



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

November 16, 2004

Mr. Marc Shaener
Eastern Shore Environmental
P.O. Box 452
Little Creek, DE 19961

RE: PLUS review – PLUS 2004-10-08; Eastern Shore Environmental, Inc.

Dear Mr. Shaener:

Thank you for meeting with State agency planners on October 27, 2004 to discuss the proposed plans for a Solid Waste Transfer station to be located on 20 acres along Route 13 between SHR 62 and the Town of Farmington.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 302-739-3090

This site is located in Investment Level 4 according to the 2004 State Strategies for Policies and Spending. This site is located outside of the Kent County Growth Zone. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. The State Strategies do recognize that lands in Investment Level 4 may be appropriate locations for “certain uses that because of their specific requirements are not appropriate for location elsewhere.” This proposed waste transfer facility is an essential service which is necessary for the disposal and transshipment of municipal

wastes from many Delaware communities. It is appropriate for the County to consider locating this type of facility in Investment Level 4. It will be up to the County through their conditional use process to determine whether this land use is appropriate on this specific location.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The proposed transfer station would be a relocation of one that is presently located near Dover Air Force Base. DelDOT understands that this relocation is important to the safety, security, and long-term viability of the Dover Air Force Base and they have been working with Kent County, the Delaware Economic Development Office and ESE to identify a suitable location.

- 1) This portion of US Route 13 is part of the Corridor Capacity Preservation Program. In this area DelDOT has been working with Kent County to protect the capacity of the road by acquiring development rights and to preserve the land for agriculture, consistent with the intent of the State Strategies for Policy and Spending. DelDOT understands that Kent County strongly supports the relocation of the ESE facility to this site and DelDOT is willing to work with Kent County to determine how they can make this accommodation while continuing to protect the capacity of the road system.
- 2) DelDOT is evaluating this location with the intent of trying to resolve the trash transfer facility location issue in a manner that is consistent with corridor preservation objectives. Among other issues requiring answers are the use of and access to the residual 22.7 acres that ESE has not indicated that they would purchase.
- 3) Preliminarily, DelDOT believes that both the safety and operational efficiency issues associated with this site can be resolved. They will require a more detailed engineering analysis regarding the entrance to this property as part of the application process.
- 4) DelDOT has considered the potential impact on the Chorman Airport of any birds that might be attracted to the facility. They find that the birds that have been observed and counted by the USDA at the current site pose no threat to the operation of Chorman Airport.
- 5) The developer's engineer should contact the DelDOT Subdivision Engineer, Mr. Drew Boyce, regarding their requirements for access. Mr. Boyce may be reached at (302) 760-2165.

Public Service Commission - Contact: Andrea Maucher 739-4247

The project information sheets state that individual on-site wells will be used to provide water for the proposed project. PSC records indicate that the project is not located in an area where public water service is available.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091

Soils

According to the soil survey update, Woodstown, Fallsington, and Pocomoke were mapped in the immediate vicinity of the proposed construction. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (**hydric**) soil that has severe limitations for development. Pocomoke is very poorly-drained wetland associated (**hydric**) soil that has severe limitations for development.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate no presence of wetlands within the parcel. However, palustrine forested deciduous wetlands are located approximately 15 meters from the parcel border. Site plans show that there will not be direct impacts to these wetlands through construction activities; however, secondary impacts of construction could be detrimental to the health of these wetlands and their associated streams. To mitigate these impacts DNREC recommends a vegetated buffer of no less than 100' from the edge of wetlands and waterbodies. Buffer zones are recommended to ensure against potential cumulative impacts resulting from various activities and disturbances.

Further, it recommended that the applicant contact the Farm Services Agency of the USDA for information regarding the potential for the farmed or cleared wetlands on subject parcel to meet the criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

ERES Waters

This project is located adjacent to environmentally sensitive receiving waters of the Chesapeake Bay Watershed; designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Chesapeake Bay Watershed, reduction of nitrogen and phosphorus loading will be obligatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. In the Chesapeake Watershed, "target-rate-reductions" of 30 and 50 percent will be required for nitrogen and phosphorus, respectively.

Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as nutrient budget should be prepared. The developer/consultant should contact Lyle Jones (739-4590) in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

The developer is encouraged to employ BMPs (or other pollution control strategies) such as stormwater management and riparian buffers to mitigate nutrient runoff into adjoining streams or watercourses. The previously mentioned recommendation for a **100-foot minimum isolation distance from all waterbodies and wetlands is an important BMP to attain nutrient load reduction goals.**

Water Supply

The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

Stormwater Management

Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by the Kent Conservation District prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to the Kent Conservation District. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.

