrical generation."

These mistakes are completely understandable because Bioenergy has provided misleading or false information to the Commission about the nature of its proposed biogas project. Bioenergy's application characterizes its proposal exactly as proposed CU 2258 is worded. Bioenergy Proposed Findings of Fact (found at page 116 of Paperless Packet part 7). Bioenergy's proposed findings of fact contain several inaccuracies, and therefore must be rejected by the Commission.<sup>2</sup>

Bioenergy characterizes its proposed use as "the processing and handling of poultry litter to include nutrient recovery for natural gas and electrical generation." *Id.* First, according to Bioenergy in the documents submitted to the Commission, it states that it intends to truck in and

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<sup>2</sup> In addition to the inaccuracies discussed below, Bioenergy's proposed findings of fact include additional inaccurate or conflicting assertions. For example, line 6 claims that g by granting CU 2258, Bioenergy "will be able to continue supporting the agricultural business in the area," ostensibly referring to the existing composting operation given that biogas production bears little to no relationship or benefit to the area's agricultural businesses. Yet, elsewhere Bioenergy claims that the site "is currently a successful composting facility." Bioenergy, Conditional Use Exhibit Book at 7 (Feb. 11, 2021). If the composting site is "currently [] successful," it is unclear why Bioenergy then implies it must expand operations to continue serving the agricultural community though this composting operation.

handle not just poultry litter, but also “poultry DAF and additional poultry industry waste (generated by Perdue and other industry companies).” Duffield Associates, Project Summary Memorandum at 1 (Apr. 10, 2020). If Bioenergy intends to exclude all waste from poultry processing plants and from hatcheries, which have been an additional waste stream used in the existing composting operation, then Bioenergy must clarify that and the County must include a condition to CU 2258 stating as much. Otherwise, if Bioenergy intends to accept additional feedstocks for anaerobic digestion, proposed CU 2258 does not accurately address the true proposed use.

Second, “nutrient recovery” has nothing to do with the biogas production proposed by Bioenergy. Anaerobic digesters do not generate biogas by recovering nutrients; instead, digesters create an anaerobic environment (*i.e.*, oxygen free) into which certain microorganisms are introduced that feed off a portion of the organic waste, with the byproduct being methane, carbon dioxide, and other trace gases. The nutrient loads in the original feedstock remain after digestion, and must still be managed – in fact, digesters have been found to increase nutrient loads in digestate. Additionally, Bioenergy’s proposal requires poultry litter to be liquified before introduction into a digester, which would result in a *new* polluted waste stream with nutrient loads that must be managed.<sup>3</sup>

Finally, Bioenergy misleadingly states that its “proposed anaerobic digester is similar to the past use of this site.” Bioenergy, Conditional Use Exhibit Book at 6 (Feb. 11, 2021).

Bioenergy is proposing a drastically different use than the existing composting operation. This

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<sup>3</sup> See Craig Coker, *Poultry Litter Digestion*, BioCycle (Sept. 7, 2017), [https://www.biocycle.net/poultry-litter-digestion/#:~:text=Anaerobic%20digestion%20\(AD\)%20of%20poultry,and%20produces%20a%20renewable%20fuel](https://www.biocycle.net/poultry-litter-digestion/#:~:text=Anaerobic%20digestion%20(AD)%20of%20poultry,and%20produces%20a%20renewable%20fuel).



reality is underscored by Bioenergy’s site plans and descriptions of its proposal as well as the additional permits and approvals needed from the Delaware Department of Natural Resources and Environmental Control (“DNREC”), Delaware Department of Transportation (“DelDOT”), and the state fire marshal. A cursory review of Bioenergy’s proposed site plans makes clear that it is asking for approval to completely alter the nature and use of this site. For example, its Final Site Plan shows four large above ground digesters, three tanks for pre-processing of waste, a gas flare, biogas conditioning skids, biogas upgrading membrane, upgrading compressor, chiller and aftercooler, centrifuge tank, emergency generator, bioreactor facility with chemical tanks and a propane filling station, and a slew of new pipes and lines. *E.g.*, Final Site Plan (Nov. 30, 2020) (found at Paperless Packet Part 1 at 311). Characterizing this highly industrialized and complex gas production infrastructure as “similar to” the existing composting operation fails to pass the laugh test.

Similarly, the numerous additional permits and approvals necessary for Bioenergy to construct and operate this site further illustrates that Bioenergy is proposing a new and very different use. For example, Bioenergy will need to secure several permits from DNREC that are not required for the existing composting operation, including multiple air pollution permits and a Resource Recovery Facility Permit. *See, e.g.*, Bioenergy, Conditional Use Exhibit Book at 16 (Feb. 11, 2021).<sup>4</sup>

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<sup>4</sup> The existing composting permit is not a Resource Recovery Facility Permit. *See* Composting Permit #SW-18/03, modified May 27, 2020.

## **II. CU 2258 Fails to Include Necessary Conditions to Protect Local Residents and the Environment**

If CU 2258 is adopted, it must include conditions to protect residents and the environment in addition to what was imposed during previous CU approvals for this site. As explained above, Bioenergy is proposing a significant and potentially hazardous new use that warrants new conditions commensurate with that new proposed use.

Bioenergy incorrectly asserts that “[a]ny concerns raised about the location of facilities, traffic, noise, odor, dust, etc., have been addressed by [Bioenergy],” “[t]he proposed use with the conditions imposed will not have an adverse effect on the neighboring or adjacent properties,” and “[t]he conditional uses requested will promote the health, safety and welfare of the inhabitants of Sussex County.”

Bioenergy’s proposed biogas production facility raises many concerns that have not been addressed, either by Bioenergy or through imposed conditions, that threaten the health, safety, and welfare of Sussex County citizens.

### ***A. Bioenergy’s Project Would Concentrate Large Amounts of Waste, Burdening Local Communities and the Environment***

Bioenergy’s proposal would involve importing large amounts of waste not only from throughout Delaware but the entire region, threatening the environment and local communities with concentrated and inequitable pollution. Sussex County is already burdened with an extreme concentration of poultry CAFOs and the associated pollution from these operations.<sup>5</sup> Bioenergy’s proposed project would exacerbate this problem by bringing even more waste to the area, much of which will likely have to be managed

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<sup>5</sup> Pew Environment Group, Big Chicken: Pollution and Industrial Poultry Production in America 9 (2011), <https://www.pewtrusts.org/-/media/legacy/uploadedfiles/peg/publications/report/pegbigchickenjuly2011pdf.pdf> (recognizing that the poultry industry in Delaware poses a serious pollution problem); <https://www.foodandwaterwatch.org/news/brand-new-see-americas-factory-farms-mapped-out> (showing extreme concentration in Delaware).



locally.

While anaerobic digesters process waste to extract methane gas, they do not “treat” poultry waste in a way that eliminates or even reduces many other environmental pollutants, and a digester and gas refining operation will introduce new sources of air pollution and greenhouse gas emissions.<sup>6</sup> Shifting the environmental harms caused by the poultry industry across the region to the water, air, and soil resources surrounding the proposed project is patently unjust, and not in the best interests of the Delawareans who will ultimately bear the burden of this pollution.

### ***1. Bioenergy’s Project Would Threaten Local and Regional Water Quality***

The proposed project would be a significant new source of pollution in a watershed already overburdened with pollutants. Bioenergy indicates that this site will discharge to Gum Branch and the Nanticoke River.<sup>7</sup> There are also substantial wetlands adjacent to the proposed development site.<sup>8</sup> Gum Branch is under Total Maximum Daily Loads (“TMDLs”) for phosphorus, nitrogen, and bacteria.<sup>9</sup> These waterways are also part

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<sup>6</sup> While digesters are often discussed as climate friendly, Bioenergy’s proposal would generate *new* methane emissions that would not exist without this proposed project. Because poultry litter is typically managed and disposed of as relatively dry waste, and therefore is capable of breaking down aerobically, it does not emit large amounts of methane into the atmosphere. *See* Alan Newport, *Coming Up for Air*, Beef Mag. (Apr. 1, 2006), [https://www.beefmagazine.com/mag/beef\\_coming\\_air](https://www.beefmagazine.com/mag/beef_coming_air) (last visited Feb. 2, 2021) (describing the problems with anaerobic digestion and concluding that “[o]nce we understand nature’s preferences and biological principles, it’s only logical to look for ways to introduce higher levels of aerobic decomposition back into our modern manure handling systems”). Bioenergy proposes to liquify this waste and put it into anaerobic environments where methane can be created and captured for combustion. This is not a climate-friendly proposal.

<sup>7</sup> Bioenergy Devco, LLC’s Notice of Intent for coverage for stormwater discharges associated with industrial activities, dated June 9, 2020.

<sup>8</sup> *See* <https://www.arcgis.com/home/webmap/viewer.html?useExisting=1&layers=e32991682dd44b929d242b89a1398606>.

<sup>9</sup> <http://delawarewatersheds.org/chesapeake-bay/gum-branch/>.

of the Chesapeake Bay watershed, and the State of Delaware has legal responsibilities to reduce pollutants entering the Bay under the TMDLs established by the U.S.

Environmental Protection Agency.<sup>10</sup>

Bioenergy's proposed project would import large quantities of the very pollutants already plaguing local waterways and the regional watershed. In fact, according to the Natural Resources Conservation Service, digestate—the leftover material after gas extraction—may pose an even greater risk to water quality than raw factory farm waste.<sup>11</sup> In a watershed already in need of pollution reductions, introducing a new source that will generate especially dangerous effluent is likely to slow TMDL progress and result in violations of the State's water quality standards.

Bioenergy claims that it will be “a net exporter of nutrients” because of where customers who purchased its compost during 2020 are located. Bioenergy, Conditional Use Exhibit Book at 6–7 (Feb. 11, 2021). But even accepting that Bioenergy's figures are representative of how nutrients would be managed if it were allowed to proceed with its biogas production operation, which is unlikely, it admits that in 2020 approximately 66% of the nutrients it imported stayed within the Chesapeake Bay watershed. *Id.* at 7.

Furthermore, past experience indicates that Bioenergy is being overly optimistic about the fate of its compost, much less the nutrients and other pollution that will have to be managed in wastewater effluent resulting from operating the proposed digesters. In

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<sup>10</sup> See <https://www.epa.gov/chesapeake-bay-tmdl>.

<sup>11</sup> Natural Resources Conservation Service, 366-CPS-1, Conservation Practice Standard No. 366: Anaerobic Digester, at 6 (“Land application of digester effluent, compared with fresh manure, may have a higher risk for both ground and surface water quality problems. Compounds such as nitrogen, phosphorus, and other elements become more soluble due to anaerobic digestion and therefore have higher potential to move with water.”).



2017, a DNREC official observed that there was “a limited market for the finished compost” produced at the Blessings Greenhouse and Composting facility, resulting in stockpiles of compost that could not be distributed.<sup>12</sup> Without assurances that Bioenergy’s operations will not result in the same backlog of nutrient-laden compost or wastewater byproducts, its proposal to import large amount of pollution poses a serious risk of additional burdens on local waters.

## ***2. Bioenergy’s Project Would Threaten Local and Regional Air Quality***

The proposed project would also be a significant new source of air pollution. While Bioenergy’s has yet to disclose its full intent to emit air pollutants, the known components of the project make clear that air pollution will be a major concern for the health of local residents. The proposed operations will require no fewer than three separate air pollution permits: one for the composting operation, one for an emergency generator to serve the digester operation, and one for the digesters and associated control technologies, such as gas flares.

These emissions are in addition to heavy truck traffic that would be needed to transport waste to the facility and take refined gas away from the site for injection into the regional pipeline grid. Heavy trucks running off diesel fuel are known to increase local air pollution and pose a threat to public health.<sup>13</sup>

Finally, this increased local air pollution would be on top of existing air pollution issues related to the poultry industry. “Industrial poultry production is widely known as a

<sup>12</sup> Email documents on file with Commenters.

<sup>13</sup> See *Air Pollution Is Cutting Years Off Lifespans, Diesel Trucks and Buses Are a Major Cause*, Climate & Clean Air Coalition (Mar. 2, 2020), <https://www.ccacoalition.org/en/news/air-pollution-cutting-years-lifespans-diesel-trucks-and-buses-are-major-cause>.

major environmental hazard” including significant air pollution.<sup>14</sup> Adding more air pollution to these cumulative impacts would result in more dangerous air, increased threats to public health, and manifest environmental justice concerns.

### ***3. Bioenergy’s Proposal Threatens to Increase Traffic Impacts, Which the Commission Has Failed to Assess***

While Bioenergy presents certain traffic impact figures to the Commission, it has apparently worked hard to avoid any comprehensive analysis of how its proposed project would impact traffic in the area. *See* Bioenergy, Conditional Use Exhibit Book at 12 (Feb. 11, 2021). In January, 2020, Delaware Department of Transportation (“DelDOT”) postponed conducting a Traffic Impact Analysis (“TIS”) because at that time it “[could] not predict the site’s trip generation with enough accuracy” despite recognizing that the criteria mandating a TIS “could be met” by Bioenergy’s proposed project. Letter from T. William Brockenbrough, Jr., DelDOT County Coordinator, to Ms. Janelle Cornwell, Director of Sussex County Planning & Zoning (Jan. 16, 2020) (found at Paperless Packet Part 1 page 288–89).<sup>15</sup> It is unclear why more than a year later more information has not been provided to DelDOT to allow for a comprehensive assessment to determine if a TIS is required. Bioenergy represented in April, 2020, that it was seeking a Letter of No Objection or Contention from DelDOT regarding traffic impacts – which it apparently never acquired. *See* Paperless Packet Part 1 at 291. Public statements made by Bioenergy

<sup>14</sup> Sacoby Wilson et al., *Rapid Health Impact Assessment of a Proposed Poultry Processing Plant in Millsboro, Delaware*, 16(18) Int. J. Environ. Res. Pub. Health 3429 (Sept. 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6765835/>.

<sup>15</sup> DelDOT’s letter also states acreage that is less than the current proposal, indicating that what was presented at the time has changed.



indicate that it has sufficient information to assist in this analysis, such as for example plans to use heavy duty trucks to transport gas away from the proposed facility.<sup>16</sup>

Further, it appears that Sussex County is in violation of its Memorandum of Understanding for Land Development Coordination, entered into with DelDOT on September 22, 2020.<sup>17</sup> That MOU clearly states that “[n]o public hearing on the land use application shall occur until” it has been determined that the application will have a diminutive or negligible impact as defined by the MOU, or Sussex County has received a TIS or letter from DelDOT. *Id.* at 5. Commenter’s review of the record here indicates that it does not appear to contain one of these prerequisite items, and yet a hearing has been scheduled and is being held.

#### ***4. Bioenergy’s Project Would Threaten Public Safety***

Digester projects like the one Bioenergy proposes are fundamentally designed to collect large quantities of pollution-laden waste with the intent to generate, collect, and transport hazardous and explosive gases. This poses unique threats in an area otherwise designated as residential and agricultural. Anaerobic digesters are not agricultural operations, they are industrial gas production facilities that are known to pose the risk of explosions, high-pressure gas leaks, fires, and other dangers unique to such industrial processes.<sup>18</sup> The area surrounding Bioenergy’s site, which is zoned residential-agricultural, should not be exposed to such hazards.

<sup>16</sup> See Anaerobic Digestion Plans video, <https://www.bioenergyic.com/discovery-day>.

<sup>17</sup> <https://sussexcountyde.gov/sussex-county-deldot-initiatives>.

<sup>18</sup> E.g., Marjolaine, *Risks and Safety Measures for Anaerobic Digestion*, Biogas World (Apr. 4, 2018), <https://www.biogasworld.com/news/safety-precautions-anaerobic-digestion-systems/>; *Manure Digester Explosion in Wisconsin Sparks Fire* (Aug. 7, 2014), <https://www.manuremanager.com/manure-digester-explosion-in-wisconsin-sparks-fire-15850/>.

Bioenergy asserts to the Commission that it has an “exemplary safety record” in the facilities operated by the company Bioenergy recently purchased to jumpstart its business ventures. Bioenergy, Conditional Use Exhibit Book at 13 (Feb. 11, 2021). Despite this representation, Commenters note that Bioenergy is a different and new business entity, and on information and belief has no established track record and no currently operational digesters of this scale and nature in the United States. Bioenergy’s statements implicitly acknowledge the severe risk associated with large scale biogas production sites, and it is not in a position to provide assurance that its proposal will not pose a threat to public health here in Delaware.

### **III. Bioenergy’s Proposed Use Is Not an Approvable Conditional Use Under Sussex County Code**

Sussex County Code only allows for certain nonconforming uses to be approved through a conditional use, and Bioenergy’s proposed uses do not fit within this set of allowable conditional uses. Looking to the two provisions potentially relevant to Bioenergy’s application, Sussex County Code § 115-22 allows for conditional use approval of “[a]griculture related industry, provided that such use is visually and acoustically screened from adjacent highways and property in such a manner that a reasonable passerby is not attracted to or aware of the establishment” and “[r]esidential, business, commercial or industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit.” Neither of these reasonably encompass Bioenergy’s proposed biogas production and refining operations.

#### **A. Agriculture related industry does not include the proposed industrial natural gas production**



In contrast to Bioenergy’s composting operation, which falls squarely within this conditional use category, Bioenergy’s proposal to operate a natural gas production and refining operation is not “related” to agriculture in any meaningful way because it does not rely upon nor does it serve the agricultural community. This site’s existing compost production already operates independent of any anaerobic digester and would not benefit from or rely upon biogas production, capture, and refining.

The proposed biogas production scheme cannot utilize poultry litter in the form it is generated on and transported from regional poultry houses. Instead, Bioenergy would have to pump large amounts of fresh water to liquify the relatively dry waste before it could be introduced into an anaerobic digester.<sup>19</sup> After biogas generation and capture, Bioenergy states that it will “use a centrifuge to remove excess water from the digestate.” Bioenergy, Conditional Use Exhibit Book at 8 (Feb. 11, 2021). Thus, the proposed biogas production requires the incoming agricultural waste to be transformed into a slurry, then dewatered back into a semi-solid state. The only purpose of these liquification-dewatering processes is to produce biogas, and has no meaningful relationship with the agricultural uses that generate the waste or may utilize the solid compost that the site is already capable of producing.

Further, Bioenergy’s proposed on-site biogas refining facility bears an even more attenuated connection with agriculture. The sole purpose of this portion of the project would be to produce biomethane capable of injection into Chesapeake Utility’s natural gas pipeline

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<sup>19</sup> See Craig Coker, *Poultry Litter Digestion*, BioCycle (Sept. 7, 2017), [https://www.biocycle.net/poultry-litter-digestion/#:~:text=Anaerobic%20digestion%20\(AD\)%20of%20poultry,and%20produces%20a%20renewable%20fuel.](https://www.biocycle.net/poultry-litter-digestion/#:~:text=Anaerobic%20digestion%20(AD)%20of%20poultry,and%20produces%20a%20renewable%20fuel.)

infrastructure. Agricultural operations are not identified as the intended end users of this biomethane.

Simply put, agricultural interests are only related to the *composting* side of this proposed project, and the site is already capable of serving this purpose. Bioenergy's biogas scheme is an industrial gas production operation on top of that underlying agricultural waste handling and composting operation. Therefore, Bioenergy's proposed set of uses is not authorized by this provision of Sussex County code.

**B. The proposed natural gas production does not more fully meet the purposes of AR-1 zoning**

Bioenergy's proposed natural gas production operations are contrary to the purposes of AR-1 zoning, and therefore are not permissible under the "industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit" provision of Sussex County code § 115-22. The purpose of AR-1 zoning districts is stated as follows:

to provide for a full range of agricultural activities and to protect agricultural lands, as one of the county's most valuable natural resources, from the depreciating effect of objectional, hazardous and unsightly uses. They should also protect established agricultural operations and activities. These districts are also intended for protection of watersheds, water resources, forest areas and scenic values and, at the same time, to provide for low-density single-family residential development, together with such churches, recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. The AR regulations seek to prevent untimely scattering of more-dense urban uses, which should be confined to areas planned for efficient extension of public services.

