



MARYLAND DEPARTMENT OF THE ENVIRONMENT

Solid Waste Program, Suite 605

1800 Washington Boulevard • Baltimore MD 21230-1719

410-537-3315 • 1-800-633-6101, X-3315 • www.mde.state.md.us

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

November 21, 2013

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Jonathan S. Flesher, Senior Development Director
Beatty Development Group, LLC
1300 Thames Street, Suite 10
Baltimore, MD 21231

Dear Mr. Flesher:

The Maryland Department of the Environment (MDE) has reviewed the revised submission entitled "Area 1, Phase 1 Detailed Development Plan" and associated documents (the "DDP"), which provides a project description and the applicable plans for the Exelon Tower, Trading Floor/Garage and Central Plaza Garage project ("Exelon project") dated November 2013, as received on November 12, 2013. Review of these documents indicates that additional information and refinements are required before the plans could be approved. In accordance with Section IV.19.a of the Agreement and Covenant Not to Sue (the "Agreements"), MDE provides the following comments below to assist you in the finalization of the DDP.

The Settling Respondents, as specified in the Certificate of Settling Respondents, dated September 20, 2012, shall respond to the following MDE comments:

A. General comments:

1. Subsurface Piling Interactions - At the November 14, 2013 public meeting, a question was raised regarding the potential impact of subgrade wastes on steel piles, and a comment was provided that the steel piles would not be adversely affected. Provide the rationale for that response.
2. Air monitoring plan – It is recognized that MDE and EPA technical staff have been working with your consultants to develop a schedule for the development of acceptable air monitoring plans. As noted in MDE's letter of 10/31/13, if the DDP has statements that commit to the development of an air monitoring program that is acceptable to MDE and EPA, and providing that EPA and MDE can set and modify the methodology, number and location of sampling stations, and other critical elements of the air monitoring program if necessary, then this will be acceptable. As you have been previously advised, please note that an acceptable monitoring plan must be submitted and approved by the agencies, and monitoring data collected, prior to cap penetration.



B. Specific comments:

1. Health and Safety Plan (HASP) – Table 12.1 – the times proposed for various specified response actions seem longer than necessary. Provide the basis for determining the proposed response times.
2. Spill Prevention and Response Plan (SPRP) –
 - a. Page 2, section 1.1, last sentence – MDE should be notified immediately when a release of hazardous waste/hazardous materials occurs. Notify the Solid Waste Program during work hours, and if possible contact Jim Leizear @410-537-3369; after hours, contact the MDE spill response line toll free at (866) 633-4686.
 - b. Page 5, section 4.0, 2nd paragraph – The text proposes using cover soil to construct containment berms – the berms should be covered/stabilized with asphalt, plastic, or other acceptable non-absorbent material.
 - c. Page 7, section 5.0, 3rd paragraph – Use double-walled pipes/hoses to transfer all hazardous waste liquids.
 - d. Page 9, section 5.0, 2nd paragraph, 1st sentence – It is noted that the words “when possible” were added to the paragraph referring to Please assure that all refueling operations occur in areas with secondary containment, except for stationary equipment like the tower cranes. For those, include a reference to the appropriate spill control and cleanup plan.
 - e. Page 9, section 5.0, 3rd bullet – Please identify where the containers of recovered spilled petroleum would be stored.
 - f. Page 10, section 5.1, last paragraph – Please amend this paragraph to indicate that Honeywell will also be notified should a petroleum spill occur.
 - g. Page 14, section 6.3, 1st paragraph after bullets – the last sentence mentions treating released materials, although later the text states that no treatment would occur. Correct the discrepancy, and ensure that it complies with comment B.2.h below.
 - h. Page 15, section 6.3, 1st bullet – No onsite treatment of any materials may occur except in compliance with appropriate COMAR regulations.
 - i. Page 15, section 6.3, 2nd bullet – Resolve conflict with other sections that discuss treatment.
3. Storm Water Pollution Prevention Plan (SWPPP) –
 - a. Page 4, section 1.1, 3rd paragraph – has the developer been informed when the permit will be issued by MDE/WMA and/or what the requirements of the permit will be?

- b. Section 3.5.1 – Please specify whether the system described has been used to control groundwater.
- c. Section 3.5.1 – Please ensure that the constructed grades are still at elevations that drain to sumps. Also, please specify the pump capacities.
- d. Section 4.1.5 – The section is vague and provides no technical basis to support the statements made.
- e. Section 5.1.1 – Specify the distance between the HMS components and the crane support piles. Can the HMS components continue to function at the distance proposed, and/or if the crane pad bridges the HMS?
- f. Section 5.1.2 – Please advise when you expect the stormwater permit to be issued by MDE.
- g. Section 5.1.4 – Please specify where the new settlement point MP-1A will be placed.
- h. Section 5.2.1 – Please identify the maximum groundwater elevation increase that is expected, and how much more groundwater will have to be removed to maintain the required gradient.
- i. Section 6.3.3 – Please identify how long it would take to implement the pipeline diversions described to accommodate the need to pump directly from vault V1 to the frac tanks or other containers.
- j. Section 7.1 – Please discuss whether any stop work orders apply to the entire site, or would work in a specific area(s) only be required.
- k. Section 7.2.1 – Please amend the plan to specify that any stockpiles of any construction, demolition or excavation materials on site that could generate airborne particles must be covered at all times, except when materials are being added or removed.

