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February 23, 2009

Board of Commissioners
Manheim Township
1840 Municipal Drive
Lancaster, PA 17601

Re: Stormwater Management During Excavation at the LCSWMA Parcel

Dear Commissioners:

The purpose of this letter is to respond to William Cluck's letter, on behalf of TRRAAC, dated January 26, 2009. Mr. Cluck requests the Board of Commissioners to contact the Department of Environmental Protection ("DEP") and the Lancaster County Conservation District ("LCCD") and ask those agencies to suspend their approval of the excavation proposed for the Lancaster County Solid Waste Management Authority ("LCSWMA") property. Mr. Cluck incorrectly asserts that Manheim Township did not receive proper notice and opportunity to comment on the Permit Application, Notice of Intent for Coverage under the General (PAG-2) NPDES Permit, submitted by ARM Group, Inc. ("ARM") on behalf of LCSWMA on or about October 8, 2008.

As a preliminary matter, the Project Partners (LCSWMA, Franklin & Marshall College, Lancaster General Hospital and Norfolk Southern) have and will continue to be willing to respond to any inquiry by Manheim Township regarding the above-referenced activity and the project in general.

The Project Partners respectfully submit that proper and legally sufficient notice was given the Manheim Township in accordance with all applicable statutory and regulatory requirements. By letter dated October 8, 2008, ARM provided the statutorily required notice of the PAG-2 NPDES Permit Application to Manheim Township. A copy of that letter is attached hereto as Exhibit A. The October 8, 2008 letter indicates that LCSWMA applied for the PAG-2 NPDES Permit for Stormwater Discharges Associated with Construction Activities. The letter goes on to describe the project, relating the plan to remove solid waste from the site and backfill the excavation with clean soil as part of the remediation of the property under DEP's Land Recycling Program.

In Mr. Cluck's letter he asserts that Manheim Township was not afforded the notice required by Act 14 (71 P.S. §510-5). Act 14 provides in relevant part:

(a) The Department of Environmental Resources shall cooperate with municipalities in the construction and completion of projects and improvements for the conservation of water and the control of floods. For this purpose, the department shall have the power to use and expend any funds advanced by municipalities, under authority of law, on the projects and improvements designated, when such funds are advanced, in the same manner as it expends any funds appropriated by the Commonwealth for similar purposes.

(b)(1) The Department of Environmental Resources shall require every applicant for the following permits and permit revisions to give written notice to each municipality in which the activities are located:

...

(iv) Water quality permits, except permits relating to coal mining activities, applied for pursuant to the act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law." [FN4]

(b)(2) In the case of written notices sent pursuant to subclauses (i), (ii), (iii) and (iv), the written notices shall be received by the municipalities at least thirty (30) days before the Department of Environmental Resources may issue or deny the permit. In the case of written notices sent pursuant to subclause (v), the written notices shall be received by the municipalities at least sixty (60) days before the Department of Environmental Resources may issue or deny the permit.

The PAG-2 NPDES Permit is a water quality permit applied for pursuant to the Clean Streams Law, as referenced in 71 P.S. §510-5(a)(1)(iv). In this instance DEP has delegated authority for the approval of a PAG-2 NPDES Permit to the LCCD. Pursuant to 71 P.S. §510-5(b)(2), Manheim Township was to be afforded at least 30 days prior written notice of the PAG-2 NPDES Permit Application, prior to issuance or denial of the same by DEP or the LCCD. The October 8, 2008 letter from ARM to the Manheim Township Commissioners referenced the application for approval under the PAG-2 NPDES Permit. The October 8, 2008 letter was received by the Township on October 9, 2008. The LCCD approved the PAG-2 NPDES Permit application on November 18, 2008, forty days after the required written notice was received by Manheim Township.

As set out above, Manheim Township was afforded the notice required by Act 14 as well as the other statutory notice provisions, such as Acts 67, 68 and 127. Mr. Cluck's assertion to the contrary, is clearly an error on his part. There are a few other errors in Mr. Cluck's letter which bear attention. The October 8, 2008 letter served as notice under each of the applicable notice requirements, not just the provisions specifically listed in that letter and Mr. Cluck's letter. The Project Partners, DEP and the LCCD will continue to give appropriate consideration to any

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comments or concerns expressed by Manheim Township. Mr. Cluck is in error when he suggests that individual NPDES permits are required for stormwater discharges during Act 2 remediations. DEP and the LCCD have a set of parameters that they utilize in determining whether specific stormwater discharges from sites affected as part of Act 2 remediations, should properly require an individual permit or under the PAG-2 general permit. For this project, DEP and the LCCD determined that an application under the PAG-2 general permit was appropriate.

