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January 26, 2009

Via e-mail and fax

Board of Commissioners
Manheim Township
1840 Municipal Drive
Lancaster PA 17601

Re: Stormwater Management During Excavation at the LCSWMA Parcel

Dear Commissioners:

On behalf of The Rail Road Action and Advisory Committee (“TRRAAC”), we request the Board contact the Department of Environmental Protection (“DEP”) and Lancaster County Conservation District (“LCCD”) and ask them to suspend the approval of the excavation proposed for the former landfill owned by Lancaster County Solid Waste Management Authority (“LCSWMA”) until the Township has an opportunity to review and comment on the erosion and sediment control plan and the stormwater management application. We do not believe the Township received the appropriate notice and opportunity to comment prior to the recent approval of those documents by the LCCD.

By way of background, on or about November 18, 2008, LCCD approved a state general permit authorizing discharge of stormwater during the excavation of the former landfill. The approval was based upon a set of documents submitted by ARM Group on behalf of LCSWMA titled Erosion and Sedimentation Control Plan and NPDES Permit Application. Based upon our review of the documents on file at the LCCD, we could not locate a copy of the Act 14 (71 P.S. § 510-5) official notice letter informing Manheim Township of its right to comment on measures proposed for managing stormwater during excavation of this former landfill.

We did obtain a copy of a notice letter from ARM Group addressed to the Board of Commissioners that referenced Acts 67 and 68. That October 8, 2008 letter only informed the Board of its right to comment on the land use aspects of the project.

The Township's right to comment is paramount in this matter where DEP made a decision to deny the public's right to notice and comment. Normally, an individual NPDES permit is required for stormwater discharges during Act 2 remediations. However, as we learned during the November 13, 2008 public meeting, DEP decided that a general permit would be sufficient for this site. One of the significant differences between a general permit and an individual permit is that the applicant and DEP are not required to provide notice to the public and an opportunity to comment prior to approval of the application. Of course, a member of the public may appeal the approval of the general permit within 30 days of its publication in the Pennsylvania Bulletin. Here, the notice was published in the December 13, 2008 Pennsylvania Bulletin. However, the notice only identified the applicant (LCSWMA) and the receiving stream (Little Conestoga). The location of the property where the construction will occur was not included nor was there any mention of its relation to the Act 2 remediation project. Clearly, that information is not sufficient content to inform interested members of the public that important rights are at stake.

We are not aware of any comments submitted by Township staff to LCCD in response to ARM Group's Act 67 and 68 notice letter. This is surprising in that a stormwater management plan submitted in April 2008 by Gannet Fleming, on behalf of Norfolk Southern, for this same property which is actually owned by LCSWMA, has been subject to three separate sets of comments by township planning staff and the township engineer. We believe there is significant interest in this proposal to perform work within the floodplain.

As we understand that earth disturbance will occur any day now, it is imperative the Board immediately review this matter and determine the best course of action to ensure the township's legal right to notice and comment is preserved.

We would be glad to meet with you and provide you with whatever information and documents are necessary.

Thank you for your consideration.

Sincerely,

William J. Cluck

CC: TRRAAC
Kathy Horvath, DEP
Rebecca Buchanon, LCCD