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OCT 26 1999

Mr. Thomas Mignery
Burgess & Niple Ltd
5085 Reed Road
Columbus, Ohio 43220

Re: Approval of Urban Setting Designation, Pen West Area, City of Columbus (ID: 99USD015), Franklin County, Ohio.

Dear Mr. Mignery:

The purpose of this letter is to respond to and approve your request on behalf of your client, the City of Columbus (Columbus), for an Urban Setting Designation (USD) for the 152 acre area known as the "Pen West Area" within Columbus, Franklin County, Ohio. A general map of the area subject to this USD approval is included as Attachment 1 hereto. A list of the 84 parcel numbers subject to this USD approval is also included as Attachment 1.

The map in Attachment 1 provides an accurate description of the boundary of the entire Pen West Area USD. This map was generated from records of 84 permanent parcel numbers which comprise the Pen West Area, and which are on file in the Franklin County Recorder's office. The description of the USD area was also provided to Ohio EPA by the CP and Volunteer in an electronic format utilizing a software program known as ArcInfo GIS.

This USD request has been made pursuant to Ohio Administrative Code (OAC) 3745-300-10(D) under the Voluntary Action Program (VAP). As set forth in OAC 3745-300-10(D), the USD authorizes the use of an alternative standard for ground water cleanup for the area delineated within the USD, generally based upon the urban nature of the area, the availability and widespread use of public drinking water supplies, and lack of use of ground water in the area for potable purposes.

A USD may be requested under the VAP by a Certified Professional (CP) upon demonstration that the threshold criteria contained in OAC 3745-300-10(D) (1)(a) through (e) have been met within the USD area. The Director of Ohio EPA is authorized to approve a USD after Ohio EPA finds that the threshold criteria are met, and upon consideration of the additional criteria contained in OAC 3745-300-10(D)(2)(e)(ii) through (vii), regarding,

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director

among other things, regional water resource needs, existing or potential future uses of ground water, and the potential impact of the USD on surrounding jurisdictions.

The following briefly describes the Ohio EPA's determination of how your USD request demonstrates that the Pen West Area meets the threshold criteria in OAC 3745-300-10(D)(1)(a) through (e), and the Ohio EPA's consideration of the additional factors contained in OAC 3745-300-10(D)(2)(e)(ii) through (vii).

I. Threshold Criteria: OAC 3745-300-10(D)(1)(a) through (e)

1. OAC 3745-300-10(D)(1)(a): Property Location.

- a) The General Site Location Map indicates that the Pen West Area, composed of 152 acres, is located entirely within the corporation boundaries of Columbus.
- b) The 1990 U.S. Census reported the total population of Columbus to be 632,958, which meets the minimum population requirements for a USD within a city in Ohio.

2. OAC 3745-300-10(D)(1)(b): Parcels Connected to a Community Water Supply.

The following information supports the conclusion that not less than 90 percent of the parcels within Columbus are connected to the community water supply:

- a) The USD request for Miranova Development, (98USD007) presented by Hull & Associates (HAI) in 1998, indicated that 99.3 percent of the housing units within Columbus are served by the community water supply.
- b) Although the City of Columbus has no restrictions on the use of groundwater as a potable water supply, the Ohio Rules for Private Water Systems require siting criteria that could not be met within the high level of urban development that is present in the Pen West Area, thereby necessitating connection to the Columbus municipal water supply system.
- c) Mr. John Funk, (Fiscal Manager, City of Columbus, Department of Public Utilities, (CCDPU), Division of Water) verified in a letter dated January 6, 1999, that the entire Pen West Area is within the Columbus Division of Water service area, with water service available to all parcels. He further stated that the city was not aware of any parcels within the area that are utilizing water for potable uses other than from the Columbus municipal water supply.