Sussex County code § 115-19. As explained above, the already operational composting operation that takes in waste from the local and regional poultry industry could be understood to advance certain aspects of AR-1 zoning, but Bioenergy's proposed natural gas production does not. To



the contrary, it is a “hazardous” use that would not “protect agricultural lands” or advance any other stated purposes.

Since no provision in § 115-22 allows for Bioenergy’s proposed natural gas production and refining uses, the County may not permit it within this AR-1 district as a conditional use.

#### **IV. The Public Was Denied Access to Public Information Regarding this Project in a Timely Manner**

An organizer with SHEN submitted a public records request to Sussex County in anticipation of this hearing, but was denied timely access to records necessary to meaningfully engage with this public comment and hearing process before the Commission. Instead of producing all documents available to it at the time, Sussex County initially demanded over \$700 in fees before it would provide any documents, later allowing SHEN to review documents in person. Unfortunately, the vast majority of the documentation that was ultimately published at the end of the day on Friday, February 5th were not presented during this in-person review. The intent of this public records request was specifically to avoid the public, and SHEN in particular, from having to wade through highly technical documents in less than 3 full business days. Commenters have done their best to process the over 300 pages presented in the Commissions Paperless Packets, but were left at a distinct disadvantage due to the County’s stonewalling.

#### **Conclusion**

For the reasons set forth above, Commenters request that the Commission recommend the County Council deny Bioenergy’s application and not amend Sussex County code to allow for this new, highly pollutive, and potentially hazardous use within an AR-1 zoned district.

Sincerely,



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# Grobbel Environmental & Planning Associates

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February 7, 2021

Mr. Robert Wheatley, Chair  
Planning & Zoning Commission  
Sussex County  
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Georgetown, DE 19947

Opposition  
Exhibit

**RE: Planner's Report/Public Comment - Bioenergy Development Group, LLC - Docket No. C/U 2258.**

Dear Mr. Wheatley,

The Bioenergy Development Group, LLC (a.k.a. BDG or Devco) has applied to the Sussex City Planning & Zoning Commission for a Conditional Use (CU) permit for on-site poultry litter/waste processing and handling for nutrient recovery for natural gas and electric generation, and digestate waste to be land applied on active farm fields.<sup>1</sup> The proposed "biogas" facility would be located at 28338 Enviro Way, Seaford, Delaware, Parcels # 132-6.00-88.01 & 95.00, 132-11.00-41.00 and 132-11.00-41.02 (totaling 228.88 acres). The subject parcels are zoned Agricultural Residential (AR-1) by the Sussex County zoning code. All surrounding properties are also zoned AR-1.

The facility is currently occupied by the Perdue AgriRecycle poultry litter composting operation processing 30,000 tons/year of dissolved air flotation (DAF) wastes and producing approximately 15,000 tons of compost/year. Perdue also formerly operated a poultry litter pelletizing plant at this location. BDG proposes an anaerobic digester to process up to 200,000 metric tons/year of DAF and additional poultry industry waste from Perdue and similar companies.<sup>2</sup> Up to 430,000 MMBtus of natural gas (especially methane CH<sub>4</sub>) are proposed to be produced annually which will be shipped off-site via a natural gas pipeline system by Chesapeake Utilities Corporation. Produced biogas requires on-site treatment to remove contaminants including moisture, particulates, oils, volatile organic compounds (VOCs), carbon dioxide (CO<sub>2</sub>), and hydrogen sulfide H<sub>2</sub>S) through absorption by granular activated carbon filtration.<sup>3</sup> Waste tail gases are proposed to be flared off, and CO<sub>2</sub> is planned to be recovered for sale.

<sup>1</sup> Conditional Use, Planning & Zoning Commission Application, Sussex County, Delaware, Bioenergy Development Group, LLC December 22, 2020.

<sup>2</sup> Duffield Associates, Bioenergy Development Group to Sussex County Planning and Zoning, April 10, 2020.

<sup>3</sup> *Ibid.*

Specifically, Applicant seeks to amend CU 1314 (as amended by CU's 1691 and 1692<sup>4</sup>) of the Sussex County zoning code to allow for the proposed land use.

We have reviewed the proposed CU permit application and provide the following professional planner's comments:

1) **Compatibility with surrounding zoning and land uses.**

According to the Sussex County zoning code,<sup>5</sup> the purpose of the AR-1 zoning districts is to provide for a full range of agricultural activities and to protect agricultural lands, as one of the county's most valuable natural resources, from the depreciating effect of objectional, hazardous and unsightly uses. They should also protect established agricultural operations and activities...(and) intended for protection of watersheds, water resources, forest areas and scenic values and, at the same time, to provide for low-density single-family residential development, together with such churches, recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. These AR regulations seek to prevent untimely scattering of more-dense urban uses, which should be confined to areas planned for efficient extension of public services. *Importantly, the proposed use and its associated infrastructure are not allowed as permitted or conditional use within the AR-1 district.*<sup>6</sup>

The Sussex County Planner has determined that "(b)ased on the analysis of the (proposed) land use, surround land uses, the Conditional use to amended CU 1314...to permit the processing and handling of poultry litter to include nutrient recovery for natural gas and electric generation, subject to considerations go scale and impact, could be considered as being consistent with the land use, area zoning, and surrounding uses."<sup>7</sup> *We find that the proposed land use is entirely incompatible with the purpose and stated intent of the AR-1 zoning district as enacted by Sussex County.*

Agents for the Applicant suggest that more than eight (80) vehicles per day will enter/exist the facility, yet Delaware Department of Transportation (DelDOT) has not yet completed a traffic impact/service level evaluation, nor approved the facility.<sup>8</sup> Finally, the DelDOT has found that insufficient data has been provided by the Application to determine traffic impact from the proposed Conditional Use and/or the application of its traffic impact study (TIS) method.<sup>9</sup> *Failure to adequately address traffic impacts from*

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<sup>4</sup> CU 1691 was a request to amend CU 1314 to a micro-nutrient plant for poultry litter with truck entrance and railway spur, approved by Sussex County Council on July 25, 2006, and CU 1692 was an associated request to amended conditions of CU 1691/1324 approval.

<sup>5</sup> §115-19 of the Sussex County zoning code, as amended.

<sup>6</sup> It is noted that public utilities, public service uses, buildings, generating or treatment plants, pumping or regulator stations ... are allowed as conditional uses with the AR-1.

<sup>7</sup> Memorandum, Christin Scott, Planner I, Sussex County to Sussex County Planning Commission Members, February 5, 2021, p. 2.

<sup>8</sup> Duffield Associates, April 10, 2020, p. 2.

<sup>9</sup> T. William Brockenbrough, Jr. County Coordinator/Development Coordination, Department of Transportation, State of Delaware, to Janelle Cornwall, Director, Sussex County Planning & Zoning, dated January 16, 2020.



*the proposed Conditional Use is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted precluding Conditional Use approval.*

Finally, agents for the Applicant indicate that wetlands are located on the subject parcel(s) but based on information and belief, the Applicant has not provided a wetland delineation report(s) or other confirmation of the lack or extent of wetland impact or wetland impact permitting. *Failure to adequately address potential wetland impacts from the proposed Conditional Use is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted precluding Conditional Use approval.*

2) **“Segmentation” of Proposed Use and Related Inadequacies of CU Application.**

Agents for the Applicant stipulate that wastewater discharge permits have not been obtained, and that water supply needs are not known nor approval obtained from the Delaware Department of Natural Resources and Environmental Control (DNREC) for additional on-site water well(s), if needed. *Failure to adequately address water usage needs, potential impacts, and sources from the proposed Conditional Use is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted precluding Conditional Use approval.*

Agents for the Applicant also state that anaerobic biodigester waste or “digestate” is planned to be land-applied on active farm fields.<sup>10</sup> Based on information and belief, no detail, additional or supporting information relative to digestive land application were provided within the CU application.<sup>11</sup> *Failure to identify digestive land application locations, application rates, site evaluations (i.e., crop management plans/agronomic rates, etc.) associated with the proposed Conditional Use is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted and precluding Conditional Use approval.*

Finally, Agents for the Applicant assert that the AD will produce approximately 430,000 MMBtus per year of clean, renewable natural gas (RNG) to be sold and injected on-site into the natural gas pipeline distribution system, and that Chesapeake Utilities Corporation is “currently envisioned” as BDG’s partner in this project.<sup>12</sup> Based on information and belief, no detail, additional or supporting information relative to RNG distribution and/or pipeline location(s) were provided within the CU application.<sup>13</sup> *Failure to adequately detail the RND pipeline and its required infrastructure within the proposed Conditional Use is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted and precludes Conditional Use approval.*

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<sup>10</sup> Bioenergy Devco Conditional Use Exhibit Book, CU No. 2258, February 11, 2021, pp. 9 & 12-13.

<sup>11</sup> *Ibid.*, pp. 10-12.

<sup>12</sup> Duffield Associates, April 10, 2020, p. 7.

<sup>13</sup> *Ibid.*, pp. 10-12.

### 3) **Environmental Impact from the Proposed Conditional Use.**

The Applicant also states that feedstocks will enter the facility via Alt-13 and off-loaded within an enclosed receiving building under negative wire pressure. The material will then be pumped in to one of three above-ground mixing tanks and then to one of four on-site biodigester tanks - all tanks being completely enclosed to contain any odors.<sup>14</sup>

Agents for the Applicant state that existing air permit, State of Delaware, APC-2016/0093 “will be modified and updated” to incorporate proposed new air emission point sources, including a flare, boiler, thermal oxidizer and optional heat/power system.<sup>15</sup> Applicant’s agents further state that potential odor issues will be mitigated “through controlled handling of feedstock materials” - with providing any detail or additional supporting plans or data.<sup>16</sup> *“Upsets” from tail gas flaring operations, i.e., episodes of incomplete combusting due to variance in waste stream moisture, are typical within the oil and gas and other industries, and we are concerned about the likelihood of nuisance odors generated by and emanating from the proposed CU. Failure to adequately address air emission and permitting within the proposed Conditional Use application is required by the Sussex County zoning code, and its absence renders the application incomplete as submitted precluding Conditional Use approval.*

For the above reasons, we strongly recommend that the Sussex County Planning & Zoning Commission deny the proposed BDG/Devco CU permit application as submitted.

If you have any questions regarding these rebuttal comments, please feel free to contact me at 231-499-7165 or [cgrobbel@grobbelenvironmental.com](mailto:cgrobbel@grobbelenvironmental.com). Thank you.

Sincerely,

**Grobbel Environmental & Planning Associates**



Christopher P. Grobbel, Ph.D.  
Community Planner/Sr. Project Manager

#### **Other References**

Bioenergy Devco Conditional use Exhibit Book, CU No. 2258, February 11, 2021.

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<sup>14</sup> *Ibid.*, pp. 7-8.

<sup>15</sup> Duffield Associates, April 10, 2020, p. 3.

<sup>16</sup> *Ibid.*



## Christin Headley

---

**From:** Lpodolske <lpodolske@aol.com>  
**Sent:** Wednesday, February 10, 2021 2:39 PM  
**To:** Planning and Zoning  
**Subject:** Opposition to proposed Bioenergy Development Group and Perdue methane digester project

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning:

As a Sussex County homeowner with a home near the Mountaire and Allen Harim plants near Millsboro I am well aware of the air and water pollution problems emanating from industrial agriculture facilities. We had to install an expensive water treatment plant with ongoing chemical supply costs in order to use our well water and the stench from the chicken processing plants means we often cannot sit outside and enjoy our Indian River views. Sussex County does not need an additional agribusiness facility threatening our air and water quality which is already significantly compromised because of the failure of DNREC and Sussex County government to protect the health and safety of the citizens in past decisions to approve such facilities..

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware, should be denied.

This industrial gas production facility would pose a danger to local residents and would pollute the surrounding air and water. Additionally, using precious freshwater resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end products and make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River.

Building this massive digester and gas production facility would disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue and other companies' factory farms. The proposed explosive and dangerous gas facility would only intensify these impacts.

The Delmarva areas factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Opposition  
Exhibit





## Christin Headley

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Wednesday, February 10, 2021 1:01 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form  
**Categories:** Christin

RECIPIENTS: Jamie Whitehouse

Submitted on Wednesday, February 10, 2021 - 1:00pm

Name: Janet M Point  
Email address: janetmpoint@gmail.com  
Phone number: 2673041415  
Subject: BioGas Refinery  
Message:

Opposition  
Exhibit

February 10, 2021

Janet M. Point  
25 Wades Court  
Rehoboth Beach, DE 19971

Sussex County Planning & Zoning Board Members Robert C. Wheatley, Chairman Kim Hoey-Stevenson, Vice Chairman J. Bruce Mears Holly Wingate P.O. Box 417 Georgetown, DE 19947

Dear Planning & Zoning Board Members:

I am a Sussex County resident and am deeply concerned about the Bioenergy Devco industrial Biogas production facility proposed for Seaford, DE. While I am not a resident of Seaford, I have friends and associates that are and I am concerned for both for the residents of Seaford and for all of Sussex County and areas in the Inland Bay watershed. If approved, this facility would have a huge negative environmental impact, presenting a public safety threat to the surrounding area.

It appears that Bioenergy tried to push this through Planning & Zoning as an amendment to the existing conditional use Perdue had for a chicken composting facility. As such, Bioenergy was not transparent about the true nature of the facility, hoping that the residents of Seaford and the Planning & Zoning Board would not notice until it was too late to do anything about it. This is illustrated by the fact that Bioenergy has entered into a 20-year contract with Perdue to accept its chicken waste from the Tristate area and also has entered into a contract with Chesapeake Utilities to sell them the methane gas produced by the facility. Bioenergy considered this a done deal.

I urge you to consider the following as you deliberate on whether to approve this application:

1. There is a zoning issue. Presently the site is zoned Agricultural/Residential. The proposal is for an industrial gas producing facility.

2. Bioenergy's application proposes waiving a traffic study. There has been no assessment of the impact on the local roads of trucks bearing chicken waste from three states constantly coming in to Sussex County.
3. There has been no consideration of the chicken waste blowing off trucks and on to roads, fields, and residential developments.
4. There has been no consideration of the explosive nature of the methane gas byproduct being transported out of the plant. Trucks carrying such gases are literally truck bombs.
5. The poultry litter is not digestable and must be liquified by adding water. Four thousand gallons of fresh water are needed for every ton of waste to make it suitable for anaerobic digestion. There has been no assessment of the impact of this water consumption on the surrounding communities.
6. The factory doesn't need a lot of workers to run. Construction will create some temporary jobs, but it will not produce quality, long-lasting jobs.
7. Anaerobic Digesters are totally dependent on the factory farm model and the project thus commits the area to this model for decades.
8. The digestate does not magically eliminate pollution. There is a by-product that has to be managed. The liquified manure if used as fertilizer presents a new groundwater threat and also emits methane and nitrous oxide.
9. There has been no consideration of the impact on the local fire departments if a fire broke out or an explosion occurred, as well as the first responders that would be needed if such a catastrophe occurred. The proposal does not allow inspection of the facility by local fire dept and basically they would be self-inspecting. The proposal is to approve without additional safety measures beyond what the original Composting Facility had - which shows a lack of understanding of exactly what the facility will be.
10. The Seaford site was purposefully chosen because the residents don't have political capital and are unaware of the impact of this project.

Delaware should not be the "toilet bowl" for the tri-state area. The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. Many of the residents use well water that would be further contaminated by the liquid manure digestate if used as fertilizer on fields. The state is mandated to reduce pollution in that watershed. How can adding more pollution be allowed?

We should be investing in good jobs, not the temporary jobs this would create. This is an agricultural-residential area. Even if this facility produced good quality, long-lasting jobs (which it would not), Planning & Zoning should not just be concerned with the economy, it is supposed to take into account safety and health of community. The proposed plant is a refinery. It is not agriculture or composting. Other than temporary construction jobs, there do not appear to be any net benefits to Seaford and the surrounding community, only the overwhelming risk of harm.

Thank you for your consideration.

Very truly yours,

Janet M, Point



## Christin Headley

---

**From:** hen=udel.edu@mg.gospringboard.io on behalf of Henry Levesque <hen@udel.edu>  
**Sent:** Wednesday, February 10, 2021 2:32 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware, must be denied.

This industrial gas production facility would pose a danger to local residents and would pollute the surrounding air and water. Additionally, using precious freshwater resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end products and make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River.

Building this massive digester and gas production facility would disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. The proposed explosive and dangerous gas facility would only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Henry Levesque

Opposition  
Exhibit





## Christin Headley

---

**From:** hanwill@udel.edu@mg.gospringboard.io on behalf of Hannah Williams  
<hanwill@udel.edu>  
**Sent:** Wednesday, February 10, 2021 1:13 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Hannah Williams

Opposition  
Exhibit





**Christin Headley**

---

**From:** Sandra Derr <sandralderr@aol.com>  
**Sent:** Wednesday, February 10, 2021 2:50 PM  
**To:** Planning and Zoning  
**Subject:** Biogas - do not approve

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Do not approve the chicken plants litter becoming our "biogas" solution.

Thank you,  
Sandra Derr  
Lewes DE

Sent from the all new Aol app for iOS

Opposition  
Exhibit



## Russell Warrington

---

**From:** mariap=sraproject.org@mg.gospringboard.io on behalf of Maria Payan  
<mariap@sraproject.org>  
**Sent:** Wednesday, February 10, 2021 1:18 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

Opposition  
Exhibit

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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This industrial gas production facility would pose a danger to local residents and would pollute the surrounding air and water. Additionally, using precious freshwater resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end products and make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Maria Payan





## Jamie Whitehouse

---

**From:** kfrey=christianacare.org@mg.gospringboard.io on behalf of Kimberly Frey  
<kfrey@christianacare.org>  
**Sent:** Wednesday, February 10, 2021 8:15 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

Opposition  
Exhibit

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Kimberly Frey





## Russell Warrington

---

**From:** kfrey=christianacare.org@mg.gospringboard.io on behalf of Kimberly Frey  
<kfrey@christianacare.org>  
**Sent:** Wednesday, February 10, 2021 8:15 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

Opposition  
Exhibit

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Sincerely,

Kimberly Frey



## Jamie Whitehouse

---

**From:** kfrey=christianacare.org@mg.gospringboard.io on behalf of Kimberly Frey  
<kfrey@christianacare.org>  
**Sent:** Wednesday, February 10, 2021 8:15 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

Opposition  
Exhibit

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Kimberly Frey





**Nick Torrance**

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Wednesday, February 3, 2021 6:09 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Wednesday, February 3, 2021 - 6:08pm

Name: KAREN A DESANTIS

Email address: kadesantis@comcast.net

Phone number: 3022125630

Subject: Bioenergy Development Group and Perdue Farm's proposal to be heard on Feb.11

Message: Hello, Thank you for all you do for the community. I want to express my concern about the Bioenergy Development Group and Perdue Farm's proposal for treating farm waste from our area and from other states. I hope the request is declined. Considering the current state of our water and the unbelievable amount of new construction, it would be irresponsible to encourage more use of our water for processing out of state waste and putting that used water back into our land. I am willing to reduce my chicken eating to once a week to help deal with this issue! Seriously, I think we need start to take care of our people and not become a dumping ground for other states or for big companies. Thank you for your consideration.





## Nick Torrance

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Wednesday, February 3, 2021 8:23 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Wednesday, February 3, 2021 - 8:23pm

Name: Denise Giacoia

Email address: denisegiacoia55@gmail.com Phone number: 9086190900

Subject: BioGas Capture and Refining Facility

Message: We need to make sure there will be a traffic study. There should be an investigation on what the long term effect on people's health, impact to water, and impact to tourist community. This site is right next to watersheds that need to be cleaned up and this will just add to this problem. The project is not totally transparent. Does not show gas emissions, the trucks that can explode....this is to Polly Annerish! In addition, there needs to be more conditions around this build since it is larger than just a composting site. This will impact the value of our homes and can impact the growth in more households that will move to this state.