Mr. Cluck is correct in his acknowledgment that the appeal period relative to the issuance of the PAG-2 NPDES Permit expired 30 days after publication in the Pennsylvania Bulletin, which publication occurred on December 13, 2008, setting an appeal deadline of January 12, 2009. Mr. Cluck's intimation that there was any deficiency regarding the notice published in the Pennsylvania Bulletin, is an error. The notice published in the Pennsylvania Bulletin was proper and complete.

Finally, for the reasons stated above, Mr. Cluck's suggestion that Township should have provided comments on ARM's Group Act 67 and 68 notices is misplaced and it appears that TRRAAC is improperly casting the scope of the Norfolk Southern's stormwater management plan.

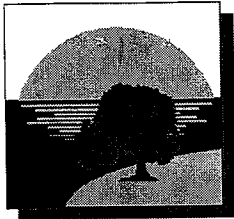
Naturally, if you have any questions regarding this email or the attached notice letter, please contact me.

Very truly yours,



Charles B. Haws

cc: Jim Warner, LCSWMA
Jan Bergen, LGH
Keith Orris, F&M
Rick Crawford, Norfolk Southern
Michael W. Davis, Esq.



ARM Group Inc.

Earth Resource Engineers and Consultants

October 8, 2008

CERTIFIED MAIL NO: 7007 3020 0002 4873 3415

Manheim Township Commissioners
Manheim Township Municipal Office
1840 Municipal Drive
Lancaster, PA 17601

RE: Act 67 Notification
PAG-2 NPDES Permit Application
LCSWMA Parcel Lancaster Brickyard Site
Manheim Township, Lancaster County, PA
ARM Project 05303

Dear Commissioners:

Notice is hereby given that the Lancaster County Solid Waste Management Authority (LCSWMA) is applying for a General NPDES Permit for Stormwater Discharges Associated with Construction Activities from the Pennsylvania Department of Environmental Protection (PADEP). The proposed project involves the removal of solid waste and backfilling of clean soil at the LCSWMA Parcel. The LCSWMA Parcel is located off of Vermont Avenue to the east of the Little Conestoga Creek (LCC), west of Harrisburg Pike, north of the Norfolk Southern (NS) rail line, and south of an Unnamed Tributary (UNT) to the LCC, in Manheim Township, Lancaster County, Pennsylvania. Site remediation is required to eliminate potentially complete exposure pathways to non-media solids and to affected media, in order for the site to qualify for environmental clean-up liability protection under PADEP's Land Recycling Program.

Acts 67, 68 and 127 of 2000 amended the Municipalities Planning Code (MPC) and directs state agencies to consider comprehensive plans and zoning ordinances when reviewing applications for permitting of facilities or infrastructure, and specifies that state agencies may rely upon comprehensive plans and zoning ordinances under certain conditions as described in Sections 619.2 and 1105 of the MPC.

Enclosed is a complete copy of the permit application form completed by the applicant for this project. Also enclosed is an attached sheet containing answers to the Land Use Information questions found in the PADEP General Information Form (GIF). This list of questions and answers is being provided in lieu of a completed GIF. PADEP invites you to review the attached application and comment on the accuracy of answers provided with regard to land use aspects of this project; please be specific to PADEP and focus on the relationship to zoning ordinances. If you wish to submit comments to PADEP to become part of a land use review of

this project, you must respond within 30 days to the PADEP regional office and appropriate conservation district. If there are no land use comments received by the end of the comment period, PADEP will assume that there are no substantive land use conflicts and proceed with the normal application process.

For more information about this land use review process, visit DEP's Web Site at www.depweb.state.pa.us, Keyword: "Land Use Reviews." We appreciate your timely response and review of this matter. If you have any questions or concerns, please do not hesitate to contact the undersigned at (717) 503-8129 at your earliest convenience.

Respectfully submitted,

ARM Group Inc.

Daniel N. Fellon, E.I.T.
Project Engineer

Enclosures:

