



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

April 23, 2013

Mr. Shawn Tucker
Bohler Engineering, Inc.
1515 Market Street, #920
Philadelphia, PA 19102

RE: PLUS review – 2013-02-05; Walmart Expansion

Dear Mr. Tucker:

Thank you for meeting with State agency planners on March 27, 2013 to discuss the proposed plans for the proposed expansion of Walmart Store 5436-02.

According to the information received, you are seeking a proposed 40,356 sq. ft. expansion of an existing Wal-Mart store.

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 New Castle 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.**

Strategies for State Policies and Spending

- This project is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. This project should also be consistent with the County's current comprehensive plan.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known historic or cultural resources such as an archaeological site or National Register-listed property on this parcel. However, if any development project does proceed on this parcel, it is still important that the developer be aware of the Delaware Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Delaware Code Title 7, Chapter 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to know more information that pertains to unmarked human remains or cemeteries, please check the following websites for additional information: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml .

- Prior to any demolition or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for potential historic or cultural resources, such as a potential archaeological site, a cemetery or unmarked human remains. Furthermore, if there is any federal involvement with the project, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the

Advisory Council for Historic Preservation about the project's effects on historic properties. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role, please review the Advisory Council's website at www.achp.gov.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The proposed expansion generates enough traffic to warrant a Traffic Impact Study (TIS) per Section 2.3.1 of the Standards and Regulations for Subdivision Streets, and one is in progress. DeIDOT anticipates receiving that study from the applicant's engineer within the next month and having comments on the need for off-site and entrance improvements following our review of that study.
- The site access must be designed in accordance with DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access, which is available at http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Manual_Revision_1_proposed_060110.pdf. While we do not expect to require large changes to the existing access, we will require the applicant to meet current standards and account for the expected increase in traffic. Plan submissions to obtain a Letter of No Objection (LONO) and a new entrance permit will be necessary.

Department of Natural Resources and Environmental Control – Contact Bahareh van Boekhold 735-3495

Wetlands

- State regulated wetlands ARE NOT located on this property based on a review of the State wetland maps. State regulated wetlands are those wetlands identified on the State's official State Regulated Wetland Maps. Additional information about State regulated wetlands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>
- State regulated subaqueous lands ARE NOT likely to be located on this property based on a review of aerial photographs, State Wetland Mapping Project (SWMP) maps, Soil Surveys and/or USGS topographic maps. State subaqueous lands include all tidal waters (up to the mean high water line), most non-tidal rivers, streams, lakes, ponds, bays and inlets (up to the ordinary high water line), most perennial streams and ditches and many intermittent streams and ditches. Additional information about State regulated subaqueous lands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>

- Waters of the U.S. regulated by the U.S. Army Corps of Engineers ARE likely to be located on the far west corner of this property based on a review of aerial photographs, SWMP maps, Soil Surveys and/or USGS topographic maps. According to the plan it does not look like there will be an impact to these wetlands; however, if there are any questions, we suggest contacting them for an on-site inspection.
- Waters of the United States include the following: navigable waters of the United States; wetlands; tributaries to navigable waters of the United States, including adjacent wetlands and lakes and ponds; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States not identified above, such as isolated wetlands, intermittent streams, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, where the use, degradation or destruction of these waters could affect interstate or foreign commerce.

The extent of Federal jurisdiction over Waters of the United States is determined by the U.S. Army Corps of Engineers and is based on site specific conditions. Therefore, an on-site inspection by an environmental consultant is recommended to determine if Waters of the U.S. are located on the property and the limits of Federal jurisdictional. The U.S. Army Corps of Engineers can be contacted at (215) 656-6728 or online at <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.

TMDLs

- Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Christina River watershed. 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 State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; *State of Delaware Surface Water Quality Standards, as amended July 11, 2004*) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting.
- TMDLs are required by federal law (Section 303(d) of the 1972 Clean Water Act), and the states are charged with developing and implementing specific land use practices that support these desired use goals. The project is located in the greater Christina River Basin, specifically within the Christina River watershed. In the Christina River watershed, post-development nitrogen and phosphorus loading must be capped at the pre-development or baseline loading rate (or a 0% post-construction increase in N & P in Delaware’s portion of the Christina River Basin) to meet the required TMDL for each nutrient. Moreover, bacteria must be reduced by 29-95% (depending on location) to meet the required TMDL. The specific required nutrient and bacterial requirements and background information is in the report entitled “*Christina River Basin High-Flow TMDL*” by the EPA. This report can be retrieved from the following web link: http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/ChristinaMeetingTMDL/index.htm