## Nick Torrance

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Thursday, February 4, 2021 11:49 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Thursday, February 4, 2021 - 11:48am

Name: Debbi Zarek  
Email address: debbi.zarek@gmail.com  
Phone number: 3024634271  
Subject: No permit for a BioGas Capture and Refining Facility

Message:

Hello,

I am writing to let you know I oppose the permit for a BioGas Capture and Refining Facility in Sussex county. This is exactly what we DON'T need. I am always surprised that more is not being done about the chicken waste run off in Sussex county. Last year there were articles in the News Journal about contaminated water around a poultry factor. Water needed to be given to these residents. The waste from a poultry factory can be devastating for a community as it ruins their water. Having Delaware be the site to take in other factories waste is crazy! We need less poultry factories and less chicken waste in Delaware, not more. Please vote no for the permit. Honestly, we should be having a campaign to decrease chicken intake as it is disasterous to our environment.

Thank you for your time,  
Debbi Zarek, MD, FACP, Owner  
Progressive Health of Delaware  
302-543-5454  
3521 Silverside Rd, Ste 2J  
Quillen Bldg.  
Wilmington, DE 19810  
Fax 302-327-4200  
[https://us-west-](https://us-west-2.protection.sophos.com?d=progressivehealthproject.com&u=aHR0cHM6Ly93d3cucHJvZ3Jlc3NpdmVoZWZsdGhwcm9qZWNOlMnVbS9wcm9ncmVzc2l2ZS1oZWZsdGgtb2YtZGVsYXdhcmU=&i=NWY0NTE2ZjM3OTk3OGlwZjc0MDhkYTAY&t=MWdlbDE3UTYyakhUUXZtWU5iSnRNcEF6ZGZMWXZFNGVtMGRUOVZDaVR4ND0=&h=6137563e4672489e992604d07f31d794)

[2.protection.sophos.com?d=progressivehealthproject.com&u=aHR0cHM6Ly93d3cucHJvZ3Jlc3NpdmVoZWZsdGhwcm9qZWNOlMnVbS9wcm9ncmVzc2l2ZS1oZWZsdGgtb2YtZGVsYXdhcmU=&i=NWY0NTE2ZjM3OTk3OGlwZjc0MDhkYTAY&t=MWdlbDE3UTYyakhUUXZtWU5iSnRNcEF6ZGZMWXZFNGVtMGRUOVZDaVR4ND0=&h=6137563e4672489e992604d07f31d794](https://us-west-2.protection.sophos.com?d=progressivehealthproject.com&u=aHR0cHM6Ly93d3cucHJvZ3Jlc3NpdmVoZWZsdGhwcm9qZWNOlMnVbS9wcm9ncmVzc2l2ZS1oZWZsdGgtb2YtZGVsYXdhcmU=&i=NWY0NTE2ZjM3OTk3OGlwZjc0MDhkYTAY&t=MWdlbDE3UTYyakhUUXZtWU5iSnRNcEF6ZGZMWXZFNGVtMGRUOVZDaVR4ND0=&h=6137563e4672489e992604d07f31d794)





## Nick Torrance

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Thursday, February 4, 2021 12:36 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Thursday, February 4, 2021 - 12:36pm

Name: Claire Simmers  
Email address: simmersca@gmail.com  
Phone number: 4844597029  
Subject: Planning and Zoning Feb 11 Meeting

**Message:**

I oppose any approval for the Bio-energy permit application for an anaerobic digestive and biogas usage. Bio Energy Development Group, LLC C/U 2258

**Description of Request:**

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1314 (ORDINANCE NO. 1354) (AS AMENDED BY CONDITIONAL USE NO. 1691 (ORDINANCE NO. 1865) AND CONDITIONAL USE NO. 1962 (ORDINANCE NO. 2311)) TO PERMIT THE PROCESSING AND HANDLING OF POULTRY LITTER TO INCLUDE NUTRIENT RECOVERY FOR NATURAL GAS AND ELECTRICAL GENERATION, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS.

The location is in a sensitive area surrounded by wetlands and flanked by a low-income community and not industrially zoned. This isn't either agricultural use or residential so is inconsistent with the current zoning for this land. This is an industrial process that involves a small refinery and natural gas pipelines, and trucking. Nutrient recovery for natural gas and electrical generation is an industrial process.

This mega-anaerobic digester will bring in waste from all over the region, in addition to the waste we produce here in Delaware, up to 200,000 tons of waste annually. According to industry experts, it takes around 3,800 gallons of fresh water to digest 1 ton of dry poultry waste. That means this facility could require millions of gallons of fresh water to operate. The facility would then have to manage this water afterward as it is contaminated with extremely high levels of nitrogen and phosphorus. As of now, it is not clear how the facility will handle this waste stream and the contaminants contained within.

Certainly, spraying this water on local fields or injecting it into local wastewater management systems could be the tipping point for the already high levels of nitrogen pollution in the area that has led to many sources of water becoming unsafe and local waterways being destroyed.





**Nick Torrance**

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Wednesday, February 3, 2021 5:10 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Wednesday, February 3, 2021 - 5:10pm

Name: Nancy Fifer  
Email address: guss46@verizon.net  
Phone number: 3026446829  
Subject: pollution  
Message: are we not trying to reduce the pollution of our planet? This idea is atrocious!



**Nick Torrance**

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Wednesday, February 3, 2021 3:09 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Wednesday, February 3, 2021 - 3:08pm

Name: Ellen Homsey

Email address: ehomsey@yahoo.com

Phone number: 3026559493

Subject: Conditional use permit #1964

Message: My view: this is an environmentally and socially reckless, short-sighted, and destructive proposal and unworthy of the the Planning and Zoning Commission.





## Nick Torrance

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Thursday, February 4, 2021 7:37 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Thursday, February 4, 2021 - 7:37am

Name: Clark

Email address: clarkleitner@yahoo.com

Phone number: 3025027291

Subject: BioGas Capture and Refining Facility

Message: We need the complete assessment of how much fresh water will be needed to process, where the fresh water will come from, and what is the strategy to dispose of said water which will be filled high levels of nitrogen and phosphorus.

Opposition  
Exhibit





**Nick Torrance**

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Thursday, February 4, 2021 1:49 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Thursday, February 4, 2021 - 1:49pm

Name: Nancy Jeanne Hannigan

Email address: NJHANNIGAN@YAHOO.COM

Phone number: 3025436446

Subject: Conditional Use Permit #1962

Message: I am writing to ask that the Commission VOTE NO regarding Conditional Use Permit #1962, to expand producing methane gas from farm waste. I am a retired chemist and see 2 major problems with the proposal: (1) the process would consume unacceptable quantities of fresh water for limited benefit, and negatively impact water quality (2) methane gas is highly explosive and would pose significant risk to area residents.



**Nick Torrance**

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Monday, February 8, 2021 11:28 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Monday, February 8, 2021 - 11:28am

Name: Beth Kopicki  
Email address: crabwomyn@comcast.net  
Phone number: 302-629-9415  
Subject: Conditional Use Permit #1962.

Message: I am writing with grave concerns about the BioGas Capture and Refining Facility permit under consideration. I have a number of questions. Why bring waste INTO our county? Aren't we having enough trouble managing agricultural pollution now? More than 200,000 tons of waste will need to be processed annually, requiring millions of gallons of fresh water. According to industry experts, it takes around 3,800 gallons of fresh water to digest 1 ton of dry poultry waste. With construction going on all over the county, how many more millions of gallons of water to processing waste? Won't the additional pollution contaminate the waterways? What is the plan for the huge amounts of nitrogen and phosphorus? Agricultural runoff is already threatening the health of our environment. We have a plethora of local waterways. We have a plethora of beautiful natural beauty surrounding and threatening the health of our environment. I believe this facility will destroy our waterways and threaten the health of our environment. No amount of dollars are worth it. Please protect that which makes Sussex County beautiful and unique. Support its economy: the natural beauty of the environment. I urge you

Need to add  
to Supplemental  
Packet





Jamie Whitehouse

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**From:** geller.maddie@gmail.com@mg.gospringboard.io on behalf of Maddie Geller  
<geller.maddie@gmail.com>  
**Sent:** Friday, February 5, 2021 9:55 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Maddie Geller



Jamie Whitehouse

---

**From:** msm1620@aol.com@mg.gospringboard.io on behalf of Susan Mack <msm1620@aol.com>  
**Sent:** Friday, February 5, 2021 6:52 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts. Such an industrial facility should not be permitted in a residentially zoned area. The truck traffic generated by this facility would also clog nearby roads with tanker trucks carrying explosive gas.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Susan Mack





Jamie Whitehouse

---

**From:** Karinamtzm@gmail.com@mg.gospringboard.io on behalf of Karina Chara  
<Karinamtzm@gmail.com>  
**Sent:** Saturday, February 6, 2021 6:22 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Karina Chara



Jamie Whitehouse

---

**From:** rwmadole@gmail.com@mg.gospringboard.io on behalf of Renee Madole  
<rwmadole@gmail.com>  
**Sent:** Saturday, February 6, 2021 1:07 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Renee Madole





**Jamie Whitehouse**

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Friday, February 5, 2021 10:01 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Friday, February 5, 2021 - 10:00am

Name: Barry Townsend

Email address: barrytownsend@me.com

Phone number: 302-420-3681

Subject: BioGas Capture and Refining Facility

Message: I would like to express my voice against the construction of the BioGas Capture and Refining Facility. This is not a renewable energy project. It is a disaster for the environment local low income communities. Delawareans should not be burden with propping up factory farms at the expense of the citizens' health and the health of the environment. Instead, I believe state and federal regulators must hold factory farms accountable and ensure compliance with existing environmental laws in order to minimize their harm while we work better ways to raise animals for food.



**Jamie Whitehouse**

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Friday, February 5, 2021 2:17 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Friday, February 5, 2021 - 2:17pm

Name: Kathryn Leep, Ph.D. in Soil Science and Botany Email address: leepkathryn@yahoo.com Phone number: 302-407-5198

Subject: Biogas Capture Facility

Message: At first when I read "Biogas Capture" I think - great! What a wonderful idea! But then the questions start to come to mind... How will this work? Where will waste go? Nitrogen and phosphorus... our Delaware land just does not have the capacity to hold this and not pollute our waters... How will water pollution be avoided? How will the waste be processed and disposed of? Where will it end up? Until these questions are answered in an environmentally sound way, I cannot support a "Biogas Capture" facility. We CANNOT continue to misuse our water and land.





**Jamie Whitehouse**

---

**From:** khilmer=comcast.net@mg.gospringboard.io on behalf of Katharine Hilmer  
<khilmer@comcast.net>  
**Sent:** Thursday, February 4, 2021 4:31 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Katharine Hilmer



Jamie Whitehouse

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**From:** mjrenzette@gmail.com@mg.gospringboard.io on behalf of Mary Jane Renzette  
<mjrenzette@gmail.com>  
**Sent:** Thursday, February 4, 2021 5:39 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

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Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Mary Jane Renzette





Jamie Whitehouse

---

**From:** e.lamb92@gmail.com@mg.gospringboard.io on behalf of Elizabeth Lamb <e.lamb92@gmail.com>  
**Sent:** Thursday, February 4, 2021 6:14 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Elizabeth Lamb



Jamie Whitehouse

---

**From:** betwinston@gmail.com@mg.gospringboard.io on behalf of Neta Shwartz  
<betwinston@gmail.com>  
**Sent:** Thursday, February 4, 2021 7:25 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas  
  
**Categories:** Jamie

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Neta Shwartz





Jamie Whitehouse

---

**From:** monicanewman1@gmail.com@mg.gospringboard.io on behalf of Monica Rambeaux  
<monicanewman1@gmail.com>  
**Sent:** Thursday, February 4, 2021 6:17 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Monica Rambeaux



Jamie Whitehouse

---

**From:** karenlienau=aol.com@mg.gospringboard.io on behalf of Karen Igou  
<karenlienau@aol.com>  
**Sent:** Thursday, February 4, 2021 10:06 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Karen Igou





**Jamie Whitehouse**

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Saturday, February 6, 2021 3:28 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Saturday, February 6, 2021 - 3:27pm

Name: Cynthia Opderbeck

Email address: cynopderbeck@hotmail.com

Phone number: 3022009162

Subject: sussex county biogas facility

Message: Please ensure this proposed facility would include all proper safeguards for health, safety, and wellbeing for all human and nonhuman beings! Thank you.



**Jamie Whitehouse**

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Sunday, February 7, 2021 11:03 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Sunday, February 7, 2021 - 11:03am

Name: Clara S. Licata  
Email address: cslicata@gmail.com  
Phone number: 201-280-8593  
Subject: Proposed Industrial Biogas facility by Bioenergy Devco  
Message:

I am a Sussex County resident and am very concerned about the Bioenergy Devco industrial Biogas production facility proposed to be built in Seaford, DE. I am not a resident of Seaford, but I am concerned both for the residents of Seaford and for all of Sussex County. If approved, this facility would have a huge negative environmental impact, presents a huge public safety threat to the surrounding area, and would not economically benefit the region.

Bioenergy tried to push this through Planning & Zoning as an amendment to the existing conditional use Perdue had for a chicken composting facility. Bioenergy was not transparent about the true nature of the facility, hoping that the residents of Seaford and the Planning & Zoning Board would not notice until it was too late to do anything about it. This is illustrated by the fact that Bioenergy has entered into a 20-year contract with Perdue to accept its chicken waste from the Tristate area and also has entered into a contract with Chesapeake Utilities to sell them the methane gas produced by the facility. Bioenergy considered this a done deal.

I urge you to consider the following as you deliberate on whether to approve this application:

1. There is a zoning issue. Presently the site is zoned Agricultural/Residential. The proposal is for an industrial gas producing facility.
2. Bioenergy's application proposes waiving a traffic study. There has been no assessment of the impact on the local roads of trucks bearing chicken waste from three states constantly coming in to Sussex County.
3. There has been no consideration of the chicken waste blowing off trucks and on to roads, fields, and residential developments.
4. There has been no consideration of the explosive nature of the methane gas byproduct being transported out of the plant. Trucks carrying such gases are literally truck bombs.
5. The poultry litter is not digestable and must be liquified by adding water. Four thousand gallons of fresh water are needed for every ton of waste to make it suitable for anaerobic digestion. There has been no assessment of the impact of this water consumption on the surrounding communities.
6. The factory doesn't need a lot of workers to run. Construction will create some temporary jobs, but it will not produce quality, long-lasting jobs.
7. Anaerobic Digesters are totally dependent on the factory farm model and the project thus commits the area to this model for decades.
8. The digestate does not magically eliminate pollution. There is a by-product that has to be managed. The liquified manure if used as fertilizer presents a new groundwater threat and also emits methane and nitrous oxide.



9. There has been no consideration of the impact on the local fire departments if a fire broke out or an explosion occurred, as well as the first responders that would be needed if such a catastrophe occurred. The proposal does not allow inspection of the facility by local fire dept and they would be self-inspecting. The proposal is to approve without additional safety measures beyond what the original Composting Facility had - which shows a lack of understanding of exactly what the facility will be.

10. The Seaford site was purposefully chosen because the residents don't have political capital and are unaware of the impact of this project.

Delaware should not be the "toilet bowl" for the tri-state area. The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. Many of the residents use well water that would be further contaminated by the liquid manure digestate if used as fertilizer on fields. The state is mandated to reduce pollution in that watershed. How can adding more pollution be allowed?

We should be investing in good jobs, not the temporary jobs this would create. This is an agricultural-residential area. Even if this facility produced good quality, long-lasting jobs (which it would not), Planning & Zoning should not just be concerned with the economy, it is supposed to take into account safety and health of community. The proposed plant is a refinery. It is not agriculture or composting. Other than temporary construction jobs, there do not appear to be any net benefits to Seaford and the surrounding community, only the overwhelming risk of harm.

Thank you for your consideration.

## Jamie Whitehouse

---

**From:** webmaster@sussexcountye.gov on behalf of Sussex County DE  
<webmaster@sussexcountye.gov>  
**Sent:** Saturday, February 6, 2021 5:18 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Saturday, February 6, 2021 - 5:17pm

Name: Brenda L. Gormley  
Email address: blee1419@yahoo.com  
Phone number: 6107425944  
Subject: My opposition to C/U-2206 Linder & Company – Evans Farm  
Message:

My name is Brenda L. Gormley, and I own the home at 619 Bridge Lane at White's Creek Manor. I want to make known my opposition to C/U-2206 Linder & Company – Evans Farm a proposed community of 200 rental units.

I am concerned that the additional traffic this development will generate on Old Mill Rd, will increase travel time, lead to more and more serious accidents and if emergency services are needed at best increase response time to our community and possibly make reaching it impossible. Particularly during the summer months but often on weekends it can be difficult to make a left turn out of our community due to the existing volume of traffic. Traffic often backs up from the light at Route 26 and Old Mill to the bridge over the creek. Adding more cars could easily block our community entrance. Before further development in this area is allowed the dangerous conditions on Old Mill, the blind curves, lack of shoulders, standing traffic that prevents entering and exiting communities, and only one way to enter Route 26 that has a traffic light must be addressed.

A state highway report from 2008 clearly indicated that Old Mill Road and the other connectors to Route 26 were inadequate and did not conform to the standards in DEIDot's Road Construction manual. Since that study more than 1100 homes have been built and another 140 are approved to be built in the area served by these roads even without this development.

The Deldot Study from 2008 concluded that the then approved and pending improvements to Atlantic Avenue (Route 26) would not address the issues on Old Mill. It concluded by saying to meet the needs of further development "these additional capacity improvements will likely be infeasible based on physical limitations, right of way constraints, and public opposition." Nothing has changed since that report and the rapid development in the area has only made the situation worse. This project does not just put our neighbors at risk but those who would live at Evans Farm if this development is built.

Again, I am strongly opposed to the C/U-2206 Linder & Company's Evans Farm.  
Sincerely, Brenda L. Gormley



**Jamie Whitehouse**

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Sunday, February 7, 2021 3:52 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Sunday, February 7, 2021 - 3:51pm

Name: suzanne Parmelee  
Email address: sueparmeelee23@gmail.com  
Phone number: 201-679-5854  
Subject: Biogas facility  
Message:  
Mrs. Suzanne Parmelee  
29762 Pelican Point Place  
Lewes, DE 19958

February 5, 2021

Sussex County, DE Planning & Zoning Board Members Mr. Wheatley Ms. Hoey-Stevenson Mr. Mears Ms. Wingate R. Keller Hopkins PO box 417 Georgetown, DE 19947

Dear Members of the Planning & Zoning Board of Sussex County,

As a resident of Sussex County, I am very concerned about the industrial Biogas production facility proposed to be built in Seaford, Delaware.

In researching the pros and cons, I feel that the following issues should be seriously considered before recommending approval of this facility:

- There is a zoning issue. Presently the site is zoned Agriculture/Residential. This is an industrial gas producing facility.
- There is waste produced from the anaerobic digestion process (waste digestate, both solid and liquid) How will this waste be managed and treated? Waterways in Delaware are already 90% polluted. Seaford's water supply already exceeds EWG limits.
- The existing facility on the site is a failed compost development. The waste coming from Perdue has excessive fecal bacteria and chromium six for land application. Chromium six is a carcinogen.
- 4,000 gallons of water per ton of poultry litter is needed to liquefy it. How will that affect the water supply in the Seaford area?
- Cow and pig waste is more commonly used in facilities that use anaerobic digestion. Poultry litter is less conducive to the process because it is chemically different and is high in ammonia, which makes the process difficult.
- A traffic study needs to be done. Trucks will be coming and going all week long. Trucks carrying the methane gas will be traveling through neighborhoods creating a danger if an explosion occurs.



- Fire Department and first responders would have great difficulty managing an explosion or fire if it occurs at the facility.
- This facility would create some temporary jobs while construction is in progress. Later, very few permanent positions would run the facility.
- These companies purposefully choose communities where residents don't have the means to buy political capital and are unaware of the impact of such projects.
- The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. The state has mandated to reduce pollution in that watershed. How can adding more pollution be allowed?
- The lack of transparency exhibited by these companies is a serious concern. They are trying to pass this industrial gas producing facility off as similar to a composting site.
- Delaware already has a huge problem getting rid of its own poultry waste. Why would we want to bring in waste from 2 other states and increase the waste digestate, left after the gas production, which would pollute our waterways and air even more?