- d) A Geographic Information System (GIS) database for Franklin County was utilized by the CP to demonstrate that not less than 90 percent of the parcels are connected to the community water supply. According to the April 1998 HAI submittal, 216,538 parcels or 98.8 percent of the total 219,118 parcels within Columbus, are connected to the community water supply.
- e) The HAI submittal included maps of the existing water distribution trunk mains and secondary water lines that were provided by the CCDPU, in which it was shown that there are water mains and service to every street in the Pen West Area of Columbus.
- g) Within Columbus, the USD request for the Miranova Development property was approved by the Director on September 24, 1998. The Miranova property is approximately 3500 feet south of the Pen West Area, and the ½ mile buffer radius from the Miranova USD is adjacent to the southern Pen West Area boundary.

3. OAC 3745-300-10(D)(1)(c): Wellhead Protection Area.

The USD area is not located within an endorsed wellhead protection area, or a proposed wellhead protection area currently submitted to Ohio EPA for review and endorsement. The proposed Pen West USD is approximately ten (10) miles north of the closest wellhead protection area (Columbus' South Well Field).

4. OAC 3745-300-10(D)(1)(d): Wells Within ½ Mile of the Property Boundary.

The following information was presented with the Pen West USD request to support the CP's demonstration that no potable wells exist within the Pen West Area or within one-half (½) mile of the Pen West Area boundary:

- a) Based on the data available from the Ohio Department of Natural Resources (ODNR), such as the located, and unlocated ODNR well logs, 26 well records were identified within the Pen West area or within one-half (½) mile of the Pen West boundary. However, a subsequent well inventory concluded that none of these wells are used for a potable water supply;
- b) As previously stated, Mr. John Funk, (CCDPU), verified in a letter dated January 6, 1999, that the City was not aware of any parcels within the area that are utilizing water for potable uses other than from the Columbus municipal water supply.

- c) Based on data available from Ohio EPA, there were no community, non-transient non-community, or transient non-community water systems within the Pen West Area or within one-half ($\frac{1}{2}$) mile of the USD boundary;
- d) As previously stated, the City of Columbus has no restrictions on the use of groundwater as a potable water supply; however, the Ohio Rules for Private Water Systems require siting criteria that could not be met within the high level of urban development that is present in the Pen West Area, thereby necessitating connection to the Columbus municipal water supply system.
- f) The previously referenced USD request for Miranova Development, submitted by HAI in 1998 indicated that 99.3 percent of the housing units within Columbus were served by the public community water supply.

5. OAC 3745-300-10(D)(1)(e): Sole Source Aquifer or 100 gpm Unconsolidated Aquifer.

Based on data available from Ohio EPA and ODNR ground water resources map for Franklin County, the Pen West Area is not located over a consolidated Sole Source Aquifer, although the Pen West Area is located over an unconsolidated saturated zone capable of yielding greater than one hundred gallons per minute, which therefore, classifies it as Critical Resource Groundwater. In accordance with OAC 3745-300-10(D)(1)(e), the CP adequately demonstrated that the ground water is not currently used or expected to be used in the future for potable purposes in the Pen West Area and within one-half ($\frac{1}{2}$) mile of the Pen West boundary.

II. Additional Factors for Consideration: OAC 3745-300-10(D)(2)(e)(ii) through (vii)

In addition to the threshold criteria contained in OAC 3745-300-10(D)(1)(a) through (e), OAC 3745-300-10(D)(2)(e)(ii) through (vii) require consideration of several factors for a USD approval: the potential impact of the USD on surrounding jurisdictions, and on regional water resource needs; existing or potential future uses of ground water in the region or in the USD area; the availability and feasibility of treatment systems; and any other factors determined to be relevant to the determination of whether the USD is protective of public health, safety, and the environment.

1. OAC 3745-300-10(D)(2)(e)(ii) through (iii): Potential Impact of the USD on Surrounding Jurisdictions and Regional Water Resource Needs.