- A nutrient management plan is required under the *Delaware Nutrient Management law (3 Del. Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project's open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at 739-4811 for further information concerning compliance requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

Sediment and Stormwater Program

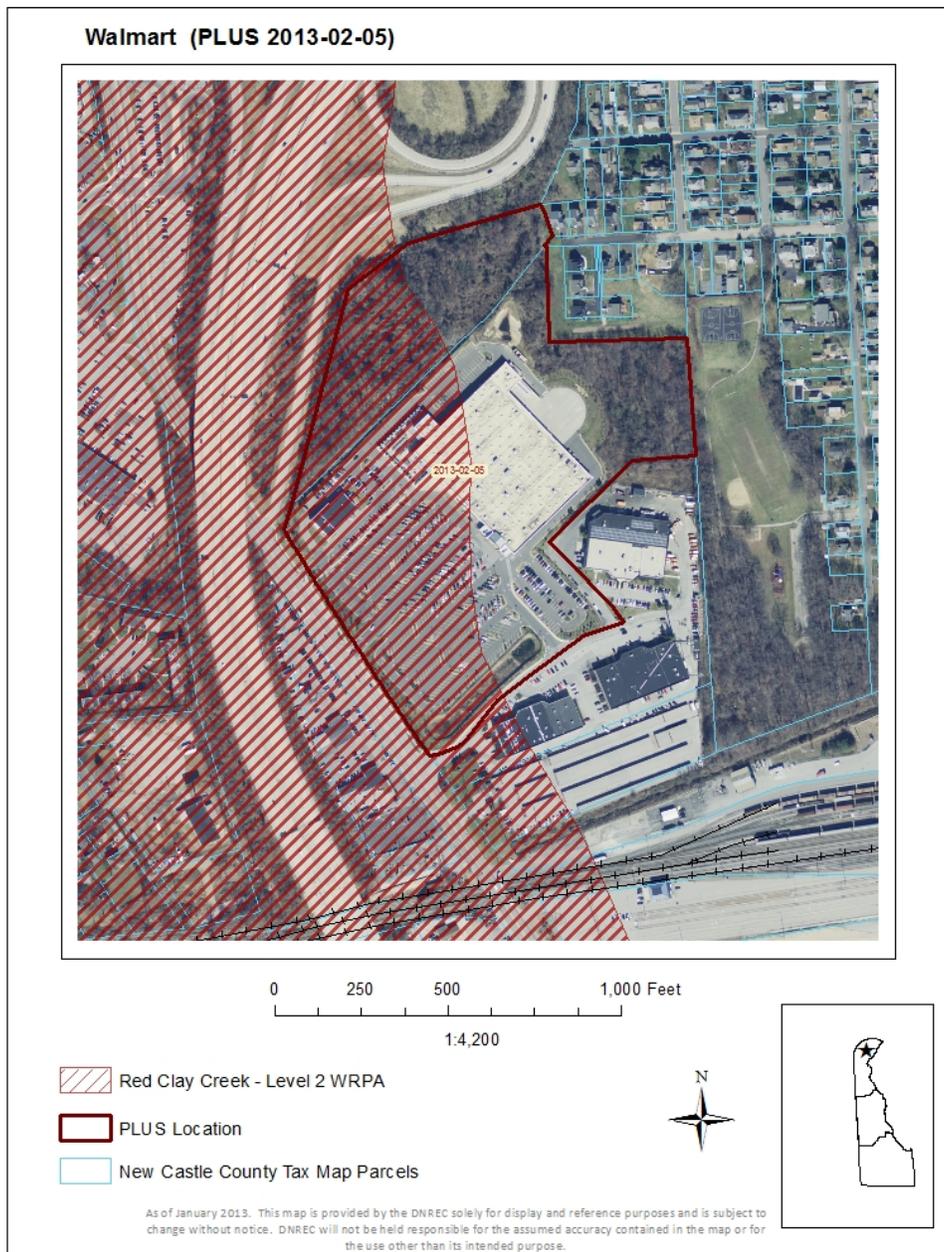
- A sediment and stormwater plan will be required for the site. Contact the reviewing agency to schedule a project application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as possible. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through New Castle County Department of Land Use Engineering Section. Contact Department of Land Use at (302) 395-5470 for details regarding submittal requirements and fees.