Bioenergy touts as renewable energy, but just because this waste is recycled doesn't mean that it is Green. It results in polluted wastewater from the use of the digestate as a fertilizer. The trucks carrying the methane gas present the danger of being truck bombs and the greenhouse gas emissions add to the pollution in the air.

As a zoning board, I ask that you research the type of facility that this Biogas plant would be, and put the health and safety of communities and their residents above the profits of big business.

Thank you.

Sincerely,

Suzanne Parmelee  
 29762 Pelican Point Place  
 Lewes, DE 19958  
 201-679-5854  
 Mrs. Suzanne Parmelee  
 29762 Pelican Point Place  
 Lewes, DE 19958

February 5, 2021

Sussex County, DE Planning & Zoning Board Members Mr. Wheatley Ms. Hoey-Stevenson Mr. Mears Ms. Wingate R. Keller Hopkins PO box 417 Georgetown, DE 19947

Dear Members of the Planning & Zoning Board of Sussex County,

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In researching the pros and cons, I feel that the following issues should be seriously considered before recommending approval of this facility:

- There is a zoning issue. Presently the site is zoned Agriculture/Residential. This is an industrial gas producing facility.

- There is waste produced from the anaerobic digestion process (waste digestate, both solid and liquid) How will this waste be managed and treated? Waterways in Delaware are already 90% polluted. Seaford's water supply already exceeds EWG limits.
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- Cow and pig waste is more commonly used in facilities that use anaerobic digestion. Poultry litter is less conducive to the process because it is chemically different and is high in ammonia, which makes the process difficult.
- A traffic study needs to be done. Trucks will be coming and going all week long. Trucks carrying the methane gas will be traveling through neighborhoods creating a danger if an explosion occurs.
- Fire Department and first responders would have great difficulty managing an explosion or fire if it occurs at the facility.
- This facility would create some temporary jobs while construction is in progress. Later, very few permanent positions would run the facility.
- These companies purposefully choose communities where residents don't have the means to buy political capital and are unaware of the impact of such projects.
- The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. The state has mandated to reduce pollution in that watershed. How can adding more pollution be allowed?
- The lack of transparency exhibited by these companies is a serious concern. They are trying to pass this industrial gas producing facility off as similar to a composting site.
- Delaware already has a huge problem getting rid of its own poultry waste. Why would we want to bring in waste from 2 other states and increase the waste digestate, left after the gas production, which would pollute our waterways and air even more?

Bioenergy touts as renewable energy, but just because this waste is recycled doesn't mean that it is Green. It results in polluted wastewater from the use of the digestate as a fertilizer. The trucks carrying the methane gas present the danger of being truck bombs and the greenhouse gas emissions add to the pollution in the air.

As a zoning board, I ask that you research the type of facility that this Biogas plant would be, and put the health and safety of communities and their residents above the profits of big business.

Thank you.

Sincerely,

Suzanne Parmelee  
29762 Pelican Point Place  
Lewes, DE 19958  
201-679-5854



Jamie Whitehouse

---

**From:** francesca=aliascann.com@mg.gospringboard.io on behalf of Francesca Vavala  
<francesca@aliascann.com>  
**Sent:** Monday, February 8, 2021 8:36 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Francesca Vavala





## Jamie Whitehouse

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Friday, February 5, 2021 11:07 AM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Friday, February 5, 2021 - 11:06am

Name: John T Graham

Email address: tucone333apostle@aol.com

Phone number: 3023678683

Subject: BIO GAS CAPTURE AND REFINING FACILITY

Message: WHY IS IT SO HARD FOR THE GOVERNMENT AND OTHER PERPRETATORS TO UNDERSTAND THEIR GENOCIDE  
EFFORTS TO DESTROY LOW INCOME PEOPLE BY UNDERHANDED EFFORTS OF POISONING AND SUFFOCATION?



Oppose

Mrs. Suzanne Parmelee  
29762 Pelican Point Place  
Lewes, DE 19958

February 5, 2021

Opposition  
Exhibit

Sussex County, DE Planning & Zoning Board Members  
Mr. Wheatley  
Ms. Hoey-Stevenson  
Mr. Mears  
Ms. Wingate  
R. Keller Hopkins  
PO box 417  
Georgetown, DE 19947

RECEIVED

FEB 09 2021

SUSSEX COUNTY  
PLANNING & ZONING

Dear Members of the Planning & Zoning Board of Sussex County,

As a resident of Sussex County, I am very concerned about the industrial Biogas production facility proposed to be built in Seaford, Delaware.

In researching the pros and cons, I feel that the following issues should be seriously considered before recommending approval of this facility:

- There is a zoning issue. Presently the site is zoned Agriculture/Residential. This is an industrial gas producing facility.
- There is waste produced from the anaerobic digestion process (waste digestate, both solid and liquid) How will this waste be managed and treated? Waterways in Delaware are already 90% polluted. Seaford's water supply already exceeds EWG limits.
- The existing facility on the site is a failed compost development. The waste coming from Perdue has excessive fecal bacteria and chromium six for land application. Chromium six is a carcinogen.
- 4,000 gallons of water per ton of poultry litter is needed to liquefy it. How will that affect the water supply in the Seaford area?
- Cow and pig waste is more commonly used in facilities that use anaerobic digestion. Poultry litter is less conducive to the process because it is chemically different and is high in ammonia, which makes the process difficult.
- A traffic study needs to be done. Trucks will be coming and going all week long. Trucks carrying the methane gas will be traveling through neighborhoods creating a danger if an explosion occurs.





- Fire Department and first responders would have great difficulty managing an explosion or fire if it occurs at the facility.
- This facility would create some temporary jobs while construction is in progress. Later, very few permanent positions would run the facility.
- These companies purposefully choose communities where residents don't have the means to buy political capital and are unaware of the impact of such projects.
- The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. The state has mandated to reduce pollution in that watershed. How can adding more pollution be allowed?
- The lack of transparency exhibited by these companies is a serious concern. They are trying to pass this industrial gas producing facility off as similar to a composting site.
- Delaware already has a huge problem getting rid of its own poultry waste. Why would we want to bring in waste from 2 other states and increase the waste digestate, left after the gas production, which would pollute our waterways and air even more?

Bioenergy touts as renewable energy, but just because this waste is recycled doesn't mean that it is Green. It results in polluted wastewater from the use of the digestate as a fertilizer. The trucks carrying the methane gas present the danger of being truck bombs and the greenhouse gas emissions add to the pollution in the air.

As a zoning board, I ask that you research the type of facility that this Biogas plant would be, and put the health and safety of communities and their residents above the profits of big business.

Thank you.

Sincerely,



Suzanne Parmelee  
29762 Pelican Point Place  
Lewes, DE 19958  
201-679-5854



Oppose

Ms Maria Martini Cordonnier

31368 Riverwood Road

Millsboro, DE 19966

February 5, 2021

Sussex County, DE Planning & Zoning Board Members:

Mr. Wheatley

Ms Hoey-Stevenson

Mr Mears

Ms Wingate

R. Keller Hopkins

PO Box 417

Georgetown, DE 19947

Opposition  
Exhibit

RECEIVED

FEB 09 2021

SUSSEX COUNTY  
PLANNING & ZONING

Re: Biogas Facility Planned for Seaford Delaware

Dear Members of the Planning & Zoning Board of Sussex County,

As a resident of Sussex County, I have become concerned and alarmed about the industrial Biogas Production facility proposed to be built in Seaford Delaware. My understanding is that the plan is for 5 Digesters to be built at this site.

The degree of the negative impact of this facility far outweighs any possible upsides not only for Seaford, but for Sussex County and all Delaware residents.

1. The proposed site is currently zoned residential and agricultural. This would be a large industrial gas facility. Extremely outsized as compared to the size of the Seaford community.
2. The type of Digesters being planned have only been used for Cow and Pig waste, and is not suitable for Chicken waste. Chicken waste has a high degree of ammonia and nitrogen which are pollutants that would be released into the air – adding to air pollution in the area.
3. How will the waste produced, both solid and liquid, from this anaerobic digestion process at the plant be managed and treated. There is nothing in the plan for a water treatment facility. Delaware rivers are already 90% polluted.
  - a. Seaford water supply already has issues and exceeds EWG limits.





4. The Seaford site is surrounded by vulnerable wetlands – I don't understand how this plan even got this far.

5. The traffic study was waived. How could a plan for a facility this large that will be trucking waste from other states into it, and then trucking the biogas out, not require a traffic study.

6. There has been an avoidance of transparency by both Devco and Purdue regarding the approval of this proposed plan. The existing composting facility is not industrial and has no equivalency to a large BioGas facility with 5 large Digesters planned.

7. The community of Seaford's Fire Department and First Responders would not be equipped to deal with a fire or emergency at a plant of this size.

8. This facility would create temporary jobs and only a small amount of permanent jobs. There is no economic benefit to the community.

9. What is most disturbing is that it seems that these companies chose a community where residents do not have the means to fight them or the political capital.

10. The plan advises that waste from 2 other states would be trucked in and processed at this facility. Delaware already has issues getting rid of our own poultry waste. Why would we want to bring waste in from 2 other states? Let these states build their own facilities and deal with the environmental issues of this process.

This process is not Green. It is not renewable energy.

It is my hope and request that as a Zoning and Planning Board you research the issues that this type of facility would cause, and its negative and potentially dangerous effects on the Seaford Community and Sussex County.

Thank you.

Maria Martini Cordonnier

31368 Riverwood Road

Millsboro, DE 19966



Oppose

February 7, 2021

Clara S. Licata  
5 Eleanor Lee Lane West  
Rehoboth Beach, DE 19971

Sussex County Planning & Zoning Board Members  
Robert C. Wheatley, Chairman  
Kim Hoey-Stevenson, Vice Chairman  
J. Bruce Mears  
Holly Wingate  
P.O. Box 417  
Georgetown, DE 19947

RECEIVED

FEB 09 2021

SUSSEX COUNTY  
PLANNING & ZONING

Dear Planning & Zoning Board Members:

I am a Sussex County resident and am very concerned about the Bioenergy Devco industrial Biogas production facility proposed to be built in Seaford, DE. I am not a resident of Seaford, but I am concerned both for the residents of Seaford and for all of Sussex County. If approved, this facility would have a huge negative environmental impact, presents a huge public safety threat to the surrounding area, and would not economically benefit the region.

Bioenergy tried to push this through Planning & Zoning as an amendment to the existing conditional use Perdue had for a chicken composting facility. Bioenergy was not transparent about the true nature of the facility, hoping that the residents of Seaford and the Planning & Zoning Board would not notice until it was too late to do anything about it. This is illustrated by the fact that Bioenergy has entered into a 20-year contract with Perdue to accept its chicken waste from the Tristate area and also has entered into a contract with Chesapeake Utilities to sell them the methane gas produced by the facility. Bioenergy considered this a done deal.

I urge you to consider the following as you deliberate on whether to approve this application:

1. There is a zoning issue. Presently the site is zoned Agricultural/Residential. The proposal is for an industrial gas producing facility.
2. Bioenergy's application proposes waiving a traffic study. There has been no assessment of the impact on the local roads of trucks bearing chicken waste from three states constantly coming in to Sussex County.
3. There has been no consideration of the chicken waste blowing off trucks and on to roads, fields, and residential developments.

Opposition  
Exhibit





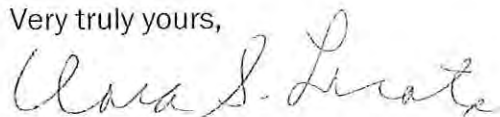
4. There has been no consideration of the explosive nature of the methane gas byproduct being transported out of the plant. Trucks carrying such gases are literally truck bombs.
5. The poultry litter is not digestable and must be liquified by adding water. Four thousand gallons of fresh water are needed for every ton of waste to make it suitable for anaerobic digestion. There has been no assessment of the impact of this water consumption on the surrounding communities.
6. The factory doesn't need a lot of workers to run. Construction will create some temporary jobs, but it will not produce quality, long-lasting jobs.
7. Anaerobic Digesters are totally dependent on the factory farm model and the project thus commits the area to this model for decades.
8. The digestate does not magically eliminate pollution. There is a by-product that has to be managed. The liquified manure if used as fertilizer presents a new groundwater threat and also emits methane and nitrous oxide.
9. There has been no consideration of the impact on the local fire departments if a fire broke out or an explosion occurred, as well as the first responders that would be needed if such a catastrophe occurred. The proposal does not allow inspection of the facility by local fire dept and they would be self-inspecting. The proposal is to approve without additional safety measures beyond what the original Composting Facility had - which shows a lack of understanding of exactly what the facility will be.
10. The Seaford site was purposefully chosen because the residents don't have political capital and are unaware of the impact of this project.

Delaware should not be the "toilet bowl" for the tri-state area. The Seaford site is surrounded by vulnerable wetlands. The Nanticoke River is already severely overburdened with pollution. Many of the residents use well water that would be further contaminated by the liquid manure digestate if used as fertilizer on fields. The state is mandated to reduce pollution in that watershed. How can adding more pollution be allowed?

We should be investing in good jobs, not the temporary jobs this would create. This is an agricultural-residential area. Even if this facility produced good quality, long-lasting jobs (which it would not), Planning & Zoning should not just be concerned with the economy, it is supposed to take into account safety and health of community. The proposed plant is a refinery. It is not agriculture or composting. Other than temporary construction jobs, there do not appear to be any net benefits to Seaford and the surrounding community, only the overwhelming risk of harm.

Thank you for your consideration.

Very truly yours,



Clara S. Licata



## Jamie Whitehouse

---

**From:** Karen Igou <noreply@forms.email>  
**Sent:** Tuesday, February 9, 2021 1:35 PM  
**To:** Jamie Whitehouse  
**Subject:** Contact Form: Biogas Project Proposal

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Name: Karen Igou  
Email: karenlienau@aol.com  
Phone: 302-898-0971  
Subject: Biogas Project Proposal

Message: Hello, I am writing in regards to the public hearing tomorrow for the Biogas plant being proposed for Sussex County. I live at 37363 7th St in Rehoboth and I am greatly worried about this plan going through.

I am unhappy that it was attempted to go through tacked on as an amendment without public knowledge...this seems underhanded.

But the facility itself is completely unacceptable. Not only will it bring just a few temporary jobs for construction, but it will come at a great cost to the neighborhoods around the plant and to our already very fragile environment in Sussex County. The truckloads of chicken waste from 3 states on our already crowded roads as well as the truckloads of methane gas leaving the plant are hugely problematic and dangerous. The amount of fresh water and then contaminated water to be dealt with is astronomical and wasteful as chicken poop is not a good source for this type of biogas and has to be made in to a slurry. The waste from the plant proposed to be spread on land is far too much for our state to handle not to mention that it contains feces, Chromium, and other cancer causing agents.

This plant would lock in all of these harmful conditions for 20 years not to mention that it greenwashes factory farming which we need to be moving away from, rather than propping up with false solutions to our industrial agriculture problems. In addition, the area of the plant is zoned agriculture and residential, not industrial. Lastly, and most importantly, we can not continue to pretend that it is ok to put industry that emits unhealthy pollution in areas where marginalized and unrepresented populations live. It is simply wrong especially when these communities have no voice in local government. As a representative for the county your job is to protect the weak...please do so here.

Thank you so much for your time and service,  
Karen L. Igou

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** phoebe.gittelson@live.law.cuny.edu@mg.gospringboard.io on behalf of Phoebe Gittelson <phoebe.gittelson@live.law.cuny.edu>  
**Sent:** Monday, February 8, 2021 11:35 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Phoebe Gittelson

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** njhannigan@yahoo.com@mg.gospringboard.io on behalf of Nancy Hannigan  
<njhannigan@yahoo.com>  
**Sent:** Monday, February 8, 2021 9:37 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Nancy Hannigan

Proposition  
Exhibit





## Jamie Whitehouse

---

**From:** lubinrossi@gmail.com@mg.gospringboard.io on behalf of Laura Rossi  
<lubinrossi@gmail.com>  
**Sent:** Monday, February 8, 2021 12:09 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Laura Rossi

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** aevantash@gmail.com@mg.gospringboard.io on behalf of Alan Evantash  
<aevantash@gmail.com>  
**Sent:** Monday, February 8, 2021 11:35 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

This issue is of critical importance to me, as I plan to retire in Sussex County in the future, and my children have just purchased property in Lewes.

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Alan Evantash

Opposition  
Exhibit



**Jamie Whitehouse**

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Cu2258

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Monday, February 8, 2021 1:42 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Monday, February 8, 2021 - 1:42pm

Name: Joe Petrowski

Email address: joseph.petrowski@gmail.com Phone number: 302 515 1925

Subject: conditional use permit #1962

Message:

the digester will only add to the many environmental issues we have in Sussex County.  
More waste, more traffic, more pollution. We need solutions to existing problems.

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Tuesday, February 9, 2021 2:17 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, February 9, 2021 - 2:16pm

Name: Boe Daley

Email address: bojangles21@comcast.net

Phone number: 18568893731

Subject: Bioenergy Development Group

Message: It is my understanding that the waste from the biogas process will find its way into the already polluted groundwater and that locals use well water in that area. We have enough problems with water pollution in DE as it is. Furthermore, groundwater is limited and this operation uses a tremendous amount of clean water. For these reasons and many others, I don't think this is a good idea.

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** wrogers@udel.edu@mg.gospringboard.io on behalf of William Rogers  
<wrogers@udel.edu>  
**Sent:** Tuesday, February 9, 2021 3:21 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware, must be denied.

This industrial gas production facility would pose a danger to local residents and would pollute the surrounding air and water. Additionally, using precious freshwater resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end products and make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River.

Building this massive digester and gas production facility would disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. The proposed explosive and dangerous gas facility would only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

William Rogers

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** Elaine Petrowski <petrowski.elaine@gmail.com>  
**Sent:** Tuesday, February 9, 2021 4:15 PM  
**To:** Planning and Zoning  
**Subject:** Bio Digester comments for Conditional Use #1962

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

to whom it may concern,

Quality of life, the survival of the small family farmer as well as environmental concerns and infra structure overload demand that the proposed BioEnergy Development Group's Digester be evaluated and rejected by Sussex County planning and zoning.

The last thing Sussex County SMALL FARMERS and RESIDENTS need is yet another big agribusiness polluter in their midst. Our water quality is already abysmal, and this project will do NOTHING to improve or mitigate that and in fact, appears that it will add to current water pollution levels. Do we really need to bring in chicken waste from other states?

Please consider what are the implications on the use of our already stressed and increasingly clogged roads? And consider the safety issues surrounding the production and transfer of that gas through residential neighborhoods and on county roads and highways and reject this proposal.

Instead of approving this project, let's work to help smaller farmers implement sustainable farming operations that don't overwhelm with pollutants so we can all live and work on Delmarva safely.

Change is inevitable. But it can also be positive. And this BioDigester will not be a positive for those who live here. I therefore ask that approval for this project be denied.

Respectfully yours,

Elaine Petrowski  
19148 Alcott Way  
Georgetown, DE 19947

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** cathy.rash11@gmail.com@mg.gospringboard.io on behalf of Cathy Rash <cathy.rash11@gmail.com>  
**Sent:** Monday, February 8, 2021 11:59 PM  
**To:** Planning and Zoning  
**Subject:** We need to transition away from factory farms not add biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Cathy Rash

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** rshuffman=verizon.net@mg.gospringboard.io on behalf of Richard Huffman  
<rshuffman@verizon.net>  
**Sent:** Monday, February 8, 2021 11:05 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Richard Huffman

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** milagros.chiri@gmail.com@mg.gospringboard.io on behalf of Milagros Chiri-Zapata <milagros.chiri@gmail.com>  
**Sent:** Monday, February 8, 2021 10:59 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Milagros Chiri-Zapata

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** delmarsutton@gmail.com@mg.gospringboard.io on behalf of Delmar Sutton  
<delmarsutton@gmail.com>  
**Sent:** Monday, February 8, 2021 10:59 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Delmar Sutton

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** possumpointer@hotmail.com@mg.gospringboard.io on behalf of Jay Meyer  
<possumpointer@hotmail.com>  
**Sent:** Monday, February 8, 2021 10:56 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Jay Meyer

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Tuesday, February 9, 2021 4:31 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, February 9, 2021 - 4:31pm

Name: Brenda Kriegel  
Email address: brenkriegel@gmail.com  
Phone number: 3022272832  
Subject: mega-anaerobic Digester

Message:

Why would you even consider this is an Okay business to bring to this fragile coastal region? This mega-anaerobic digester will bring in waste from all over, in addition to the waste we produce here in Delaware, up to 200,000 tons of waste annually. Don't we already have law suites from our poultry industry. Want More? Isn't that just poor judgement? According to industry experts, it takes around 3,800 gallons of fresh water to digest 1 ton of dry poultry waste. That means this facility could require millions of gallons of fresh water to operate.