After consultation with representatives of each jurisdiction within a five (5) mile radius surrounding the Pen West Area ("surrounding jurisdictions"), the criteria contained in this rule have been considered by Ohio EPA, in light of the information received. The

surrounding jurisdictions include: Obetz, Grove City, Grandview Heights, Upper Arlington, Valley View, Bexley, Marble Cliff, Clinton Township (Twp), Franklin Twp., Hamilton Twp., Jackson Twp., Madison Twp., Mifflin Twp., Norwich Twp., and Truro Twp. Reasonably available information was initially gathered from these jurisdictions through a telephone survey for the Miranova USD which was conducted between June 4, 1998 and June 28, 1998. A subsequent telephone survey of these same jurisdictions was conducted from September 16, 1999 to September 20, 1999.

Most of the surrounding jurisdictions receive their sources of public drinking water from the City of Columbus. The source of water for the Columbus community water system is surface water from the Scioto River, a number of above ground reservoirs and ground water from the South Well Field. The South Well Field is located approximately eight to ten miles south of the Pen West Area and the wellhead protection area associated with the wellfield does not incorporate any of the Pen West Area. Obetz operates a community water system. The source of water for Obetz is groundwater. The Obetz well field is located approximately eight miles to the southeast and the well head protection area associated with the wellfield does not incorporate any of the Pen West Area. In addition, some areas in Madison, Norwich and Truro Townships are served by Citizens Utilities Company, a public water supply company. These areas are greater than five miles from the Pen West Area. The source of water for each of these community water systems is ground water. Mr. Steve Henson, owner of Citizen's Utilities, felt that the well fields for these areas would not be impacted by the USD request. In a telephone interview conducted on September 16, 1999, Mr. Henson re-affirmed these views.

Finally, Columbus and the surrounding jurisdictions reportedly have not experienced any shortages of water, and all anticipate having a sufficient supply of water to meet all future needs. A summary of the "Water Beyond 2000," a project completed by Columbus, which was provided with the USD request, includes expansion of the well field to the south and reservoirs to the north, and demonstrates the City's commitment to expanding water service. Therefore, based on the information provided with the USD request, and based upon information obtained in the previous Miranova USD request, it does not appear that regional water resource needs will be impacted by the proposed Pen West USD. In addition, Ohio EPA has no evidence that the USD will adversely impact ground water needed for current and anticipated future potable uses in the surrounding jurisdictions as a result of contamination that may exist within the Pen West Area.

2. OAC 3745-300-10(D)(2)(e)(iv) through (v): Current or Expected Future Ground Water Use.

Based on the information received by the CP, and upon the information gathered by Ohio EPA for consideration of the USD request, ground water in the Pen West Area is not currently being used by residents a source of water used for potable purposes, and is not reasonably expected to be used as a future source of water used for potable purposes by residents. Furthermore, it is unlikely that potable well installation will occur in the region or the Pen West Area; therefore, exposure to potentially contaminated ground water is unlikely. Representatives of the other surrounding jurisdictions have stated that potable well installation is unlikely due to the availability of drinking water from Columbus' water supply system. Therefore, upon consideration of current and future expected uses of ground water as a potable source in the region, Ohio EPA believes that the USD will be protective of public health, safety and the environment because of the lack of evidence that potable wells are currently being used in the region, and the Ohio Department of Health rules which specify setback distances from building foundations, property lines, utilities and easements, and known sources of contamination, suggest that the development of ground water for potable use within the Pen West Area is unlikely.

3. OAC 3745-300-10(D)(2)(e)(vi): Availability and Feasibility of Treatment Systems.

The information submitted by the CP on behalf of Columbus, and the additional information obtained by Ohio EPA, indicate that ground water is not currently, nor expected to be, utilized in the Pen West Area for potable purposes. Also, no evidence suggests that granting a USD for the Pen West Area will cause an adverse impact on the potability of water in the Columbus public water supply system. Therefore, in this case, Ohio EPA does not consider the availability and feasibility of treatment systems to be a relevant factor for determining whether the USD will be protective of public health, safety and the environment.

