



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION
2001 ELMERTON AVENUE, HARRISBURG, PA 17110-9797

November 15, 2006



Mr. Steven D. Means
Water Management Program
Department of Environmental Protection
208 West Third Street, Suite 101
Williamsport, PA 17701

In re: DEP File No: E14-492
Resource Recovery Landfill
Rush Township, Centre County

Dear Mr. Means:

This letter is in reference to the Game Commission's review of the Resource Recovery, L.L.C. Water Obstruction & Encroachment Permit application and the September 26, 2006 field review that we attended with representatives of the ARM Group, Inc., the U.S. Army Corps of Engineers, the U.S. Fish & Wildlife Service, the PA Fish & Boat Commission, and your office.

Under the Game and Wildlife Code, the Commission has a duty to protect, propagate, manage and preserve the Commonwealth's game and wildlife species and their habitat, including wetlands. The following comments are offered with regard to these duties and applicable sections of the Chapter 105 rules and regulations.

At this time, the Commission does not feel that the applicant has provided sufficient detail in the Alternatives Analysis to conclude that adverse impacts to the wetlands have been avoided or reduced to the maximum extent possible and that there are no practicable alternatives that would have less adverse impact to the wetlands as required by 105.18a.(b)(2) and 105.18a.(b)(3), respectively.

Of the wetlands that were viewed during the above-mentioned field review, it is our opinion that wetlands W1, W3 and W9 exhibit much higher functions and values than many of the other wetlands that are proposed to be impacted. These wetlands are among the larger wetlands on the site and they offer a more diverse vegetative community composed of a mixture of emergent, scrub-shrub and forested habitat making them more conducive to use by various game and wildlife species. The linear nature of wetlands W3 and W9, and their proximity to the floodplain of Moshannon Creek also promote their use as wildlife travel corridors to and from the interior of the site. Furthermore, Wetlands W3 and W9 are associated with intermittent, and possibly perennial springs and seeps that

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were resulting in surface flow through these wetlands at the time of our field review. Springs and seeps of this nature, and the wetlands associated with them, are known to provide an ice-free water and food source to various bird and mammal species during the winter months. As a result, the Commission is *strongly recommending that additional consideration be given to altering the size and/or configuration of the landfill and associated infrastructure to avoid wetlands W1, W3 and W9 in particular.* To date, the alternatives that have been considered seem to focus on the avoidance of wetland W2, the largest of the wetlands that would be eliminated by the proposed landfill footprint. However, it is the Commission's opinion that this wetland offers only limited functions and values, and as a result, we would be willing to support an alternative site configuration that would impact wetland W2 while preserving wetlands W1, W3 and W9.

The applicant contends that one of the factors limiting the available alternatives is the presence of an extensive and interconnected network of tunnel mines affecting approximately 450 acres of the Rush Township portion of the site. A brief review of the Municipal Waste Landfill regulations indicates that the siting of a landfill over existing workings of an underground mine is not prohibited, but rather that an applicant must first submit sufficient information to evaluate the potential for subsidence damage to the facility. Certainly if the Department's Waste Management staff determine that subsidence is likely and would jeopardize the integrity of the facility, these areas should be avoided. However, it is unclear whether the applicant conducted the investigations necessary to make that determination. An evaluation of the potential for subsidence damage to the facility should be included in the Alternatives Analysis. The ability to use areas overlying previous underground mines would greatly improve the alternatives available for further avoidance and minimization of aquatic resource impacts and should be thoroughly considered rather than simply avoiding these areas all together.

It is apparent in the application and through discussions held during the filed review that the construction of the landfill and its related infrastructure are intended, at least in part, to facilitate the future construction of an industrial park. It is our understanding that the industrial park will be sited within the Black Moshannon Creek watershed at a point upstream of the T-325 bridge. As you are aware, Black Moshannon Creek upstream of the T-325 bridge is listed by the PA Fish & Boat Commission as a stream section that supports wild trout production. As a result, wetlands located in the area of the proposed industrial park may be considered Exceptional Value Wetlands according to Chapter 105.17(1)(iii). The wetlands viewed in this area during our September field review appear to exhibit similar functions and values to wetlands W1, W3 and W9, and do not appear to be associated with previous mining activities. However, the applicant has not addressed the potential impact to these resources in the application, or provided any reasonable assurance that their industrial park will not result in additional water obstructions or encroachments.

Although we are not yet convinced that all practicable alternatives have been considered and that impacts have been avoided or reduced to the maximum extent possible, the Commission would like to provide the following recommendations concerning the current wetland replacement plan:

- **Wetland Mitigation Area A** – If replacement is pursued in this area, the existing forested wildlife habitat of this riparian corridor should be maintained and replacement efforts should be focused in the herbaceous openings. Particular attention should be paid to the preservation of the winter thermal cover offered by the existing evergreen tree species that provide considerable habitat value to various birds and mammals.
- **Wetland Mitigation Area B** – The proposed site is a relatively stable, primarily forested riparian corridor that is currently providing valuable wildlife habitat while stabilizing the floodplain of Moshannon Creek. The Commission feels that the loss of the existing habitat, and the de-stabilization of the floodplain associated with this 5-acre replacement site represent additional significant adverse impacts to the environment and that other viable alternative replacement sites should be considered.
- **Wetland Mitigation Area C** – Provided that efforts are made to avoid impacts to existing scrub-shrub habitat, the Commission has no adverse comments concerning this replacement site, and supports the incorporation of additional shallow, open water components within the proposed design.
- **Wetland Mitigation Area D** – It is our opinion that sufficient hydrology is not available for the successful development of 2.7 acres of wetlands at this replacement site. However, the enhancement and modest expansion of the existing areas of standing water, along with the enhancement of the surrounding uplands is certainly worth pursuing. Minor modifications in the area of the existing roads could help to expand the contributory drainage area to the site and improve the chances of successful wetland creation.

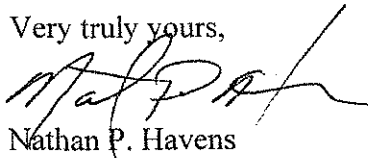
In addition, the Commission is not aware of any attempt on the part of the applicant to provide in-kind replacement of the wetland habitat types that are proposed to be impacted. According to Table 1 of the Wetland Mitigation Report, 6 of the 12 wetlands that would be impacted consist of at least some scrub-shrub or forested habitat (the acreage of these habitat types has not been quantified for each wetland to our knowledge). However, the wetland planting plans indicate that all replacement wetlands will be planted with herbaceous species only. The Commission is strongly recommending that the wetland habitat types be replaced in-kind, and that consideration be given to increasing the replacement ratio (area ratio) to account for the inevitable delay in re-establishing the more mature tree and shrub cover.

Please be advised that our current review of the PNDI database did not reveal any new special concern species of birds or mammals recognized by the Pennsylvania Game Commission that could be impacted by this project. As a result, previous PNDI clearance letters from this office, and any recommendations made in those letters would continue to be valid.

In closing, I would like to thank you for the opportunity to comment on this project, and I look forward to working closely with the Department on this and other projects in an effort to protect the Commonwealth's natural resources. Please provide us with a copy of any future revisions to the proposed wetland replacement plans and the Alternatives Analysis, and keep us informed of any additional project meetings where you think we may be of any assistance.

If you have any questions, please feel free to contact me at (717) 783-1728.

Very truly yours,



Nathan P. Havens
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