We are trying to figure out what to do with all the runoff in the region which will only get worse with climate change and our water table will no doubt rise.

The facility would then have to manage this water afterward as it is contaminated with extremely high levels of nitrogen and phosphorus. IT unclear how the facility will handle this waste stream and the contaminants contained within.

Certainly, spraying this water on local fields or injecting it into local wastewater management systems could be the tipping point for the already high levels of nitrogen pollution in the area that has led to many sources of water becoming unsafe and local waterways being destroyed.

There are many more industries or businesses you need to bring to this area to increase employment and tax revenue. WE do not need to be inviting any waste hazard industries to our already fragile coastal State.

PLEASE REJECT THIS BIOHAZARD PROPOSAL!

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** nancymlib=comcast.net@mg.gospringboard.io on behalf of Nancy Liberatore  
<nancymlib@comcast.net>  
**Sent:** Tuesday, February 9, 2021 11:25 AM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware must be denied.

This industrial gas production facility poses a danger to local residents, and would pollute the surrounding air and water. Additionally, using precious fresh water resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will lead also lead to highly soluble end-products, and will make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River. It also gobbles up fresh water resources.

Building this massive digester and gas production facility will disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. This explosive and dangerous gas facility will only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Nancy Liberatore

Opposition  
Exhibit





## Jamie Whitehouse

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Tuesday, February 9, 2021 5:06 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, February 9, 2021 - 5:05pm

Name: Mark Machala  
Email address: m\_machala@msn.com  
Phone number: 410-652-9060  
Subject: Conditional Use Permit #1962

Message: As a citizen of Sussex County I would like to express my opposition to the proposed BioGas Capture and Refining Facility. Clean drinking water is a precious commodity in Delaware as is evident by the monthly cost. Our highest utility bill each month is for water and sewage averaging \$145, over \$1,700 per year! Aggressive development is only further compounding the demand for clean water. The addition of a mega-anaerobic digester will only serve to tax our clean water supply and increase our costs which are already out of control!

Opposition  
Exhibit



## Jamie Whitehouse

---

**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Tuesday, February 9, 2021 5:15 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, February 9, 2021 - 5:14pm

Name: Janice Machala

Email address: janicemachala@gmail.com

Phone number: 443-903-9060

Subject: Conditional Use Permit #1962

Message: I am writing to object to the BioGas Facility that is proposed for Delaware. Having moved here over 4 years ago I am dismayed at the extremely high costs for water and sewage in Sussex County. A facility of this nature would require excessive amounts of water which would only serve to increase costs to homeowners. I ask that you oppose Permit #1962. Thank you!

Opposition  
Exhibit



## Russell Warrington

---

**From:** issywolf@gmail.com@mg.gospringboard.io on behalf of Isabel Wolfenbarger  
<issywolf@gmail.com>  
**Sent:** Tuesday, February 9, 2021 3:30 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

Bioenergy Development Group and Perdue Farm's proposal to construct a massive methane digester near Seaford, Delaware, must be denied.

This industrial gas production facility would pose a danger to local residents and would pollute the surrounding air and water. Additionally, using precious freshwater resources to liquify chicken litter to generate methane, as Bioenergy pushes for here, will also lead to highly soluble end products and make the pollution it contains more likely to pollute local waterways -- such as Gum Branch and the Nanticoke River.

Building this massive digester and gas production facility would disproportionately harm communities of color nearby. People living in these communities already bear a heavy burden associated with the air and water pollution, health impacts, and significant harms to quality of life caused by Perdue's factory farms. The proposed explosive and dangerous gas facility would only intensify these impacts.

Perdue's factory farms already pose a huge threat to public health and clean water in our region, but especially Sussex County. Permitting Bioenergy to profit off of their waste products is irresponsible and unconscionable.

Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farm waste. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Isabel Wolfenbarger

Opposition  
Exhibit





## Russell Warrington

---

**From:** petrowski.elaine@gmail.com@mg.gospringboard.io on behalf of Elaine Petrowski  
<petrowski.elaine@gmail.com>  
**Sent:** Tuesday, February 9, 2021 3:14 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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Sincerely,

Elaine Petrowski

Opposition  
Exhibit



## Russell Warrington

---

**From:** mollyjschafer@gmail.com@mg.gospringboard.io on behalf of Molly Schafer  
<mollyjschafer@gmail.com>  
**Sent:** Tuesday, February 9, 2021 1:18 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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Sussex County officials have a duty to protect residents from air and water pollution, not create a dumping ground for chicken factory farms. This gas facility would entrench the industry for decades so Perdue can make money off its manure mismanagement. I urge you to deny the conditional use application for Bioenergy.

Sincerely,

Molly Schafer

Opposition  
Exhibit





## Russell Warrington

---

**From:** dcuenergy@gmail.com@mg.gospringboard.io on behalf of Deborah Cuomo  
<dcuenergy@gmail.com>  
**Sent:** Tuesday, February 9, 2021 4:19 PM  
**To:** Planning and Zoning  
**Subject:** Chicken factory farm biogas

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Sussex County Planning and Zoning Commission and County Council,

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Sincerely,

Deborah Cuomo

Opposition  
Exhibit



Written Public Comments Regarding Bioenergy Development Group, LLC DevCo  
Submitted to Sussex County Delaware Planning and Zoning  
Deadline for written comments: Wednesday February 10, 2021  
Planning and Zoning Public Hearing: Thursday February 11, 2021

---

The following written comments were prepared for local community organizations in anticipation of submitting to Sussex County Delaware Planning and Zoning as part of the public record for the Public Hearing scheduled Thursday February 11, 2021. Documents reviewed in preparation of these comments include, but are not limited to, the Planning and Zoning agenda packets which contain the BioEnergy DevCo conditional use exhibit book, engineering plans and specifications, ordinances and prior conditional use permits related to the historical use of the property, and various application forms and supporting documentation.

The following Google Earth image shows the approximate footprint of the existing compost facility including the abandoned pellet facility area (long white building), the original triangular lagoon (green with algae), and the more recent addition of a massive outdoor composting area surrounded by an aerated stormwater lagoon system.



**Figure 1** – Google Earth image of existing compost facility (2021)



## 1. Compliance issues at the existing compost facility

**1a. Chromium VI in compost** as identified in DNREC Secretary's Order dated May 2019 identified issues related to compost sampling data and the presence of Chromium VI at concentrations up to 24 mg/kg when the acceptable concentration was 0.29 mg/kg (which is 82 times more than allowed by law).

Considering Chromium VI is a known carcinogen to humans, the bigger question is what was the source of Chromium VI at the composting facility?

Poultry feed may contain chromium picolinate, but that oxidative state of chromium is considered a micronutrient and is known as trivalent chromium or Chromium III<sup>1</sup>. A 2016 review published by the National Institute of Health states:

"Trivalent Cr is associated with the metabolism of carbohydrates, lipids, and proteins in animals termed as "glucose tolerance factor" since Cr regulates the metabolic action of insulin [11]."

The oxidative state of chromium VI or hexavalent chromium is highly toxic. The same 2016 review published by the National Institute of Health states:

"The hexavalent form of Cr has toxic effects on birds as it promotes the early aging process, reduces hatching ability and effects liver also [81]. It also causes malformation or fetal death and leads to neural deformities. It has damaging effects on DNA and leads to mutation. It affects the function of gastrointestinal microflora on chronic exposure to high dosages [82]."

Will the proposed biogas facility continue to accept raw materials that contain this highly toxic heavy metal? Where is the hexavalent chromium coming from? Why would the county allow a facility to accept any waste that contains a significant level of a highly toxic and known carcinogen without completely understanding the source? How much of the hexavalent chromium ends up in the triangular lagoon and potentially the ground water under the facility?

The 2019 Secretary's Order indicated that the facility operated by AgriRecycle, LLC was not candid in its reporting of heavy metals in the finished compost, specifically hexavalent chromium. So not only is a highly toxic heavy metal in the finished compost, but the amount was obscured by the operator enough to warrant fines and a compliance order by DNREC.

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<sup>1</sup> See NIH publication: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5234053/>



1b. The triangular shaped lagoon appears to be poorly maintained.



**Figure 2** – Google Earth image of compost facility triangular shaped lagoon (2021).



**Figure 3** – Google Earth image of compost facility triangular shaped lagoon (2005).





**Figure 4** – Google Earth closeup of vegetative growth throughout lagoon area (2021).

The presence of bright green algae indicates the liquid portion of the triangular lagoon has excess nutrients. What is the source of nutrients into this lagoon area? Is this runoff from compost piles and if so, where were they located? A search through the years on Google Earth did not show any compost piles until the more recent expansion to the south of the triangular lagoon.

The 2005 Google Earth image shows the floor of the triangular lagoon is not lined with plastic but appears to be native earth. Even if there was an earthen liner constructed in 2005, the condition of the floor of the lagoon has fallen into disrepair and there is considerable amount of vegetation growth within it – which would destroy any efficacy of a liner to prevent groundwater pollution.

Does Sussex County know whether the existing facility has contributed to groundwater contamination? During the review of the proposed biogas facility, has the county requested information from DNREC about the concentration of nitrates, total dissolved solids, volatile organic compounds, and heavy metals in the groundwater under the compost facility? Considering the widespread issue of nitrate contaminated groundwater in Sussex County, the County needs to be hyperaware and vigilant when any new or existing source comes under review. *The community needs to know who is monitoring the groundwater under this facility and what the data says.*



## 2. Public Safety issues

**2a. Truck traffic and lack of a traffic study related to increased trucks** – It appears that both the applicant and the Delaware Department of Transportation has failed to provide satisfactory information about the potential truck traffic expected during the operation of the proposed biogas facility and how that truck traffic could impair roads. Rather than analyze the impacts to roads from increased truck traffic, attention has been placed on vehicle traffic. Vehicle traffic refers to automobiles, not heavy industrial trucks that carry significantly more weight than that of a normal automobile.

The January 16, 2020 letter from Delaware Department of Transportation (DelDOT) includes this statement in their review of the proposed biogas facility<sup>2</sup>:

“Our [DelDOT] volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site’s trip generation with enough accuracy to make a TIS useful.”

It appears that DelDOT did not address adverse road impacts resulting from an increase in truck traffic to and from the proposed biogas facility. Community members are concerned about increased truck traffic because it can damage roads, create unsafe driving conditions in the neighborhood, and incur new costs of repair to the county. How will Sussex County protect the quality of roads from the increase in truck traffic?

Truck traffic impacts are different than vehicle traffic as explained in this 2014 Journal of Infrastructure Systems article<sup>3</sup>:

“Damage to roads is affected by many factors, including truck weight and type, traffic patterns, construction material, drainage, and environmental conditions (Federal Highway Administration, 2000). A common approach for understanding the effects of weight loads on roadway pavement is to express all loads as equivalent single axle loads (ESAL), which represents a single axle load of 18,000 pounds (Pennsylvania Department of Transportation, 2010). The American Association of State Highway and Transportation Officials (AASHTO) has developed standard equations for estimating ESALS based on number of

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<sup>2</sup> See pages 9-10 in Sussex County Planning and Zoning Packet 7 (158 pages total)

<https://sussexcountyde.gov/agendas-minutes/planning-&-zoning-commission>

<sup>3</sup> See Estimating The Consumptive Use Costs of Shale Natural Gas Extraction on Pennsylvania Roadways: <http://ascelibrary.org/doi/abs/10.1061/%28ASCE%29IS.1943-555X.0000203>



axles, load weight, and pavement characteristics. A generally accepted approximation for the calculation of ESALs is the generalized fourth power law, which states that the damage caused by a particular load is roughly related to the load per axle by a power of four (AASHTO, 1993). Though previously challenged by scholars, it remains the most common approach and has proven to be fairly robust from a policy perspective (Johnsson, 2004). Examples for uses of this approximation to estimate road damage include Sathaye et al. (2010) and Belcheff and Associates (2010)."

And this:

"For different roadway types, vehicle weights, and axle combinations, the load equivalency factor (LEF) is the roadway damage caused by a single pass of each vehicle relative to the damage per single pass of an ESAL. The damage increases exponentially with vehicle weight. For example, on flexible pavement, a LEF for a roadway pass of a 3,000-pound single axle is 0.0011, the LEF for an 18,000-pound single axle is 1.0, and the LEF for a 30,000-pound single axle is 8.28 (Federal Highway Administration, 2011). This means that 18,000 pound and 30,000-pound single axle passes do about 900 times and 7,500 times more damage than a 3,000-pound single axle pass, respectively."

The applicant provides scant information about the expected truck traffic. In their document titled "BioEnergy DevCo Conditional Use Exhibit Book" submitted on February 2, 2021<sup>4</sup>. The exhibit book appears in both Packet #1 and Packet #7 with repetitive pages 5 through 10. In Packet #1, the exhibit book appears at pdf pages 323-345 and in Packet #7, the exhibit book appears at pdf pages 44-66.

The Exhibit Book page 12 correlates to pdf page 62 of 158 in Packet #7. On that page, there is a paragraph discussing truck traffic as follows:

"All incoming truck traffic will access the site from Seaford Road and turn onto Enviro Way. All Trucks leaving the site will use Enviro Way and turn onto Seaford Road. A separate administrative entrance is planned to be constructed to allow access to the site from Oneals Road. This administrative entrance will be used by all visitors and employees, and thus limit the Seaford Road entrance to commercial truck traffic. BDC anticipates approximately forty (40) trucks per day of organic feedstock material delivered to the Site for both the anaerobic digester and the composting facility. It is anticipated another five (5) trucks per day will move finished digestate solids and/or compost. Total vehicle trips per day are expected at less than 200 and therefore a traffic impact analysis was not required by DelDOT. A permit for entrance construction has been issued by DelDOT."

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<sup>4</sup> See pages 44-68 Planning and Zoning hearing Packet #7 (158 pages total)

<https://sussexcountyde.gov/agendas-minutes/planning-&-zoning-commission>



The residents who live in the surrounding community are not satisfied with such a vague representation of how truck traffic will change with the operation of the proposed biogas facility. For example, there is no reference to the current truck traffic numbers nor any discussion of the expected increase from that number.

The author of the Exhibit Book seems to equate the impact of trucks to that of automobiles when quoting the DelDOT trigger of < 200 vehicles per day used to determine if a traffic impact study is required.

The Sussex County/Delaware Department of Transportation MEMORANDUM OF UNDERSTANDING FOR LAND DEVELOPMENT COORDINATION<sup>5</sup> defines traffic analysis and impact studies as follows:

“PRELIMINARY TRAFFIC ANALYSIS – A request made by Sussex County Planning and Zoning Department for an evaluation by DelDOT, in terms of the proposed trip generation, to determine the Traffic Impact with regard to a proposed land use approval.

TRAFFIC IMPACTS:

DIMINUTIVE - The proposed land use is expected to increase the trip generation of the subject land by fewer than 50 vehicle trips per day.

NEGLIGIBLE - The proposed land use is expected to increase the trip generation of the subject land by fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day.

MINOR - The proposed land use is expected to increase the trip generation of the subject land by at least 50 vehicle trips in any hour but fewer than 200 vehicle trips in any hour or at least 500 vehicle trips per day, but fewer than 2,000 vehicle trips per day.

MAJOR - The proposed land use is expected to increase the trip generation of the subject land by more than 200 vehicle trips in any hour or more than 2,000 vehicle trips per day.

TRAFFIC IMPACT STUDY (TIS) – A study conducted during the development approval process, in accordance with applicable DelDOT regulations, to determine the impacts that traffic generated by the proposed development will have on the surrounding street network and the improvements needed to the transportation system in order to mitigate those impacts.”

When reading this Memorandum, it seems clear that the focus is more on increased automobile traffic associated with housing subdivisions or commercial venues, rather than the impacts to traffic and roads due to heavy commercial trucks. If it were, there

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<sup>5</sup> See documents at: <https://sussexcountyde.gov/sussex-county-deldot-initiatives>

would be mention of the equivalency between an automobile and a truck that considers weight and number of axles as described in the Journal of Infrastructure Systems mentioned earlier in these public comments.

If we look at the trucks used to bring poultry litter to the facility, a typical poultry litter truck would carry 25 tons of litter (50,000 pounds plus the weight of the truck). The current composting operation processes 30,000 tons per year. Assuming the entire 30,000 tons per year is poultry litter then 30,000 tons per year divided by 25 tons per truck would be 1200 trucks per year or about 5 trucks per day.

The proposed facility would increase truck traffic from 5 trucks per day to 40 trucks per day. If those 40 trucks per day only contained poultry litter, then one would expect an estimate of 40 trucks x 25 tons per truck = 1000 tons per day poultry litter. Assuming operations of 5 days per week, 52 weeks per year – there would be 5000 tons per week and 260,000 tons per year of just poultry litter.

The biogas facility intends on processing DAF and other poultry processing wastewaters and it is unclear in the application how many truckloads of that waste will be part of the 40 trucks per day.

Considering a 30,000-pound single axle truck causes 7500 times more damage than a 3000-pound automobile, the County and the State should definitely try to assess the damage associated with poultry litter trucks carrying 50,000 pounds of litter plus the weight of the truck.

The community is concerned that the County has not required the applicant to provide a more detailed list of type of truck, number axles, weight, contents carried (litter, DAF waste, soybean waste, and other poultry processing waste).

Truck traffic related to natural gas transportation was mentioned in a Bioenergy Innovation Center Discovery Day video. The BioEnergy Innovative Center representative stated that the methane would be trucked from the facility.<sup>6</sup> The County needs to ask DelDOT if they were aware of the use of trucks to transport methane gas from the facility when they wrote their letter on January 16, 2020.

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<sup>6</sup> See video at: <https://www.bioenergyic.com/discovery-day>



## 2b. Explosive potential of digesters

The applicant professes a spotless record with respect to explosions at any of their 225 plants worldwide<sup>7</sup>. However, the applicant does not provide the names and locations of any of the facilities so that one might research the truthfulness of that statement.

Explosions can occur at biodigester projects<sup>8</sup>, such as this biodigester associated with a dairy farm in Wisconsin:

“A 1.25-million gallon manure digester near Waunakee won’t resume operations until authorities determine the cause of an explosion and fire that destroyed its outer roof early Wednesday, sending up a plume of smoke visible for miles.

The blast was the latest in a series of problems at the Clear Horizons LLC biodigester, which generates electricity by burning methane that bubbles out of farm manure.

The explosion and fire destroyed a \$250,000 nylon inflatable cover over one of the three digesters on the site, said Dane County Sheriff’s Office spokeswoman Elise Schaffer. No injuries were reported. Crews from Waunakee, Dane and DeForest fire departments responded.

Employees had emptied the digester so they could clear material that was blocking flow to an underground pipe, and on Wednesday were preparing to remove water that had accumulated between the outer cover and an inner roof below it, said Jim Ditter, chief executive officer for PPC Partners Inc., which owns Clear Horizons.

The explosion and fire happened as an employee on the ground started an electric blower, leading to speculation that it somehow ignited methane gas, Ditter said. He said the digester will remain out of commission until officials are sure it’s safe to operate.”

Another example of a biodigester explosion can be found in this article about a manure digester in Oregon that had a failure in headspace cap<sup>9</sup> on their digester:

“Revolution Energy Solutions (RES), the company that owns and operates the digester. “We know what component failed, but we don’t know exactly what the ignition source was. What we believe it to have been was static electricity.”