Water Resource Protection Areas

- The DNREC Ground-Water Protection Branch (GPB) has reviewed the above referenced PLUS project and determined that it does not fall within any wellhead protection or excellent groundwater recharge potential areas. However, a significant portion of the parcel falls within the Red Clay Creek Drinking Water Watershed. This area is a Level 2 Source Water Protection Area for New Castle County (see map).

Level 2 Source Water Protection Areas are the delineated watershed upstream from public drinking water supply intakes. Land Use or Land Activity within these areas has the potential to influence water quality or quantity to the public drinking water system.

GPB recommends referring to NCC Unified Development Code for regulations regarding development in these water resource protection areas.



Hazardous Waste Sites

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C., Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed.

- There are four The Site Investigation and Restoration Section (SIRS) sites within a ½ miles radius of the property in question:
 - Former Cassidy Painting Site (DE-1218) is located 0.12 miles west of the project property. A citizen contacted SIRS with the concerns of a nearby paint shop. A representative from SIRS conducted a site visit and noted that there was no visual evidence of a release. The citizen was given an information package in 2000 and again in 2003 concerning the site. There is no active investigation on this site.
 - General Motors (DE-1149) is located 0.14 miles to the south of the project property. An Environmental Assessment was conducted on the site in February of 1998 to investigate an underground storage tank area. To effectively investigate the property, the site was divided into two operating units (OUs). OU-1 was given a No Further Action designation in 2004. Two Remedial Investigations were conducted on OU-2 in April and October of 2005, followed by a Supplemental Groundwater Investigation in August 2006. The General Motors Plant stopped operations in 2009 however it was later enter into a Brownfields Development Agreement for redevelopment. The site is continuing the Brownfield Investigation process and being redeveloped into Fisker Automotive.
 - Centerville Road Shore Stop (DE-1290) is located 0.30 miles north-west of the project property. The site was recommended to enter the VCP program in 2005. No agreement was signed at this time. The site may receive further investigation for the occurrence of PCE in groundwater at the gas station site.
 - Hollingsworth Properties (DE-1154) is located 0.33 miles west of the project property. A Phase I Environmental Assessment was conducted in 1993 followed by a Hydraulic Investigation in 1994. A Corrective Action Phase was conducted to remove petroleum contaminated soil. The site is being addressed under the Tanks Management Section.

Generators of Hazardous Waste

- Walmart#5436, located at 1251 Centerville Road, Wilmington is a Small Quantity Generator (SQG) of Hazardous Waste. According to their 2012 hazardous waste manifests, this site ships a variety of wastes most months, including ignitable, corrosive, and toxic hazardous waste codes. If this site also provides automotive service, then routine wastes from vehicle maintenance such as used oil, lead-acid batteries, antifreeze, and aerosol cans can be expected. Walmart #5436 is currently managing these wastes, therefore no further impacts to the planned expansion should warrant increased management.

- The parcel immediately South of this Walmart #5436, occupied by Fisker Automotive Assembly Delaware (EPA ID# DEN 201 100 002), located at 801 Boxwood Road, is a Large Quantity Generator (LQG) that was previously inspected on 5/30/12. At that time, there was episodic generation of assorted corrosive or ignitable wastes, typically consisting of paints, lubricants, and cleaning chemicals. Currently, the Fisker site is believed to be idle. No impacts from the planned expansion of Walmart #5436 are expected. Any additional questions regarding the hazardous waste generation on the planned project site can be directed to Bill Davis, Environmental Scientist, at (302)739-9403.

Tank Management. Please be aware:

- If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C. Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware *Regulations Governing Underground Storage Tank Systems* (the UST Regulations) is required.
- The following confirmed leaking underground storage tanks (LUST) projects are located within a quarter mile of the project boundary:
 - DEARNG Army National Guard, Facility: 3-000856, Project: N0106052 (Inactive)
 - Delaware Brick Company, Facility: 3-000132, Project: N9101006 (Inactive)
 - Leisure World Prices Corner, Facility: 3-001685, Project: N9605080 (Inactive)
 - Roselle Shell, Facility: 3-000198, Project: N9501013, N0105040 (Inactive)
- Per the **UST Regulations: Part E, § 1. Reporting Requirements:**
 - Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:
 - The Department's 24-hour Release Hot Line by calling 800-662-8802; and
 - The DNREC, Tank Management Section (TMS) by calling 302-395-2500.

Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- How was the trip generation shown on Item 25 of the PLUS application (523 trips per day) determined? DelDOT generated trips for the existing and proposed stores, respectively a 137,205 square foot free-standing discount store and a 177,376 square foot free-standing discount superstore. DelDOT found a difference of 1,148 trips per day (9,002 less 7,854). While this figure is high because the existing transmission shop would be eliminated, that business does not generate enough traffic to explain the difference between our calculations.
- DelDOT recommends that the developer's engineer contact Mr. Joshua Schwartz of this office to schedule a Pre-Submittal Meeting before submitting for a LONO. As necessary, Mr. Schwartz can be reached at (302) 760-2768. Because the developer's traffic engineer has been working quickly to complete the TIS, it may be beneficial to wait and hold the Pre-Submittal Meeting after they have completed it so that any off-site improvements can be discussed then.

Department of Natural Resources and Environmental Control – Contact Bahareh van Boekhold 735-3495

Soils Assessment

- Based on soils survey mapping update, following soil mapping units were mapped on subject parcel (grouped on the basis of drainage class):
 - 1) Well drained – Mattapex (MtB),
 - 2) Poorly drained (hydric) – Othello (OtA)
 - 3) Indeterminate – Urban land
- Based on the soil survey mapping, Othello is the soil mapping unit most likely to have limitations for development on this site. Othello is a poorly-drained wetland associated hydric soil. Urban land is likely to contain variable soil components; thus this map unit is may contain soils with various drainage classes (figure 1).
- DNREC strongly recommends a certified and licensed soil scientist (ARCPACs certified and Class D licensed) to make a site-specific evaluation of the soils in this parcel. Please contact the Underground Discharges Branch at 739-9948 for a list of soil scientists.
- The Statewide Wetland Mapping Project (SWMP) often uses the soil survey as the basis for mapping and delineating wetlands. The presence of a hydric soil is one of three parameters that must be met in order to meet jurisdictional wetland requirements (as specified by the USACOE). The other parameters are hydrophytic vegetation and hydrology. Thus the presence of hydric soils is a correlate with wetland presence. Building on hydric soils is likely to increase the potential for on-

open space, wastewater, and agriculture. Additional information about Christina River PCS is available from the follow web link:

<http://www.dnrec.delaware.gov/swc/wa/Pages/ChristinaBasin.aspx>

- In further support of the PCS, the applicant is also strongly urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:
- A United States Corps of Engineers (USACE) approved wetlands delineation is strongly recommended. According to information presented in the PLUS application, a USACE approved wetlands delineation is valid for 5 years. Since this delineation was performed over five years ago (i.e., 2004), it is no longer considered valid. We suggest that the applicant obtain a USACE approved wetlands delineation
- Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and wetlands (field delineated and approved by the USACE).
- Removal of forest cover to accommodate stormwater management structures is strongly discouraged. It is apparent that the applicant intends to remove much of the existing forest cover (1.47 acres according to the PLUS application, but appears to be more); this will likely increase nutrient runoff or discharges into both surface and groundwaters.
- The applicant should calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation.
- Since this project that will likely generate large amounts of impervious cover, DNREC advise, wherever practicable, the use of pervious paving materials (instead of conventional asphalt and concrete) as a BMP(s) to reduce the impacts from all forms of created surface imperviousness.
- DNREC encourages the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant impacts via runoff from impervious surfaces.

- The applicant should voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) that result from the conversion of individual or combined land parcels to a different land use(s), while providing applicants with quantitative information about their project’s impact(s) on baseline water quality. DNREC strongly encourages the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact the Watershed Assessment Section at 302-739-9939 for more information on the project.

Additional information on hazardous waste sites

- SIRS strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (**including a title search to identify environmental covenants**) in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.
- Additional remediation may be required if the project property or site is re-zoned by the county.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

Additional information on tank management

- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.
- If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.
- Should the municipality anticipate being more restrictive than Delaware’s Regulations Governing Underground Storage Tank Systems or Delaware’s Regulations Governing Aboveground Storage Tanks, please be aware that the municipality shall be responsible for enforcing the more restrictive rules.

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.

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".

Constance C. Holland, AICP
Director, Office of State Planning Coordination

CC: New Castle County