4. OAC 3745-300-10(D)(2)(e)(vii): Other Factors.

The USD has been the subject of a public meeting held by the Ohio EPA on July 28, 1999. The City of Columbus appears to be in support of, not in opposition to, the USD request for the Pen West Area. No public comments have been presented to Ohio EPA which question the accuracy of the information gathered regarding the USD request, or which provide additional factual information to suggest that the USD will not be protective of public health, safety and the environment. However, several comments have been received from concerned citizens which suggest that residual soil and groundwater contamination is present at various properties within the Pen West Area, (in particular, the former Ohio State Penitentiary), and that these

properties may contain contaminants of concern or may involve conditions (underground storage tanks) that may still require remediation in order for them to be protective of public health and the environment. It should be noted that the issuance of a USD for the Pen West area does not imply that any NFA letter(s) that are submitted through the VAP for various properties within the Pen West Area, will necessarily receive a covenant not to sue (CNS) from the Ohio EPA. All properties within the Pen West USD Area that seek a CNS will be required by the Ohio EPA to demonstrate eligibility for participation within the VAP, and to achieve the VAP applicable standards in order to receive a CNS.

Based on the information discussed above, and that additional factors for consideration of the USD request have been satisfied, the ground water cleanup requirements applicable to the properties identified as being located entirely within the Pen West Area USD are those contained in OAC 3745-300-10 for a USD.

This USD letter pertains to parcels that lie wholly within the boundary of the Pen West Area. The USD submittal contained a list of permanent parcel numbers provided by the CP and a map of the area of Columbus where these parcels are located (Attachment 1). The description of the USD area was provided to Ohio EPA by the CP and Volunteer in an electronic format known as ArcInfo GIS. This electronic format contains two map layers. One layer contains the boundaries for the USD area and the second map layer contains the parcels located in the Pen West Area. The CP and Volunteer identified the boundary of the Pen West Area by outlining the outer boundary of each perimeter parcel. Based on the information provided by the CP, the Pen West Area USD consists of 84 complete parcels; no partial or incomplete parcels are included in the Pen West Area. This ArcInfo GIS map of the Pen West Area is contained on a CD ROM which will be maintained by Ohio EPA. In addition to a demonstration of no significant change of USD criteria as required below, the use of this USD as an applicable ground water standard is contingent upon making a demonstration to Ohio EPA, and receiving Ohio EPA's concurrence, that a property is located entirely within the boundary of the Pen West Area USD.

This USD letter is not a final action of the Director. The use of the USD to establish applicable ground water standards for any property located within the Pen West Area USD is contingent upon a determination by Ohio EPA, at the time of issuance of any Covenant Not to Sue (CNS) for any property within the Pen West Area USD, that no significant change of circumstances has occurred regarding the USD criteria contained in OAC 3745-300-10(D). In addition, the use of the USD as an applicable ground water standard is contingent upon demonstration in an NFA Letter for any property within the Pen West Area USD, that the property is eligible for participation in the VAP, pursuant to ORC Section 3746.02 and OAC 3745-300-02. To the extent that any property located within the Pen West Area USD, or any portion thereof, is determined to be ineligible for the VAP, the USD criteria and other VAP cleanup standards contained in ORC Chapter 3746 and OAC

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Chapter 3745-300 would be inapplicable to that property, pursuant to ORC Section 3746.02, and OAC 3745-300-10(D)(1) respectively. This USD letter pertains only to the properties identified herein, and therefore, is not applicable to any other property.

Thank you for your interest in the VAP. If you have any questions concerning this letter, please contact Jenifer Kwasniewski of my staff at (614) 644-2279.

Sincerely,



Christopher Jones
Director, Ohio Environmental Protection Agency

cc. Jenifer Kwasniewski, Manager, DERR-CO
Cindy Hafner, Chief, DERR, Chief, CDO
Amy Yersavich, Unit Supervisor, DERR-CO
Jeff Patzke, Manager, DDAGW-CO
Joe Koncelik, Legal
Gregory Lashutka, Mayor of Columbus

Attachment