RES worked with Bielenberg [Oak Lea Farms] over the past two years to commission the low-temperature anaerobic digester that processes up to 30,000

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<sup>7</sup> See pdf page 63 of 158 Packet #7 or page 13 of the BioEnergy DevCo Conditional Use Exhibit Book

<sup>8</sup> See news article at: [https://madison.com/wsj/news/local/environment/blast-destroys-roof-of-troubled-biodigester-near-waunakee/article\\_4e5a7c0a-3a39-5b90-a225-b99dabfd37d1.html](https://madison.com/wsj/news/local/environment/blast-destroys-roof-of-troubled-biodigester-near-waunakee/article_4e5a7c0a-3a39-5b90-a225-b99dabfd37d1.html)

<sup>9</sup> See [https://www.tpomag.com/online\\_exclusives/2013/03/epdm\\_failure\\_causes\\_anaerobic\\_digester\\_explosion](https://www.tpomag.com/online_exclusives/2013/03/epdm_failure_causes_anaerobic_digester_explosion)



gallons of manure per day to create methane gas, which fuels generators and produces electricity.

RES uses an EPDM (ethylene propylene diene monomer rubber) inflatable membrane material for headspace gas storage on the tanks. "We accumulate the biogas there and then we pull it off of that headspace to consume it in the engine. For whatever reason, that EPDM failed. When the EPDM failed, the biogas that had accumulated escaped.

"The gas that was in that headspace combusted rather than going down the gas train to the engine or any other location. During that process, you have to have the exact combination of ambient air and methane for it to be combustible. It came in contact with some ignition source."

The information provided in the Exhibit Book under the heading "gas and safety" is vague, without detail, and provides no information on what parts of the design have explosive risk, what that risk is and how the operation of the facility will monitor and prevent mishap. For example, they say the 'anaerobic process is a completely enclosed process' as if that means something about safety. Of course, anaerobic digesters are completely enclosed – that is how they work – they work without undue influence of air. It is the very nature of being enclosed and generating methane gas that makes a digester an explosive hazard.

Rather than rely upon a glossy brochure presentation, the county should insist on more details. The community wants to know details related to radius of impact should an explosion occur and what types of pressure gauges, alarms, and evacuation plans would be used at the facility. The County must insist on a detailed Fire Protection Plan and Explosive Risk Evacuation Plan. The community needs to know how much risk the facility poses and how the facility and the County are going to protect the families who live and work in close proximity.

The applicant claims it will 'comply with all required safety and emission standards' yet does not provide even a citation of what safety standards they are referring to and how those standards will protect from explosion or release of toxic gases from the digesters or even the gas pretreatment processes and pre-market gas pipeline.

The applicant asserts that have extensive experience with biodigesters worldwide, so they should be familiar with explosive hazard requirements in Europe. An assessment of biogas potential hazards published in the 2012 International Journal of Engineering provides this commentary about hazard zones<sup>10</sup>:

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<sup>10</sup> See journal article: <http://annals.fih.upt.ro/pdf-full/2012/ANNALS-2012-2-03.pdf>

"European Directives for controlling explosive atmospheres is named ATEX. ATEX contain two directives (Health & Safety Executive, 2010): 1) Directive 99/92/EC (also known as 'ATEX 137' or the 'ATEX Workplace Directive') on minimum requirements for improving the health and safety protection of workers potentially at risk from explosive atmospheres. 2) Directive 94/9/EC (also known as 'ATEX 95' or 'the ATEX Equipment Directive') on the approximation of the laws of Members States concerning equipment and protective systems intended for use in potentially explosive atmospheres.

Spaces with risk of explosion are graded in zones according to the probability of the occurrence of a dangerous explosive atmosphere. If a dangerous explosive atmosphere can occur in a space, the entire space is to be regarded as highly explosive (Figure 2).

Zone 0 covers spaces with a constant, long-term, or frequent (most of the time) dangerous explosive atmosphere which consists of a mixture of air and gases, vapors, or mists.

In biogas plants, the gasholder, the air intake of the combustion engine, the combustion chamber of the gas flare, and under special operating conditions the bioreactor itself belong to zone 0. A special operating condition is given when air enters the interior of the bioreactor. Under normal operation conditions, a small positive pressure prevents the penetration of air into the bioreactor."

At the very least, the County should require a map of the proposed digester area that shows various explosive hazard risk zones within the proposed facility and indicate the exact procedures and equipment used to monitor the area with respect to gas leaks, gas pressure changes, and alarms. The County should require more than a vague paragraph from the applicant when it comes to discussing methods of public safety.

The County should require the applicant to identify all residential areas within one mile of the facility and provide a Community Protection Plan that details how the people will be informed should an accident occur at the biogas digester and the gas treatment area used to clean the biogas prior to sale to Chesapeake Utilities.

## **2c. Natural Gas line infrastructure**

The entire premise of this proposed biogas facility is to produce methane that can be sold into a market gas pipeline. However, the application narrative does not adequately describe how and where the gas will be transported within the facility, where it will be scrubbed of impure gases and moisture, and where it will be compressed to meet the pressure demand of the market gas pipeline. In Packet #1 (pdf page 290 of 350), the



Duffield Associates cover letter to the Preliminary Site Plan dated April 10, 2020 includes this statement about 'injecting on-site into the natural gas pipeline' as follows:

"Using the former pelletizing plant and its existing operations building as well as surrounding supportive infrastructure, BDG is developing a poultry industry centric anaerobic digester (AD) which will process up to 200,000 metric tons per year of poultry DAF and additional poultry industry waste (generated by Perdue and other industry companies). The AD will produce approximately 430,000 MMBtus per year of clean, renewable natural gas (RNG). The RNG will be sold and injected on-site into the natural gas pipeline distribution system displacing an equal amount of fossil fuel derived natural gas. Chesapeake Utilities Corporation is currently envisioned as BDG's partner regarding RNG."

In the Discovery Day videos produced by Bioenergy Innovation Center, there is one video that discusses the site plan of the facility and at minute mark 0:51 it states that the biogas from the digesters will be directed to 'biogas conditioning skids' located north of the four digester tanks. The BTS technician explains in the video that the methane will be separated from the carbon dioxide and says the methane 'will be the renewable natural gas that can be trucked and taken off-site.'<sup>11</sup> It should be noted that the trucks associated with transporting methane gas were not mentioned in any of the truck traffic discussions. The video fails to address what will happen to the CO<sub>2</sub> that is removed from the biogas stream at the 'biogas conditioning skids'.

**The application does not include a letter of commitment from Chesapeake Utilities detailing how and where they will clean the gas, truck the gas, and/or inject the gas into a market pipeline.**

The County must require a Tank Plan for all the flammable and/or combustible liquids and gases that would be stored at the proposed facility. According to the Delaware State Fire Marshall website<sup>12</sup>:

"A [Tank Plan Submittal](#) is required for all flammable and/or combustible liquids and/or gas installations, such as fuel dispensing, aboveground tanks, and propane. The installation is reviewed for compliance with Delaware State Fire Prevention Regulations and National Fire Protection Association, such as distances to property lines and secondary containment. A final inspection may be required prior to use."

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<sup>11</sup> See Anaerobic Digestion Plan video at: <https://www.bioenergyic.com/discovery-day>

<sup>12</sup> See website: <https://statefiremarshal.delaware.gov/technical-services/plan-review/>

### 3. Environmental issues

**3a. Wastewater pretreatment** is proposed in the BioEnergy DevCo Conditional Use Exhibit Book (Packet #7 pdf page 64 of 158) on page 14 where it asserts:

"The wastewater treatment program consists of two equally sized systems, when fully built out, they are each designed to treat approximately 140,000 gallons per day. The wastewater passes through a mix tank and into an anoxic reactor via screening and micro-screening to remove particulate or suspended solids. After the anoxic reactor, the wastewater passes through two aerobic reactor tanks in parallel where antifoam sprayers are used as needed and then is stored in the ultrafiltration feed tank for a short duration.

From the UF feed tank, the liquid is pumped into and treated by an ultrafiltration unit followed by treatment with a reverse osmosis unit. The wastewater is then cooled and stored for discharge to Sussex County via a forced main connection from the plant to the Sussex County wastewater system. The total discharge to Sussex County is estimated to be 60,000 gallons per day when plant is fully built out. The wastewater makeup while being finalized will readily meet all county standards and we are currently in discussions with Sussex County about becoming a customer and utilizing a County facility for discharge."

There are numerous problems with this description provided in the Exhibit Book. One of the most troubling problems is the vague reference to a Sussex County sewer and/or wastewater system that could receive the treated wastewater. If a forced main is located near the facility, why not identify it specifically in the narrative?

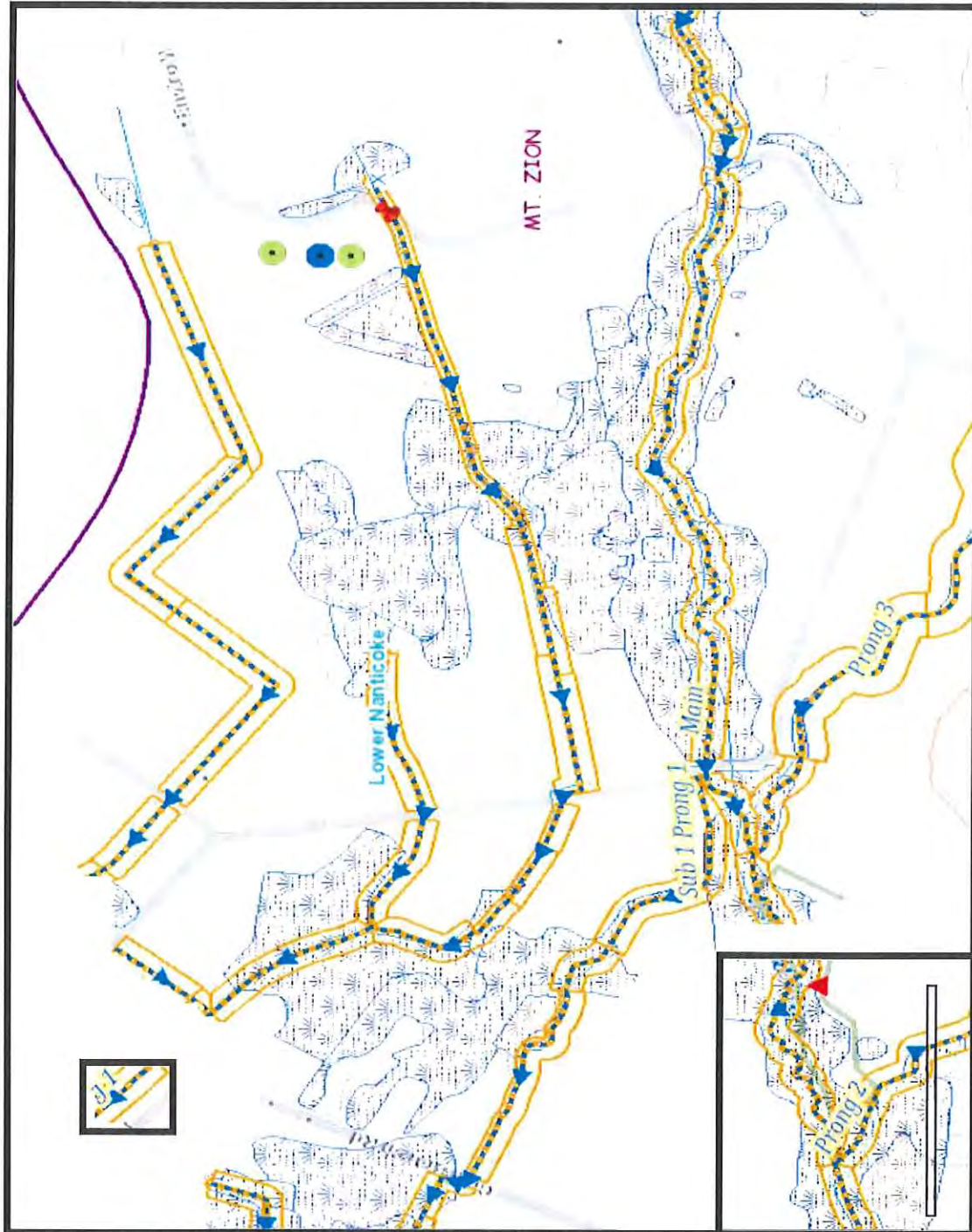
The applicant does not provide any correspondence between BDG, LLC and Sussex County that could confirm the pursuit of disposal by publicly owned sanitary sewer and treatment plant. Not knowing where or how this wastewater is going to be disposed of is of great concern to the community. If you assume operation of 5 days per week and 52 weeks per year, the 60,000 gallons per day would be 15,600,000 gallons of wastewater annually. At the final throughput of 140,000 gallons per day, that would equal 36,400,000 gallons of wastewater per year unaccounted for in the proposal.

The second problem is that the description refers to meeting all 'county standards' when actually an industrial discharge to a sanitary sewer would need to meet all state and federal pretreatment standards so that the 'county wastewater system' doesn't violate its own wastewater discharge permit limitations. Other concerns relate to the absence of information about the additional sanitary wastewater generated by the new



employees. The current compost facility utilizes on-site sanitation for about a dozen employees, but the proposed facility claims to add another 40 employees (and thus the additional sanitary wastewater).

### 3b. Proximity to Gum Branch tax ditch

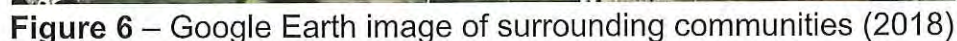


**Figure 5** – Wetland Map showing location of Prong and Sub-Prong portions of Gum Branch Tax Ditch



Using USEPA's EJScreen mapping tool, we identified the demographic indicators within a 2-mile radius of the proposed biogas facility. Within that distance, 41 percent of population is minority, 44 percent are low income, 4 percent are linguistically isolated, 18 percent have less than high school education, 9 percent are less than five years of age, and 15 percent are over 64 years of age.<sup>13</sup>

**To whom can these communities turn for relief from not only the air and water pollution that already exists, but from any future sources of pollution?**



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**Figure 7** – Google Earth image Distance to homes and public places north of facility.



**Figure 8** – Google Earth image Residential area half mile northeast of the facility.





**Figure 9** - Google Earth image Homes on Johnsson Road half-mile north of facility.



**Figure 10** – Google Earth image Homes on Road 487 half-mile west of facility.





**Figure 11** – Google Earth image Residential and Public Places northwest of facility.



**Figure 12** – Google Earth image Residential areas with 1.5 miles north of facility.





**Figure 13** – Google Earth image Residential areas within 1.5 miles southeast of facility.



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

U.S. AGRISOIL, LLC and THE  
ENVIRONMENTAL DEVELOPERS  
GROUP, LLC,

Plaintiffs,

v.

SHAWN KRELOFF, BTS BIOENERGY, LLC,  
BIOENERGY DEVELOPMENT GROUP,  
LLC, BIOENERGY DEVCO, LLC, BTS  
BIOGAS, LLC, NEWLIGHT PARTNERS LP  
and SAGEWIND CAPITAL LLC,

Defendants.

Opposition  
Exhibit

C.A. No. 1:20-cv-02454

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiffs U.S. Agrisoil, LLC (“USAG”) and The Environmental Developers Group, LLC (“EDG”) (collectively, “Plaintiffs”), by and through their undersigned counsel, bring this Complaint against Shawn Kreloff (“Kreloff”), BTS Bioenergy, LLC (“BTS”), Bioenergy Development Group, LLC (“BDG”), Bioenergy Devco, LLC (“Bioenergy Devco”), BTS Biogas, LLC (“BTS Biogas”), Newlight Partners LP (“Newlight”) and Sagewind Capital LLC (“Sagewind”) (collectively, “Defendants”). In support of their Complaint, Plaintiffs allege the following:

**Nature of the Action**

1. Not having any prior relationships, contacts or expertise in the Delmarva Peninsula’s poultry industry, Defendants sought Plaintiffs out. With the promise of mutual revenue sharing and other compensation, both Plaintiffs and Defendants worked together to develop a profitable composting and anaerobic digestion enterprise spanning several separate projects. Unbeknownst to Plaintiffs at the time, Defendants hedged their promises and contractual



commitments through the use of false statements and shell entities that were never separately operated nor maintained. Once the venture capital Defendants understood what was at stake, all the Defendants worked to rid themselves of the compensation and revenue override Plaintiffs were owed. When Defendants thought they had exhausted Plaintiffs' usefulness, they discarded Plaintiffs after almost two years of working hand-in-hand. Rather than honor the terms of their agreement or the promises made, Defendants took for themselves a multi-million dollar relationship that will last decades into the future. Through this proceeding, Plaintiffs seek compensation for Defendants' improper and unlawful conduct.

### **Parties**

2. USAG is a limited liability company organized and existing under the laws of the State of Delaware. USAG's member is a citizen of the State of Delaware.

3. EDG is a limited liability company organized and existing under the laws of the State of Rhode Island. EDG's members are citizens of the State of Rhode Island.

4. Upon information and belief, Kreloff is a citizen of either the State of Connecticut, the State of Maryland or the State of New York. Kreloff is a principal of and part (if not entire) owner of the various bioenergy/biogas entity defendants to this litigation.

5. BTS is a limited liability company that was organized and existed under the laws of the State of Maryland. BTS was never registered to do business in Delaware. In May 2019, Kreloff directed that BTS be dissolved a mere three days after he improperly believed BTS was freed from its contractual obligations to Plaintiffs. The attempted dissolution was improper and an unlawful effort to defraud Plaintiffs of amounts owed to them. Kreloff was the BTS member designated to windup BTS' affairs.



6. BDG is a limited liability company organized and existing under the laws of the State of Delaware – first being formed on October 8, 2018. In its registration with the Maryland Secretary of State, BDG represented that it had not done business in Maryland prior to April 9, 2019. As of the date of this filing, BDG is not a business in good standing in Maryland because it failed to file an annual report.

7. Bioenergy Devco is a limited liability company organized and existing under the laws of the State of Delaware – first being formed on October 8, 2018. In its registration with the Maryland Secretary of State, Bioenergy Devco represented that it had not done business in Maryland prior to June 12, 2020.

8. BTS Biogas is a limited liability company organized and existing under the laws of the State of Maryland – first being registered in November 2017. It is the United States company for BTS Biogas SRL/GMBH – a company organized and existing under the laws of Italy. In its registration with the Maryland Secretary of State, BTS Biogas represented that it had not done business in Maryland prior to November 20, 2017. As of the date of this filing, BTS Biogas is not a business in good standing in Maryland because it failed to file an annual report.

9. Newlight is a limited partnership organized and existing under the laws of the State of Delaware.

10. Sagewind is a limited liability company organized and existing under the laws of the State of Delaware.

11. Upon information and belief, the members and partners of the entity defendants are not citizens of either Delaware or Rhode Island.

**Jurisdiction and Venue**

12. Pursuant to 28 U.S.C. § 1332, jurisdiction is proper in this Court because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.

13. Pursuant to 28 U.S.C. § 1391, venue is proper in this judicial district because a substantial part of the events or omissions giving rise to the claim occurred in this district.

**Facts**

**A. Plaintiff's Years of Experience and Contacts within the Industry**

14. Charlie Gifford ("Gifford") is a principal for EDG, and Gifford and EDG are agents for USAG. Gifford is a trusted veteran in the waste composting industry. Beginning in 1995, Gifford spearheaded the creation of a cutting-edge recycling and composting facility in Nantucket, Massachusetts. The Nantucket facility was one of the first facilities to compost organic waste on a large scale.

15. In 1997, Gifford's son Chuck joined him at the Nantucket facility, learning the processes and operations of a cutting-edge, highly efficient waste composting facility.

16. In 2010, Gifford started to lend his expertise to a start-up composting facility in Wilmington, Delaware. The Wilmington composting facility was designed and permitted to handle a large-scale organic composting capacity.

**B. Plaintiffs Develop a Profitable Relationship with Perdue**

17. In 2010, while working at the Wilmington composting facility, Gifford first met Randy Day. At that time, Day was the Senior Vice President in charge of business development for Perdue AgriBusiness, Inc. Since that time, Day has been very successful and is currently Perdue Farm's Chief Executive Officer.



18. Day was working to further Perdue's commitment to environmentally sustainable methods of waste disposal from its facilities. Through that effort, he naturally gravitated toward Gifford when they first met at the Wilmington facility.

