

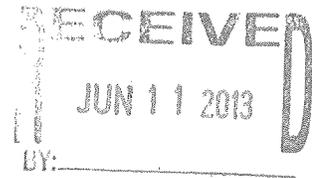


pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOUTHEAST REGIONAL OFFICE

JUN 07 2013



Mr. Robert Layman, Manager
Westtown Township
P.O. Box 79
Westtown, PA 19395

Re: Act 537 Plan Update
Westtown Township
Chester County

Dear Mr. Layman:

The Department of Environmental Protection ("DEP") has completed the review of your municipality's updated official sewage facilities plan entitled *Act 537 Official Sewage Facilities Plan Special Study* ("Special Study") as prepared by URS Corporation dated September 2012. The Special Study was supplemented by additional information that we received on December 12, 2012, and April 18, 2013.

The review was conducted in accordance with the provisions of the Pennsylvania Sewage Facilities Act.

Our review has indicated that portions of the Special Study can be approved, while other portions of the Special Study are not in accordance with the Pennsylvania Sewage Facilities Act and the provisions set forth in the Pennsylvania Code, Title 25, Chapter 71.

DEP hereby grants approval for the following provisions of the Special Study:

1. Westtown Township ("Township") will implement a Sewage Management Program ("SMP") for all on-lot sewage disposal systems within the Township. The on-lot management ordinance will be adopted within 6 months of the date of this letter. A copy of the adopted ordinance shall be provided to DEP within 7 days of its adoption.

DEP has the following comments concerning the SMP:

- a. If the Township wishes to phase the implementation of the ordinance to create districts with staggered pumping/inspection dates, we request that the following areas be considered a priority for the implementation of the SMP: Tyson Drive, Hummingbird Farm, Carolyn Drive, Hunt Drive, Kilduff Circle, Farmview, Grandview Acres, Westover Farms, Butternut Lane, Avon Lea, West Lynn Area, Edgewood Chase, and Westtown Farms.

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- b. DEP requests that the Township provide an annual status report, identifying the tasks that have been completed under the SMP, the rate of compliance with the SMP, and the enforcement actions taken to obtain compliance with the SMP. We request that the status report be submitted by June 1, annually, and without further notice.
 - c. This approval does not waive any enforcement action available to DEP under any of its statutes or regulations. The Township may be subject to future planning orders if the annual status report reveals excessive noncompliance with the SMP or if DEP becomes aware of immediate sewage disposal needs that cannot be addressed by the continued implementation of the SMP.
2. The Township has committed to preparing an updated Act 537 Plan ("Plan Update") for all existing residences within 5 to 10 years of this action.

DEP has the following comments concerning the Plan Update:

- a. DEP requests that the Plan Update be a comprehensive, Township-wide plan, meeting the requirements of Chapter 71. We recommend that the Township and its consultants schedule a pre-plan of study meeting with DEP to discuss the requirements of the Plan Update.
- b. The Plan Update should evaluate all of the data collected as a result of the SMP.
- c. DEP requests that the Plan Update be adopted by the Township and submitted to DEP by July 1, 2023.
- d. If, in the interim, additional planning is necessary to address sewage disposal needs in a portion of the Township, the Township may prepare a special study to address those needs.

The following provision of the Special Study is hereby denied:

The selected alternative for the West Wynn I area is the implementation of the SMP. West Wynn I is comprised of approximately 60 lots. The majority of the lots are less than 1 acre net, or less than $\frac{3}{4}$ acre net, if served by public water. The majority of the lots are served by systems that predate the regulations. Eight percent (8 percent) of the lots in this area applied for, but did not receive, a repair permit, including 4 lots for which no feasible repair was available. Ten percent (10 percent) of the systems appear to require pumping more than one time per year.

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Consistent with Chapter 71, Section 71.32(d)(1), in approving or disapproving an official plan or official plan revision, DEP will consider whether the plan or revision meets the requirements of Chapter 71. DEP questions how the implementation of only a SMP will resolve the sewage disposal needs in this area, as required by Section 71.12(a).

The portion of the Special Study that focuses on the West Wynn I area is subject to the provisions of Milestone Event 3 of the August 16, 2011, Consent Order and Agreement ("2011 CO&A") by and between DEP and the Township. Within 120 days of the date of this letter, the Township shall submit another plan update for the West Wynn I area. This plan update may be in the form of a special study. Any failure of the municipality to submit the required planning within the time frame specified in this letter shall constitute a violation of Milestone Event 3 and subject the Township to remedies as set forth in the 2011 CO&A. The plan update for West Wynn I should thoroughly evaluate the conditions in this area and the alternatives available and choose an alternative that will adequately address the needs in this area. Alternately, in lieu of completing a plan update for this area, the Township may elect to implement the portion of its approved 2006 Act 537 plan update that pertained to West Wynn I. If the Township elects this alternative, please inform us of your intent to do so within 120 days of the date of this letter and provide a revised implementation schedule to us for our approval. The 2011 CO&A remains in effect until the Township has complied fully with the obligations in paragraphs 3, 4, and 5 of the 2011 CO&A.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717.787.3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800.654.5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717.787.3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717.787.3483) FOR MORE INFORMATION.

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If you have any questions, please contact Ms. Kelly A. Sweeney of this office.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Fields", written over a horizontal line.

Jenifer Fields, P.E.
Regional Manager
Clean Water

cc: Chester County Planning Commission
Chester County Health Department
Mr. Corbett – URS Corporation
Ms. Sweeney
Ms. Vollero – RCSOB, 11th Floor, Sewage Facilities
Planning Section
Re 30 (joh13clw)155-11