7. Engineering Evaluation –

- a. Cover Letter – 2. Is wind-driven overtopping of a completely filled modutank possible? Tank operations should preclude the potential for any releases.
- b. EE 4 –
 - i. Page 2 – Please identify who is responsible to replace any backfill into trench areas where the soil bentonite material has settled due to pile driving or other effects.
 - ii. Page 3 – Please describe what “fair” means regarding performance of SWELLSEAL in contact with high concentrations of Cr+6?
 - iii. Page 4 – Please define the terms “fjt” used in the cited equation.
 - iv. Page 6 – In the next to last paragraph, the sentence should be revised for clarity.

- v. Page 6 – Point 4 – Please describe how these requirements will be enforced during construction.
 - vi. Page 6 – Backfill densification – Please clarify the last paragraph.
 - vii. Page 6 – Sheet pile verticality – provide a detailed plan describing how the specified proposal will be implemented.
 - viii. The De Neef chemical resistance guide for SWELLSEAL, chemical table, lists “N” for chromic acid, indicating that the material is not recommended for use with the chemical since its performance is “poor”. Provide the basis for determining that SWELLSEAL may be safely used even though it would be in contact with chromate compounds in the subgrade.
8. Response to Comments –
- a. Page 45, number 8 – Construction should not occur prior to issuance of the stormwater permit without authorization from MDE’s Water Management Administration.
 - b. Page 51, number 3, first bullet – Please amend the plan to require that all vaults should be inspected once construction is completed, and all cracks and other damages repaired.
 - c. Page 52, C.1. – As the modutank capacity is stated to be equivalent to ~20,250 ft², that area should be the maximum open area at any time during construction.
 - d. Page 52, number 6 – Please amend the plan to require that the modutanks must be operated in a manner that does not permit overtopping for any reason, regardless of secondary containment capacity.
 - e. Page 55, number 4 – The SWELLSEAL product information provided indicates that the material is not suitable for use with chromic acid. The chromate compounds present in the subgrade are similar to H₂CrO₄; please provide documentation that the chromate compounds anticipated to be encountered in the subgrade will not adversely impact the sealant material proposed.
 - f. Page 58, J.1. – Please amend the plan to require a determination whether subgrade conduits have been damaged by the construction project.
 - g. Page 59, B.1. – Please include the cited sections of the agreements.
 - h. Page 61, 5.b. – Please define the terms used and clarify what the statement “overall Q to HMS” means.
 - i. Page 62, 5.c.iii. – Please provide the QA/QC plan to MDE.
 - j. Page 62, 6.b. – Please provide the test results once the test program has been completed, and prior to start of construction.

- k. Page 63, number 7 – Please specify which borings have not been grouted or otherwise not properly abandoned.
- l. Page 63, number 8 – Please specify which Black & Veatch report was cited in the response.
- m. Page 64, F1.16, a. – As the schedule submitted indicates that building demolition will start February 18, 2014, the report must be provided to MDE by January 28, 2014.
- n. Page 68, number 21, EN1.01, a. – Please estimate the expected volume of contaminated soils and other materials that will be generated by the project.
- o. Page 69, number 22, EN1.02, b. – Please clarify whether the inspection frequency proposed in accordance with manufacturer guidelines.
- p. Page 70, number 22.d. – Please discuss what the effect on water levels within the containment would be if more than one piezometer system is out of service for more than 48 hours, especially for an extended period of weeks or more. How long could such non-operation of the HMS system continue before adverse impacts occurred?
- q. Page 72, c. – Please identify whether the 5.17' adjusted height is sufficient to permit all necessary activities to be conducted properly?
- r. Page 75, number 30 – Please note that if the proposed Dock Street platform is not built, the alternative program must be submitted to MDE for review and approval, and construction may not begin until that approval has been provided.
- s. Page 76, number 31.b. – Please estimate the maximum number of hours per day during which construction activities will occur.
- t. Page 77, number 31.c. – Same comment as stated in 8.p. above.

We look forward to working with you with respect to the finalization of the DDP in accordance with these comments, and those provided by EPA. If you have any questions in this matter, please refer them to me at 410-537-3315, or via email at ed.dexter@maryland.gov.

Sincerely,

Edward M. Dexter, P.G., Administrator
Solid Waste Program

EMD:JL:ed

cc: Mr. Russell Fish, EPA
Mr. Chris French, Honeywell
Mr. Horacio Tablada
Matthew Zimmerman, Esquire