19. Because the Wilmington facility was still working to become fully operational at the time, and because it would use some of the same equipment and processes that Gifford helped create in Nantucket, both Day and Gifford agreed to tour the organic composting capabilities already underway in Nantucket.

20. Day liked what he saw in Nantucket and both he and Gifford agreed that there was a viable model for composting organic waste from Perdue's operations. Composting provided an environmentally sustainable alternative (albeit more expensive) to other methods Perdue used to handle organic waste from its facilities.

21. Thereafter, Perdue and Day set about to issue a Request for Proposal in 2011 to develop, build and operate an organic composting facility that would meet Perdue's specific needs.

22. Gifford worked with the Wilmington facility to submit a proposal to Perdue.

23. Based in large part on Gifford's expertise, the Wilmington facility was awarded the opportunity to develop, build and operate an organic composting facility for Perdue.

24. At about the same time, the Wilmington facility underwent some organizational changes. Gifford's other partners wanted to focus on organic wastes, including restaurants, supermarkets and other large-scale food producers, while Gifford saw the opportunities presented by single stream agricultural organic waste recycling.

25. As a result, Gifford was able to separate from his partners in the Wilmington facility and in exchange was given the exclusive right to pursue the development, construction and operations of organic composting facilities for Perdue.

26. Beginning in 2012 and continuing for several years, Gifford and USAG worked with Perdue to develop and build an organic composting facility in Seaford, Delaware.

27. In 2016, Day directed that the Seaford facility be constructed and that USAG (and its affiliate) would oversee its construction and manage the facility's operations once completed. USAG (through its affiliate) owned a 30% interest in the Seaford facility.<sup>1</sup>

28. Once the Seaford facility was operational in December 2016, USAG received a \$50,000 per month fee to manage the Seaford facility. From that time until early 2020, Gifford, his son Chuck and his son-in-law Jason Pease were actively involved in the management, operation and product sales of the Seaford facility. In addition to being a partner, Perdue was Plaintiffs' customer.

29. Over their ten years of working together, Day came to trust and rely upon Gifford for his knowledge and expertise in organic composting and the Gifford family's experience with building and managing large-scale organic composting facilities.

**C. Kreloff is Introduced to Gifford as the Person who has Connections with Perdue**

30. Kreloff described himself as having "a 30-year history of successful entrepreneurial ventures and investments" and having "participated in the founding, operating, financing and advisory of over 25 different companies." <https://bioenergydevco.com/leadership-team/> (last visited August 18, 2020).

31. Kreloff advertised that his "investment thesis for [Bioenergy Devco] is to marry BTS's [BTS Biogas from Italy] proven anaerobic digestion technology with plant financing,

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<sup>1</sup> On or about January 27, 2017, Perdue (through its affiliate) purchased the USAG affiliate's 30% interest in the Seaford facility, and the USAG affiliate retained certain rights to payments based on product sales.



engineering, project development, and to guarantee energy yields and plant performance. The last part of the thesis is to bring this solution to the United States and the rest of the world.” *Id.*

32. The first hurdle for Kreloff and his investment thesis was getting to know the right people. Kreloff first engaged Nelson Widell as a consultant to identify potential opportunities.

33. Widell had worked with Gifford at the Wilmington facility and knew of Gifford’s successful relationship with Perdue and Day. As a result, Widell first introduced Kreloff to Gifford.

34. On March 5, 2018, Gifford, Kreloff and Widell had their first call to discuss how Kreloff and his companies could work with Gifford. Interested in establishing anaerobic digestion operations in the United States, Kreloff worked with Gifford to leverage the relationships Gifford had with Perdue and other poultry companies.

35. Before this time, Kreloff had no prior contacts or relationships with either Perdue or Day.

36. On May 3, 2018, Gifford, Chuck Gifford, Kreloff and Widell met in person in Georgetown, Delaware to discuss Gifford’s work with Perdue and how the relationship between Kreloff and his companies would work with Gifford and the companies with which he was involved.

37. During a follow-up call on May 9, 2018, Gifford and Kreloff further discussed a potential consulting agreement between the two parties and that Perdue’s Accomac, Virginia facility was a prime target for application of anaerobic digestion technology.

**D. Defendants Contract with Plaintiffs to Mutually Profit from Plaintiffs' Industry Experience and Contacts**

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38. At the same time Kreloff and Gifford were framing the expectations of their relationship moving forward, Kreloff had his attorney, Aaron Greenfield, draft a Consulting Agreement.

39. While effective as of May 1, 2018, Kreloff and Gifford executed the Consulting Agreement on May 31, 2018.

40. The company Kreloff chose to shoulder his obligations under the Consulting Agreement was BTS.

41. While the Consulting Agreement was effective as of May 1, 2018, Greenfield had not formed BTS until May 22, 2018.

42. While backdating a contract to a time when the contracting company did not exist is troubling, Plaintiffs later discovered that Kreloff engaged in a pattern of unlawful corporate structuring in an effort to defraud them.

43. Kreloff previously incorporated Gotham Heavy Industries, Inc. in Delaware on January 19, 2016 and registered it as a corporation in Maryland on November 15, 2016. Thereafter, Gotham registered BTS Bioenergy, Inc. (not BTS Bioenergy, LLC) as a tradename in Maryland on September 14, 2017.

44. If Kreloff intended to act in good faith toward Plaintiffs, he could have utilized either Gotham, BTS Bioenergy, Inc. (versus BTS Bioenergy, LLC) or BTS Biogas as the contracting party to the Consulting Agreement. Instead, Kreloff (through the use of his legal counsel) purposefully chose to create and use BTS as the shell contracting party. Upon information and belief, Kreloff failed to observe corporate formalities for BTS – BTS did not have an operating agreement, bank account or operations separate from Kreloff or his other companies.



45. Despite manifest representations to the contrary, Kreloff never intended to honor BTS' obligations under the Consulting Agreement.

46. Notwithstanding this fraud, the express terms of the Consulting Agreement are clear. BTS' successors and assigns are liable for the compensation owed Plaintiffs.

47. The Consulting Agreement identifies that EDG was BTS' "exclusive business development provider for Perdue Farms within the United States and all other poultry companies located on the Delmarva Peninsula . . . ." (Exhibit A at ¶ 1(c)).

48. In addition, the parties agreed that EDG "will serve as [BTS'] sole provider for anaerobic digestion for Perdue Farms and for all poultry companies located in the Delmarva Peninsula." (*Id.*). Through this provision, Kreloff and BTS locked-up Gifford and EDG from working with anyone else.

49. The initial period of performance under the Consulting Agreement was May 1, 2018 through April 30, 2019.

50. As payment for the services rendered, BTS agreed to three separate fees. First was a Monthly Fee of \$6,000 that was to be paid each month from May 2018 through at least October 2018. (Exhibit A at ¶ 6(a)). The Monthly Fee could be continued upon the parties' written agreement.

51. BTS never paid the Monthly Fee. Instead, the fee was initially paid by Virtual Equity Partners LLC – an investment company affiliated with Kreloff. Thereafter, the Monthly Fee was paid by BDG. In hindsight, this is further evidence of Kreloff employing BTS as a shell company.

52. The next fee payable under the Consulting Agreement was a Developer Fee. BTS agreed to pay EDG two percent (2%) of BTS' expended capital costs for projects it constructed on

property secured by EDG and provided by Perdue Farms in the United States or another poultry company on the Delmarva Peninsula. (Exhibit A at ¶ 6(b)). This fee was payable even after any termination of the Consulting Agreement if the Parties agreed in writing that EDG's efforts resulted in the given project.

53. The last fee payable under the Consulting Agreement was a Tipping Fee. BTS agreed that it would pay EDG the following:

[T]wo dollars (\$2) per ton for every ton of organic waste collected and delivered by Perdue Farms in the United States or all other poultry companies located on the Delmarva Peninsula to [BTS'] facilities. In addition, based upon a standard tipping fee of fifty five dollars (\$55) per ton, [BTS] will pay [EDG] twenty five percent (25%) of any tipping fee it can secure over and above the standard tipping fee of fifty five dollars (\$55) per ton.

(Exhibit A at ¶ 6(c)). This fee was payable even after any termination of the Consulting Agreement if the Parties agreed in writing that EDG's efforts resulted in the given project.

54. In order to protect the value of the relationships it had with Perdue, EDG insisted on the non-circumvention and non-solicitation provisions contained in the Consulting Agreement.

55. Specifically, BTS agreed and warranted that neither it nor its affiliates would circumvent or attempt to circumvent EDG's relationship and contacts with Perdue. (Exhibit A at ¶ 11).

56. BTS also agreed that for a period of twelve (12) months after any termination of the Consulting Agreement it would not "directly or indirectly, solicit or attempt to solicit any business from any of the other Party's Customers, Customer Prospects or Vendors with whom either Party had Material Contact during the term of this Agreement." (Exhibit A at ¶ 12).

57. In order to protect against business entity gamesmanship, the parties expressly agreed that the Consulting Agreement "shall inure to the benefit of, and be binding upon, the Parties and their respective successors and assigns, whether or not any such person shall have



become a Party to this Agreement and have agreed in writing to join herein and be bound by the terms and conditions hereof.” (Exhibit A at ¶ 13) (emphasis added).

58. BDG<sup>2</sup> and Bioenergy Devco are BTS successors or assigns.

59. If the successor and assign language was not determinative (which it is), EDG had the added comfort of BTS agreeing not to make use of any affiliate or third-party to circumvent EDG’s relationships and contacts. (Exhibit A at ¶ 11). BDG and/or Bioenergy Devco are BTS’ affiliates or responsible third-parties.

60. Pursuant to the Consulting Agreement’s indemnification provision, EDG is entitled to recover all its losses given a material breach of the representations, warranties, covenants or agreements set forth in the Consulting Agreement.

**E. Plaintiffs’ Work Under the Consulting Agreement**

61. Relying on the Consulting Agreement and its belief that BTS and Kreloff would work in good faith, Plaintiffs immediately set about to further Defendants’ interests with Perdue.

62. From the beginning, Gifford worked to promote Kreloff and BTS and to determine the suitability of Perdue’s organic feedstock for BTS’ anaerobic digestion technology.

63. In June 2018, Kreloff asked Gifford to secure feedstock samples from several Perdue facilities, including the Accomac facility. Feedstock samples were important to Kreloff to determine the viability of Perdue feedstock in BTS’ anaerobic digestion technology.

64. Despite their early work, BTS had not yet paid Plaintiffs any Monthly Fees. Gifford was frustrated given the one-sided efforts. When Kreloff heard about this frustration, Kreloff

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<sup>2</sup> Kreloff and Greenfield formed Bioenergy Development Group, LLC in October 2018. As evidenced by subsequent conduct, this was a breach and repudiation of the Consulting Agreement and further evidence of Kreloff’s fraud.

reassured Gifford of his commitment to the mutually profitable endeavor: “as we briefly discussed last week, there are things going on that would basically guarantee your success inside the contract we have, and there is a lot of money to be made.” June 25, 2018 email (emphasis added).

65. Buoyed by Kreloff’s reassurances and promises of performance under the Consulting Agreement, Gifford continued to promote BTS and Kreloff to Perdue.

66. Gifford sourced and had delivered to BTS’ affiliate operations in Italy the feedstock samples Kreloff requested. Gifford informed Perdue that the samples were needed for BTS to determine whether the organic waste would produce gases that could be sold to local utilities.

67. In addition, Gifford worked to formulate how BTS’ digestate would compost in the Seaford facility’s current process.

68. Kreloff specifically noted Gifford’s early success. In July 2018, Kreloff commented to Gifford that he met Steve Levitsky – Perdue’s Vice President of Sustainability – at a conference, noting that “‘he knows about us and we’ll be talking soon.’ I assume that was because of you, thanks.”

69. Based on these early successes, on September 11, 2018, Kreloff sent Gifford and Jason Pease a model detailing what an acquisition of the Seaford facility would look like from a financial perspective. Gifford and Jason Pease responded with suggestions to improve the model.

70. On September 26, 2018, Kreloff, Gifford, Jason Pease and Chuck Gifford met for breakfast in Lewes, Delaware. At that meeting Kreloff discussed the parties’ partnership and stated that they were “going to do a lot of deals together.” Plaintiffs continued to foster Kreloff and BTS’ interests with Perdue, specifically focusing on the Seaford and Accomac facilities.

71. On October 30, 2018, Plaintiffs arranged for an in-person meeting amongst themselves, BTS and Perdue at Perdue’s Accomac facility. The parties discussed ways to improve



the Accomac facility's handling of organic waste and the emerging prospects of BTS acquiring the Seaford facility. In addition, that day Kreloff was introduced to Rick Harrell – Perdue's Regional Environmental Manager.

72. Following the meeting, Peter Ettinger – then BTS Bioenergy, Inc.'s Director of Marketing and Sales – emailed Harrell with some follow-up inquiries. Knowing they were key to the introduction and negotiations, Ettinger copied Gifford, Jason Pease and Chuck Gifford on his email.

73. Before, during and for some time after this October 2018 timeframe, Ettinger would use both a Gmail email account and a BTS-Biogas.com email account to conduct business as the BTS Bioenergy, Inc. Director of Marketing and Sales. Kreloff principally relied on his Gmail email account to conduct business during the same time. During this same timeframe, Kreloff and Ettinger were corresponding with Plaintiffs through their usagrisoil.com email accounts.

74. On October 31, 2018, Kreloff, Ettinger, Gifford, Jason Pease and Chuck Gifford meet at the Seaford facility to frame out the structure of a potential transaction to acquire the facility. Kreloff then emailed Gifford, Jason Pease and Chuck Gifford the terms discussed that day. Within that structure was the explicit understanding that “we keep all gas and composting revenue.”

75. Thereafter, the parties continued to refine the terms of the proposed transaction with Perdue.

76. On November 14, 2018, Kreloff, Ettinger and Jason Pease had lunch together in Georgetown, Delaware. During that lunch, Kreloff reiterated his partnership with Plaintiffs and that they would be “doing a lot of deals together.”

77. On November 19, 2018, Kreloff emailed Gifford and Jason Pease “Have a great holiday - I think we have a solid offering out to Perdue [for the Accomac facility].” Gifford responded with his agreement.

78. Thereafter, Jason Pease provided Kreloff with all the site plans and engineering drawings such that Kreloff could start work on additions to the Seaford facility to accommodate gas production operations.

79. On December 1, 2018, Kreloff emailed Gifford the material terms for a Letter of Intent with Perdue for the purchase of the Seaford facility. Gifford responded with changes to the offer that he believed would make the offer more attractive to Perdue. The parties exchanged several more versions of the Seaford Letter of Intent over the next few weeks.

80. At approximately the same time, Kreloff, Ettinger, Gifford and Jason Pease were continuing work on a Letter of Intent to be sent to Harrell for the Accomac facility. Knowing there were other suitors, Gifford suggested that BTS insert a no-shop provision in the Accomac Letter of Intent. The parties exchanged several different versions of the Accomac Letter of Intent over the next few weeks.

81. In early December 2018, Jason Pease provided BTS with information addressing the waste stream analysis and the operating cost numbers for the Seaford facility. This provided BTS with a competitive advantage versus any other potential strategic partner because BTS had the data to forecast both revenue and expenses.

82. As the parties’ efforts to finalize the Seaford Letter of Intent neared completion, Kreloff engaged the New York office of Paul, Weiss, Rifkind, Wharton & Garrison LLP to finalize the document.

83. Gifford’s daughter and Jason Pease’s wife, Katie Pease, is an attorney.



84. Kreloff thought it justified and beneficial to have Katie Pease involved in finalizing the Seaford Letter of Intent with the Paul Weiss attorneys. Accordingly, on December 12, 2018, Kreloff emailed his Paul Weiss attorneys about Katie Pease's role in the process: "[P]lease meet Katie Pease (cc:d), who is assisting our partners US agrisoil on this document. Please see her attached markup. Please Work together to finish this ASAP." (Emphasis added).

85. The next day, December 13, 2018, Kreloff emailed Gifford, Jason Pease and Chuck Gifford about figures included in the Accomac Letter of Intent that was first sent to Harrell on December 9, 2018. Specifically, Kreloff was asking for Plaintiffs' thoughts on waste figures and whether their anticipated operations could handle the volume. Before anyone was to respond to Perdue, Kreloff wanted a "sanity check" on the proposed numbers as compared to the numbers Plaintiffs were "thinking or have."

86. After confirming the correct waste figures, Kreloff submitted the executed Accomac Letter of Intent to Perdue on December 23, 2018. Perdue returned a counter-executed copy on December 24, 2018. Within minutes of receipt, Kreloff forwarded a copy to Gifford, Jason Pease and Chuck Gifford with the message "Merry Christmas!"

87. This communication, and earlier and subsequent communications between Plaintiffs and Defendants, demonstrate that the Accomac facility project was a project that arose during the course of the parties' efforts under the Consulting Agreement.

88. At the same time, the parties had finalized the Seaford Letter of Intent. On December 23, 2018, Gifford submitted the executed Seaford Letter of Intent to Randy Day at Perdue.

89. On February 6, 2019, Perdue returned the fully executed Seaford Letter of Intent to Kreloff. Kreloff forwarded the fully executed letter of intent to Gifford, Jason Pease and Katie Pease noting “Congrats on a big first step!”

90. This communication, and earlier and subsequent communications between Plaintiffs and Defendants, demonstrate that the Seaford facility project was a project that arose during the course of the parties’ efforts under the Consulting Agreement.

**F. Plaintiffs Continue to Foster Defendants’ Interests and Kreloff Continues to Reassure Performance Consistent with the Consulting Agreement**

91. By February 6, 2019, Plaintiffs had materially performed the services called for under the Consulting Agreement.

92. Nonetheless, Plaintiffs continued to foster Defendants’ interests with Perdue.

93. During the spring of 2019, Kreloff would correspond with and meet with Gifford and Jason Pease to discuss work on the Seaford and Accomac projects.

94. On March 27, 2019, Kreloff, Gifford, Jason Pease and Chuck Gifford met for dinner in Lewes, Delaware. During that dinner, the parties discussed their future work together, with Kreloff stating that “nothing has changed” from the time they first reached agreement under the Consulting Agreement.

95. During this time, USAG was still receiving a \$50,000 monthly fee to manage the Seaford facility. Fundamentally, but for the promises made by Kreloff of compensation under the Consulting Agreement, USAG had no economic motivation to promote Defendants’ interests with Perdue.

96. The Consulting Agreement’s initial term was supposed to end on April 30, 2019. However, both Plaintiffs and Defendants operated as if the Consulting Agreement remained in effect. To be certain, on April 30, 2019 – the day the Consulting Agreement allegedly expired –



Kreloff calendared a meeting between himself and Gifford for May 2, 2019 in Georgetown, Delaware to continue discussion and development of the Seaford and Accomac projects.

97. As described herein, while the parties manifestly assented to an extension of the Consulting Agreement's term, if the Consulting Agreement is found to have expired on April 30, 2019, then Kreloff's companies violated the non-circumvention and non-solicitation provisions contained in the Consulting Agreement.

98. During the summer of 2019, Defendants would ask Plaintiffs to obtain hatchery waste samples for analysis and for Plaintiffs to participate in environmental permitting discussions. Plaintiffs obliged all requests and worked cooperatively with Defendants.

99. During June and July 2019, Plaintiffs and Defendants continued to work on revised tipping fee rates and projections they anticipated from Perdue at the Seaford facility.

100. On August 27, 2019, Kreloff met with Gifford for lunch in Madison, Connecticut. During that lunch, Kreloff again reiterated that the parties were aligned and that nothing had changed. Kreloff represented that he wanted to develop several more projects with Plaintiffs.

101. Based on Kreloff's continued promises, Plaintiffs continued to forge ahead. In September 2019, Gifford reached out to Harrell to inquire about Perdue's Lewiston, North Carolina facility. Harrell provided Gifford with the organic waste information needed to assess the facility as an additional project under the Consulting Agreement. This and other information related to Perdue's Lewiston, North Carolina facility was provided to Kreloff.