The following notes must appear on the record plan:

- The Kent Conservation District reserves the right to enter private property for purposes of periodic site inspection.
- The Kent Conservation District reserves the right to add, modify, or delete any erosion or sediment control measure, as it deems necessary.
- A clear statement of defined maintenance responsibility for stormwater management facilities must be provided on the Record Plan.

Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance must be shown on the Record Plan for the subdivision.

All drainage ways and storm drains should be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.

A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.

Comments:

1. The ditch running along the railroad tracks and turning to run through this site is Subprong 3 of the West Prong of the Whitemarsh Tax Ditch. Maintenance and construction rights-of-way (ROW) are associated with the Tax Ditch. The Tax Ditch running along the railroad track is 25 feet and 170 feet from center line for the maintenance and construction ROWs. The ROWs for the section of the Tax Ditch running from the railroad tracks to U.S.13 are 25 feet and 155 feet from center line for the maintenance and construction ROWs. The Any crossing or construction within the right-of-way must be approved by the Whitemarsh Tax Ditch.
2. The preferred methods of stormwater management are those practices that maximize the use of the natural features of a site, promote recharge and minimize the reliance on structural components.
3. Access to the proposed stormwater facility must be provided for periodic maintenance. This access should be at least 12 feet wide to leading to the facility and around the facility's perimeter.
4. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.
5. Based on the site characteristics, a pre-application meeting is suggested to discuss stormwater management and drainage for this site.

Drainage

The proposed project is within the Whitemarsh Tax Ditch and the Nanticoke River Tax Ditch. Coordination for future maintenance is essential and the Drainage Section requests the developer and or engineer contact the Whitemarsh Tax Ditch, the Nanticoke River Tax Ditch and the Kent Conservation District to ensure adequate access to the existing right-of-way is established.

Alteration of the tax ditch, (West Prong Sub 3 or West Prong Sub 3 of Sub 4) to either the physical ditch or to the right-of-way will require a formal court order change of the Whitemarsh Tax Ditch.

The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

The drainage section would like the applicant to explore moving the outlet of the stormwater retention ponds to the existing tax ditch.

Revegetation/Landscaping

DNREC has requested that no invasive species be used in the revegetation of disturbed or landscaped areas. A list of species considered invasive in Delaware can be found on the DNHP web site, www.dnrec.state.de.us/fw/invasive.htm. They further encourage the use of native plants, where possible/feasible, for habitat restoration projects on-site, and their Botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Open Space

The proposed site plan includes a large percentage of open space. Traditional maintenance of open space in the form of turf grass can be expensive and labor intensive. In areas set aside for open space, the developer is encouraged to consider establishment of forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration for maintenance of such a facility.

Solid Waste Permit

The activity proposed will require a Solid Waste Transfer Facility permit prior to operation. At the present time, DNREC has not received a solid waste facility application from ESE for this property parcel. Applications for a solid waste transfer station must meet the requirements of section 4.E.1. (beginning on page 4-24 of the attached web link below) of the Delaware Regulations Governing Solid Waste (DRGSW). The checklist of items includes: a letter of intent, a solid waste facility application, proof of property ownership, a plan of operation, an engineering report, a hydrogeological assessment (if deemed necessary by DNREC), an environmental assessment, topographical and site maps, proof of zoning approvals and all other environmental permits, a conceptual closure plan, proof of financial responsibility, proof that the facility meets the siting criteria required by section 10.B. of the DRGSW, and finally any other reports, data, etc required by the Department.

There is not enough information in the PLUS project document for them to comment on specific facility issues.

Solid Waste Transfer Station Application - Section 4 of the DRGSW:

<http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/hw/sw/pdf/sec04.pdf>

Solid Waste Transfer Station General Regulations (Design, Siting, Operation, Leachate Collection, etc.) - Section 10 of the DRGSW:

<http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/hw/sw/pdf/sec10.pdf>

State Fire Marshal's Office – Contact: John Rossiter 302-739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
 - Since the structures of the complex are proposed to be served by individual on-site wells (No Central Water System), set back and separation requirements will apply.
 - The tank size and location, for the automatic sprinkler system, shall be shown on the site plans.

- b. **Fire Protection Features:**
 - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
 - Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements. For commercial buildings greater than 5000 SqFt, a fire alarm signaling system which is monitored off-site is required
 - Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
 - Show Fire Lanes and Sign Detail as shown in DSFPR

- c. **Accessibility:**
 - All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Route 13 must be constructed so fire department apparatus may negotiate it.
 - Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
 - Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The

minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.

- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

The Delaware Forest Service recommends the following:

- Use of a Diverse Landscape Plan the use the “right tree for the right place” concept which encourages native trees and shrubs when possible.
- The use of forest buffers for adjacent subdivisions and agricultural sites.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

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Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name.

Constance C. Holland, AICP
Director

CC: Kent County
Robert D. Rauch & Associates, Inc.
Sharon Bowman