

Dan E. Gillis
The Railroad Action and Advisory Committee
1770 Wicklawn Drive
Lancaster, PA 17603
September 12, 2008

Kathleen Horvath, P.G.
Pennsylvania Department of Environmental Protection
Environmental Cleanup Program
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110

Re: Comments on Franklin & Marshall/ARM Group Public Involvement Plan for Dillerville
Rail Yard Relocation Project

Dear Ms. Horvath:

The Railroad Action and Advisory Committee ("TRRAAC") has reviewed the Public Involvement Plan ("PIP") submitted to the Department of Environmental Protection ("DEP") as part of the Franklin & Marshall College/ARM Group, Inc. Remedial Investigation Report and Cleanup Plan ("RIR"). TRRAAC does not believe the PIP is consistent with the requirements for a public involvement plan under Act 2 and Department regulations and technical guidance. Although F&M held a public meeting and presented information about the rail yard relocation project, they showed only display boards; they did not provide copies of the underlying technical data for comment at or prior to the meeting. Instead, they transmitted the RIR to DEP on or about July 23, 2008 and at that time did not provide notice to or a courtesy copy of the document to TRRAAC.

In addition, despite repeated promises to provide TRRAAC with the underlying technical data by early August, TRRAAC has yet to receive the 2002 Environmental Due Diligence Investigation prepared by ARM Group or the lab analysis of the asbestos samples taken in April 2008. Appendix E of the RIR contains only a summary of the results, not the underlying technical analysis. Moreover, it appears F&M never analyzed the soil samples for asbestos contamination.

TRRAAC requests that DEP require F&M to revise the PIP, provide copies of all relevant technical data and analysis and adequately inform the interested public and provide meaningful opportunity for public participation in the remediation and reuse of the subject property before excavation begins.

As you know, Pennsylvania's Land Recycling and Environmental Cleanup Standards Act ("Act 2") requires "persons using the site-specific standard to develop a public involvement plan which involves the public in the cleanup and use of the property if the municipality requests to be involved in the remediation and reuse plans for the site." The regulations promulgated under Act 2 indicate that the publication date of the summary of the Notice of Intent to Remediate triggers a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site being remediated. In this case, the Notice of Intent to Remediate ("NIR") was first published in the local paper on May 10, 2008. Thereafter, the Board of Commissioners of Manheim Township requested involvement in the development of the remediation and reuse plans for the site being remediated by letter dated June 9, 2008.

Notwithstanding the timely request of Manheim Township to be involved in the development of the remediation plan, apparently a draft of the PIP was never made available to the Township or the affected public for comment or suggestions. F&M alleges on page 13 of the RIR that a copy of the PIP was included in the handouts at the June 19, 2008 public meeting. We do not believe this is true. Moreover, while the public was able to submit comments at that meeting, it was difficult to comment when none of the underlying environmental data was presented. Furthermore, the "Public Meeting Guidelines" specified that "Guests may ask only one question at a time until all parties present have had a chance to ask their question." Due to time constraints and the large number of individuals who queued up to ask questions, this restrictive guideline effectively limited each person to asking only one single question.

TRRAAC, following a review of DEP's public file, notes that F&M's consultants had already performed an environmental due diligence investigation and submitted a Preliminary Environmental Investigation Step 1 report and a Step 2 report to DEP, yet neither F&M nor DEP made those reports available to the public at the June 19 meeting. It is alarming that the Step 1 and Step 2 reports did not include discussion about asbestos containing materials deposited at the site.

Instead of an open and collaborative process, F&M goes to great lengths in the PIP to bootstrap their public relations activities prior to publication of the NIR (which did not include notice of asbestos containing materials at the site) as meeting the statutory and regulatory requirements for a public involvement plan. For example, the "cottage-style" meetings identified on page 10 of the RIR were by invitation only and no handout materials were provided that included the results of the environmental investigation that had already begun. Indeed, F&M did not analyze the samples for asbestos until it was suggested by members of TRRAAC.

F&M admits the intent of a PIP is to make a "reasonable and good faith effort to share information with the public." While F&M has been diligent in presenting its perspective on the economic benefit of the project, they did not share relevant environmental information with the public. Indeed, while F&M takes credit for the formation of TRRAAC as satisfying the regulatory suggestion to form a community-based group to solicit suggestions and comments, F&M did not bother to include TRRAAC as a recipient of the Remedial Investigation Report. Instead, TRRAAC learned of the July 23, 2008 submission of the RIR and PIP by a random check of F&M's web site. TRRAAC welcomes the use of the web site as a means to make

relevant documents available, but believes that the web site should identify when new documents are added.

Now that F&M has publicly acknowledged the presence of asbestos containing materials, they should maximize their efforts to solicit public suggestions and comments on the appropriate method for remediation of the site. TRRAAC is extremely concerned about the risk that the asbestos containing materials will become friable if they are subject to excavation by heavy equipment.

TRRAAC also notes that F&M sought permission from the DEP to increase the daily waste volume limit for the Frey Farm Landfill in a memorandum dated June 24, 2008. That memorandum failed to disclose the presence of significant quantities of asbestos containing material in the waste. TRRAAC believes the affected public should be informed of the request to increase those daily limits and the presence of asbestos containing material in the waste, and be provided with an opportunity to comment on the proposal.

TRRAAC appreciates this opportunity to comment on the PIP and suggests DEP require F&M to prepare a meaningful PIP that better informs the public of the presence of asbestos containing materials and the risks associated with their proposed remediation and reuse of the property.

Sincerely,

The Railroad Action and Advisory Committee (TRRAAC)

Dan E. Gillis

CC: Gary R. Brown
William J. Cluck, Esq.
Keith A. Orris, Franklin & Marshall College
Manheim Township Board of Commissioners & Township Manager
East Hempfield Township Board of Supervisors & Township Manager
Lancaster Township Board of Supervisors & Township Manager