102. In October and November 2019, Defendants worked directly with Jason Pease to refine the Asset Purchase Agreement and Feedstock Agreement being negotiated between Perdue and BDG. BDG would ask for Jason Pease's assessment of what equipment should be purchased or whether leases were more economically advantageous. In addition, Gifford and Jason Pease

helped BDG negotiate the tipping fee and price escalator that was to be part of the Feedstock Agreement. Although Plaintiffs were never provided final copies of either agreement, Plaintiffs materially assisted BDG and Kreloff with the negotiation of the terms prior to execution.

**G. Kreloff Raises Capital to Fund his Operations and the Asset Purchase Agreement with Perdue**

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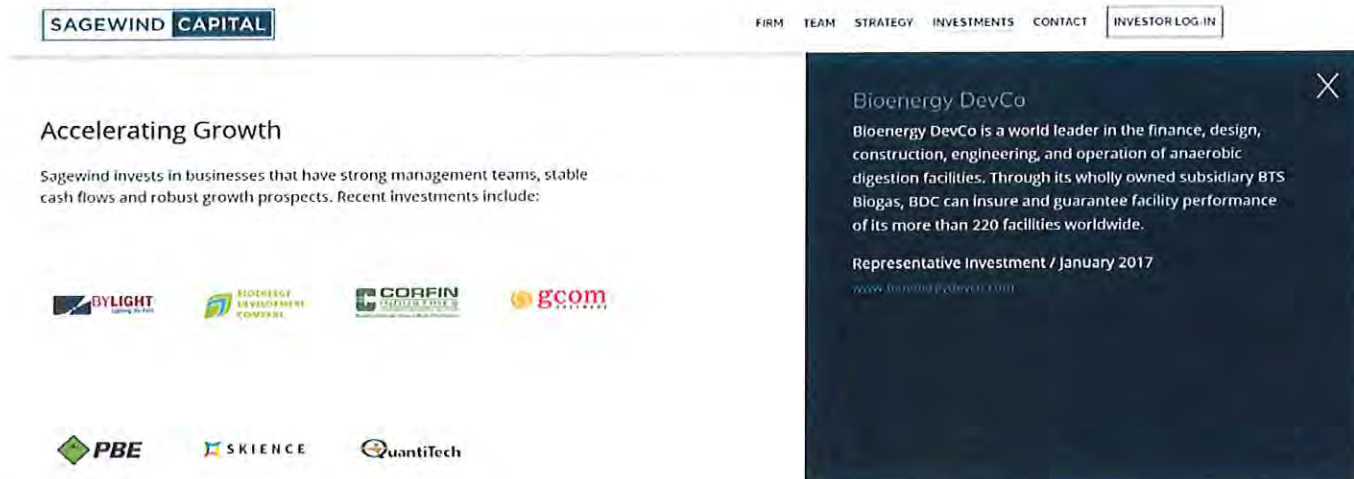
103. As identified above, Kreloff's investment thesis for his companies was to "marry BTS's [BTS Biogas from Italy] proven anaerobic digestion technology with plant financing, engineering, project development, and to guarantee energy yields and plant performance. The last part of the thesis is to bring this solution to the United States and the rest of the world." *See supra*, ¶ 31.

104. Now that Kreloff had used-up Plaintiffs' contacts and relationships to deliver both the Seaford and Accomac projects, he needed the "plant financing."

105. Sagewind and Newlight were all too willing to provide the financing required. Not just for the impending Asset Purchase Agreement with Perdue, but also to fund operations and to purchase the anaerobic digestion technology from BTS Biogas in Italy.

106. Upon information and belief, Sagewind was the first to invest with Kreloff. Through its website advertising, Sagewind represents that Bioenergy Devco was a representative investment from January 2017.





<http://www.sagewindcapital.com/investments/> (last visited August 19, 2020).

107. In a subsequent press release, Defendants describe Steve Lefkowitz – Sagewind’s Managing Partner – as a founding partner of Bioenergy Devco. (Exhibit B at 2).

108. As Plaintiffs were working with Defendants to help finalize the Asset Purchase Agreement with Perdue in the middle of 2019, Kreloff was busy raising additional capital.

109. As disclosed in a press release dated August 8, 2019, “Bioenergy DevCo . . . announced today that it has received its first institutional investment of \$106 Million from Newlight Partner LP.” (Exhibit B at 1). Defendants suggested that “Bioenergy DevCo intends to use this substantial new growth capital to expand its operational footprint in North America.” (*Id.*).

110. Upon information and belief, Sagewind and Newlight both knew of the Consulting Agreement and the Developer and Tipping Fees owed Plaintiffs thereunder.

111. Sagewind would not maintain its investment with, and Newlight would not undertake an investment in, Kreloff’s companies with Plaintiffs’ revenue override still in the equation.

112. Sagewind and Newlight interfered with Plaintiffs' rights under the Consulting Agreement and abetted Kreloff's companies' breaches of the Consulting Agreement and his fraudulent conduct.

113. A part of the Newlight capital raise went to acquire BTS Biogas (Italy). In a press release dated August 9, 2019, "Bioenergy DevCo . . . announced [] that it has acquired BTS Biogas, which will operate as an affiliate and enable new operation and expansion of anaerobic digestion in North America." (Exhibit C at 1).

**H. Defendants Reach an Asset Purchase Agreement with Perdue**

114. On November 15, 2019, Defendants (purportedly through BDG) executed a definitive Asset Purchase Agreement with Perdue related to the Seaford facility (the "APA"). Additionally, upon information and belief, one of the Defendants executed a feedstock agreement with Perdue (the "Feedstock Agreement").

115. Upon information and belief, the purchase price under the APA was the figure Gifford had first identified for Kreloff in December 2018.

116. As part of the Feedstock Agreement, BDG or its affiliates are guaranteed delivery of organic waste from Perdue. Upon information and belief, the price per ton of waste increases over time and is guaranteed for twenty (20) years.

117. Consistent with just the Tipping Fee compensation owed under the Consulting Agreement, Plaintiffs' share of the presently permitted waste stream from just the Seaford facility is valued at more than \$4.2 million at present value. This figure does not include revenue that may be generated from the Accomac or Lewiston facilities or any of the other Perdue facilities Defendants might develop in the future.



118. In addition, this figure does not include the revenue arising from gas generation derived from the waste streams or the Developer Fee for capital expenditures.

119. BDG assumed operational control of the Seaford facility in February 2020.

120. Thereafter, Perdue stopped paying USAG its \$50,000 monthly fee to manage the Seaford facility.

121. Following the consummation of the APA and after assuming control of the Seaford facility, Kreloff stopped corresponding with Plaintiffs.

122. Other than the \$6,000 Monthly Fee that was only paid to Plaintiffs for a few months, Defendants failed and refused to compensate Plaintiffs for their work under the Consulting Agreement.

123. Kreloff's repeated reassurances that he and his companies were committed to working together and that "nothing has changed" were all false.

**I. Defendants' Nefarious Conduct**

124. On February 17, 2020, Gifford emailed Kreloff asking that the Developer Fee be paid and that the Tipping Fee be paid on a periodic basis following Perdue's delivery of the waste streams.

125. Kreloff never responded to his partner of almost two (2) years.

126. Instead, Plaintiffs had to wait almost two (2) months before receiving a letter from Kreloff's litigation attorney.

127. Undeterred by the facts and the parties' working relationship for two (2) years, Kreloff's litigation attorney posited that BTS ceased operating in May 2019 shortly after the Consulting Agreement expired and that, for at least this reason, Plaintiffs were not owed any more money for their efforts.

128. Upon further inquiry at that time, Plaintiffs learned that as soon as Defendants thought they were clear of contractual responsibility (albeit incorrectly), Kreloff had his business attorney Greenfield cancel BTS' registration on May 3, 2019 (date received by the Maryland Secretary of State, but mailed earlier) – a mere three days after the initial expiration date identified in the Consulting Agreement.

129. Despite having at their disposal at least two existing corporate entities to execute the Consulting Agreement (*e.g.*, Gotham or BTS Biogas), Defendants – assisted by their business attorney Greenfield – purposefully chose to create and use BTS as a shell contracting party for the Consulting Agreement.

130. These facts are evidence of many things, including: (i) BTS' status as a sham company that was never capitalized or operated separately from Kreloff, and (ii) Kreloff's premeditated effort to defraud Plaintiffs.

131. Defendants' formation of BDG and Bioenergy Devco in October 2018 for the purposes of carrying out Kreloff's business, while maintaining BTS as a shell, was a repudiation of Defendants' obligations under the Consulting Agreement.

### **Causes of Action**

#### **Count One – Breach of Contract/Breach of the Implied Covenant of Good Faith and Fair Dealing (Against BTS, BDG and Bioenergy Devco)**

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

132. The Consulting Agreement is a valid and enforceable contract.

133. EDG fully performed under the Consulting Agreement.

134. As identified above, BTS, BDG and Bioenergy Devco breached and repudiated the Consulting Agreement.



135. If not a breach of the Consulting Agreement's express provisions, BTS, BDG and Bioenergy Devco breached the implied covenant of good faith and fair dealing.

136. Defendants' breaches caused Plaintiffs damages in an amount to be determined at trial.

Count Two – Promissory Estoppel  
(Against Kreloff, BTS, BDG and Bioenergy Devco)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

137. As identified above, Kreloff made clear and definite promises, both verbally and in writing, that he and his companies would continue to partner with Plaintiffs and that everything remained the same – both before and after April 30, 2018.

138. Kreloff reasonably expected that his assurances and promises would induce Plaintiffs' actions or forbear from withholding further action.

139. Plaintiffs acted in reliance on Kreloff's promises.

140. Should Plaintiffs be unable to enforce their contractual rights against Kreloff's companies, Plaintiffs would suffer a detriment that could only be avoided by the enforcement of Kreloff's promises.

Count Three – Unjust Enrichment  
(Against all Defendants)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

141. As identified above, Plaintiffs conferred benefits upon Defendants by introducing them to Perdue and using their industry knowledge to deliver several profitable opportunities that Defendants would not otherwise have obtained.

142. As identified above, Defendants acknowledged the benefits Plaintiffs brought to them both expressly and through the consummation of business opportunities that will deliver revenue well into the future.

143. As identified above, Defendants have accepted and retained the fruits of Plaintiffs' labor without payment of the fair value for those efforts.

144. Defendants' breaches caused Plaintiffs damages in an amount to be determined at trial.

Count Four – Tortious Interference  
(Against BTS Biogas, Sagewind and Newlight)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

145. The Consulting Agreement is a valid and enforceable contract.

146. Defendants BTS Biogas, Sagewind and Newlight knew of the Consulting Agreement and the fees payable thereunder.

147. As identified above, Defendants BTS Biogas, Sagewind and Newlight interfered with EDG's rights under the Consulting Agreement.

148. As identified above, Defendants BTS, BDG and Bioenergy Devco breached the Consulting Agreement.

149. Defendants BTS Biogas, Sagewind and Newlight's improper conduct caused Plaintiffs damages in an amount to be determined at trial.

Count Five – Fraud  
(Against Kreloff)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

150. As identified above, Kreloff made misrepresentations of fact to Plaintiffs and employed an artifice to defraud Plaintiffs through his corporate shell game.

151. Kreloff knew his representations and corporate shell game to be false or fraudulent when undertaken or he undertook his conduct with reckless indifference.

152. Kreloff made his misrepresentations and employed his corporate shell game for the purpose of defrauding Plaintiffs.

153. Plaintiffs justifiably relied upon Kreloff's representations and corporate structuring.

154. Kreloff's fraudulent conduct caused Plaintiffs damages in an amount to be determined at trial, including punitive damages.

155. BTS' separate corporate identity should be disregarded/pierced and Kreloff (and any additional BTS members) held liable for the damages attributable to BTS.

Count Six – Aiding and Abetting  
(Against BTS, BDG, Bioenergy Devco, BTS Biogas, Sagewind and Newlight)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

156. As identified above, Kreloff engaged in fraud.

157. Defendants BTS, BDG, Bioenergy Devco, BTS Biogas, Sagewind and Newlight knew of Kreloff's fraudulent representations and corporate shell game.

158. As identified above, Defendants BTS, BDG, Bioenergy Devco, BTS Biogas, Sagewind and Newlight knowingly participated in Kreloff's fraudulent conduct and provided him substantial assistance.

159. Defendants BTS, BDG, Bioenergy Devco, BTS Biogas, Sagewind and Newlight's improper conduct caused Plaintiffs damages in an amount to be determined at trial.



Count Seven – Civil Conspiracy  
(Against all Defendants)

Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

160. All Defendants conspired with one another to withhold from Plaintiffs the benefits they earned for their work.

161. As identified above, Defendants defrauded Plaintiffs and interfered with Plaintiffs' rights under the Consulting Agreement in an effort to further their joint interests.

162. Defendants' improper conduct caused Plaintiffs damages in an amount to be determined at trial.

WHEREFORE, Plaintiffs U.S. Agrisoil, LLC and The Environmental Developers Group, LLC respectfully request that judgment be entered in their favor and against Defendants BTS Bioenergy, LLC, Bioenergy Development Group, LLC, Bioenergy Devco, LLC, BTS Biogas, LLC, Newlight Partners LP and Sagewind Capital LLC as follows:

- A. An award of compensatory damages in an amount to be determined at trial;
- B. A decree that BTS' separate legal identity is disregarded/pierced and that Kreloff (and any additional BTS members later identified) be held liable for all damages attributable to BTS;
- C. A constructive trust over any future development of Perdue projects by Defendants, including the Accomac and Lewiston facilities;
- D. An accounting of all revenues received and capital expenditures undertaken to date and those reasonably expected to be received or undertaken in the future;
- E. An award of punitive damages;
- F. An award of pre- and post-judgment interest at the legal rate;



- G. An award of attorneys' fees as permitted under the Consulting Agreement or common law;
- H. An award of costs and expenses; and
- I. An award of such other and further relief as the Court deems just and proper.

Dated: August 25, 2020

/s/ Sallie E. Gilbert  
Cary Joshi (MD Bar #: 1806070002)  
Sallie E. Gilbert (MD Bar #: 1806190061)  
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February 9, 2021

Sussex County Planning & Zoning Commission  
2 The Circle  
PO Box 417  
Georgetown, DE  
*Via email*

Opposition  
Exhibit

RE: **Public Comment for C/U 2258 Bioenergy Development Group, LLC  
Ordinance to grant a Conditional Use of land in an AR-1 Agricultural  
Residential District to amend Conditional Use No. 1314 (Ordinance No. 1354)  
(as amended by Conditional Use No. 1691 (Ordinance No. 1865) and  
Conditional Use No. 1962 (Ordinance No. 2311)**

These public comments are being submitted by the Sussex Health and Environmental Network (SHEN), a coalition of stakeholders that live, work and do business in Sussex County, Delaware. Many of the members could be directly impacted by the above referenced project.

The Planning and Zoning Commission needs to deny the Bioenergy Development Group, LLC's application for the reasons set forth below and in the attached documents. If the Commission does not deny the application, it should set a new date for the public comment period and hearing and properly re-notify the public of such if and when the following issues are addressed or corrected in the application:

- The public was not provided full and adequate information about this development proposal. Full information has not been provided within the requisite time period needed for the public and interested parties to review the application to be able to meaningfully participate in the input process.
  - It is unclear in the public notification if Sussex County is considering the granting of a conditional use or an amendment of an existing conditional use.
  - There is not full information about this project. The project includes a heavy industrial use and additional land development components for gas pipeline infrastructure. The full scope of the project is not known and information about it has not been made adequately available to the public
  - It is suspected that the actual development is not an appropriate use or conditional use for the zoning district in which it is being proposed.
- The applicant for the conditional use is a business that does not appear to legally exist. The actual developer or applicant must be identified in the application. According to our research in Delaware and Maryland, Bioenergy Development Group, LLC does not currently exist as a registered business entity.

- The public comment period and hearing should not proceed without a legally identifiable applicant that has an actual interest in the subject property and development project.
- In reviewing the application materials, it is very unclear what entity is applying for the conditional use and whether or not certain entities that are identified are actually legally formed businesses.
- There is confusion about whether there are legally registered business entities involved in this project, as well as the state-level amended environmental permits.
- The proposed use is being miscategorized and does not appear to be an allowed use in the AR-1 district.
- The proposal is a heavy industrial use, and the existing conditional use cannot be amended to include it, per the terms of the original conditional use permit(s).
- According to the attached document from DNREC, dated Feb. 13, 2017, there is a limited market in Delaware for the finished compost that will be produced, which suggests there will be no place to adequately and economically dispose of it. This creates environmental risks that far outweigh the benefits of this project for Sussex County.

Again, full information about this proposed project has not been made available and it is unclear who the actual applicant is for the conditional use, as well as the for the other permits required for the overall development project. The application should be denied for these reasons and for the reasons set forth in the attached documents.

Thank you for your consideration; for your service, and for protecting the public health and safety of the people of Sussex County.

Respectfully:

Maria Payan  
 Sussex Health and Environmental Network  
 Socially Responsible Agricultural Project  
[MariaP@SRAPProject.org](mailto:MariaP@SRAPProject.org)

Encl.

Technical comments by Kathy Martin, SRAP Technical Consultant  
 Email from: DNREC, dated Mon, Feb 13, 2017  
 Maryland court filings  
 Technical comments by Dr. Chris Grobbel, Grobbel Environmental





# SIERRA CLUB

## DELAWARE CHAPTER

Opposition  
Exhibit

To: The Planning And Zoning Commission for Sussex County

From: Sierra Club Delaware Chapter

Date: February 10, 2021

There are several critical issues with the proposed BioGas facility from Bioenergy Development Company.

The first issue is with the location. They are proposing to put this massive gas capture and refinery plant in an area where groundwater and waterway pollution is already a serious issue. More, it is in an environmentally sensitive area surrounded by the Gum Branch wetlands. It is adjacent to a low-income community and the site is not currently industrially zoned. We can say this an "agricultural" use, but it really isn't. It is an industrial process that involves a refinery to remove contaminants from the BioGas with its (i) permitted air and water pollution, (ii) increased demand on natural gas pipelines, and (iii) a lot of trucking to receive necessary waste-streams in, and shipping by-products out. This is not the right location for industrial use.

The second is the scale. They are proposing to process up to 200,000 tons annually of poultry waste from the tri-state area. The current facility is handling about 30,000+/- tons annually today. This increase in size will require millions of gallons of water to be utilized at the site, a percentage of which will then need to be expelled and treated off-site at the Seaford wastewater treatment plant (the "Seaford Treatment Plant"). Can the Seaford Treatment Plant handle that much contaminated effluent and not adversely effect the Nanticoke River? Will the stormwater lagoons on the facility be expanded to handle additional load, and if so, how will the groundwater and the natural environment, including the Gum Branch wetlands, be protected from the pollutants associated with the anaerobic digestion process?

The third is the fact that the proposal will exponentially increase the end-stage solid-waste product. The company that previously operated on this site was fined for their compost nutrients being in excess of permitted allowances. Given that the waste stream coming into the facility will be about 8 times more than the current load, how will BioEnergy address the need to insure that the waste is always compliant?

Fourth, that this proposal will not offset fracked gas. In fact, it will actually bring new natural gas pipelines into and through Delaware, thus further engraining that system in this state. In all likelihood, if more natural gas is available, whether it is "BioGas" or fracked gas, our natural gas dependency will be promoted. More specifically, the proposal states that they will be piping the gas from this site into existing infrastructure, however, the site is not currently connected to the gas pipeline. Will new natural gas pipelines have to be installed to serve this project?



# SIERRA CLUB

## DELAWARE CHAPTER

Fifth, this proposal will generate a significant amount of new truck traffic throughout the highways and roads in the state. This will generate increased air and noise pollution. Yet, we do not see anything in the plans on how that pollution and infrastructure wear will be mitigated or controlled.

Due to these, and several other issues, the Delaware Chapter of the Sierra Club, as reflected by the signatures below by the chairs of the Executive Committee and of the Conservation Committee, opposes the proposal. We believe an alternative proposal should be submitted that addresses the waste streams and nitrate issues we already have in Delaware, before any new or expanded proposals are considered to bring in additional waste from out-of-state.

*C.A. Simmers*

Chair, Delaware Chapter of the Sierra Club, Executive Committee

*Cheryl Siskin*

Chair, Delaware Chapter of the Sierra Club, Conservation Committee