99-083

URS

June 5, 2006

Environmental Hearing Board Second Floor Rachel Carson State Office Building 400 Market Street PO Box 8457 Harrisburg, PA 17105-8457 RECEIVED

SEP 0 8 2006

ICF, Inc. PAUSTIF

Re: Appeal of Disapproval Letter

UST Site Characterization Report Addendum/Remedial Action Completion Report

City of Bethlehem UST Site

Municipal Garage, Facility ID #48-15914 URS Project No. 19996320.00001

Dear Sir or Madam:

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, on behalf of our client, the City of Bethlehem (the City), we would like to appeal the finding of disapproval of the subject report (letter from Ronald Brezinski dated May 19, 2006). This appeal is based on the following concerns with respect to the three points raised by PADEP in its disapproval letter:

- 1) PADEP insists that a) additional groundwater characterization activities are warranted at the site, and b) that these activities must include the installation of at least 3 monitoring wells to determine the hydraulic gradient, and c) that these wells must be sampled for VOCs, SVOCs, and dissolved lead. In our report, we challenged all three of these contentions:
 - a) As described in the report, the existing soil data from 20 soil boring locations indicated no exceedances of any compounds of concern, with the exception of a single sample which exceeded the impact to groundwater standard for naphthalene. The other samples in the immediate vicinity of this exceedance indicated that it is highly localized, and that the results of the sampling suggest that attainment of soil standards has been demonstrated via the 75%/10X rule and the 95% UCL rule. Groundwater monitoring in the obviously downgradient direction from this sample (see below) has indicated no impact from naphthalene, nor any other compound of concern at the site. Therefore, no additional groundwater assessment is warranted, based on the absence of significant residual soil impacts beneath the former UST system and the documentation of the absence of groundwater impacts.
 - b) As described in the report, the direction of groundwater flow is obvious from the presence of springs emerging in the hillside directly downslope and adjacent to the former UST area, and the location of nearby surface water bodies. These springs have the same logical function as monitoring wells, as one could just as easily hammer a pipe into the spring and measure the water level within the pipe as the same elevation from which it is emerging. The applicable regulations do not specifically cite any minimum number of monitoring wells is required to identify a groundwater flow direction. The PADEP case manager has in the

URS Corporation 335 Commerce Drive, Suite 300 Fort Washington, PA 19034 Tel: 215.367.2500 Fax: 215.367.1000 Environmental Hearing Board June 5, 2006 Page -2-

past cited Section 3.3.1 of PADEP's 2001 Groundwater Monitoring Guidance Manual as support for the claim that a minimum of three groundwater monitoring wells are required for determination of the hydraulic gradient; however, the manual actually only states that "at least three monitoring points are needed to determine the horizontal gradient" (emphasis added). The guidance manual therefore allows for alternative defensible methods besides monitoring wells, and in any case does not have the force of a regulation. PADEP has not responded to our defense of the use of the single monitoring well with any technical argument. In light of the fact that there is evidence of the absence of any significant residual post-remediation impact to soils beneath the former UST excavation, it appears unwarranted to demand further groundwater monitoring well installation.

c) The USTs involved in the release and remedial action involved only diesel and unleaded gasoline. The appropriate chemical parameters for these substances were analyzed for in accordance with Pennsylvania regulations. We documented in the report that leaded gasoline was never stored in USTs at the facility, as the facility had discontinued the use of leaded gasoline in 1976, two years before installation of the UST system. Therefore, PADEP's insistence on sampling for dissolved lead and other parameters unrelated to the USTs under investigation is unjustified.

We requested, via repeated email and telephone contacts between September and December 2005, the opportunity to discuss these points further with the PADEP Case Manager, but the Case Manager responded that he would be unable to respond to our concerns on a timely basis. He instructed us to instead follow the original June 23, 2003 Work Plan, which in fact did not include any additional plans for groundwater assessment.

- 2) PADEP indicates that to demonstrate attainment of statewide health standards for soil, attainment samples must be obtained in accordance with Pennsylvania Code Title 25 § 250.703. In the report, we presented and defended the use of the existing data, while noting minor inconsistencies with the regulation. We consider that the minor inconsistencies are insignificant and not meaningful, and that the attainment of statewide standards has been adequately demonstrated. PADEP has offered no response to explain their disagreement with our argument other than to cite the regulation number. PADEP also states, in their disapproval letter, that "the samples should be representative of the remediated area with laboratory analysis for the compounds contained in the USTs." We are puzzled by this statement, as the samples satisfy those criteria.
- 3) PADEP asks that the Department be provided "with information concerning the soil samples that were collected under the UST dispenser and piping systems". We are puzzled by this request as this material was referenced in the report and was provided to PADEP in the original 1998 report by Skelly and Loy.

The removed UST system has since been replaced by a new system that services the City's fleet of vehicles. The area has limited access due to overhead and underground utilities and constraints. Further work to address the former UST system, which has been demonstrated to have had no significant impact on soil or groundwater since its original removal in 1998, is overly burdensome and unnecessary.

The City of Bethlehem has made every reasonable effort to satisfy the technical requirements of this case, and has indicated that they are very dissatisfied with the lack of communication and consideration from the Case Manager regarding the case status. The City of Bethlehem considers that the case merits closure, and that any additional effort regarding this 1998 release, which has been fully demonstrated to have caused no residual impact to soil or groundwater, is a waste of taxpayers' money. We respectfully request a hearing to appeal PADEP's most recent disapproval, and to gain full consideration of the technical details and history of this case, so that the City of Bethlehem may be fully accountable to its taxpaying citizens.

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Please feel free to contact me at 215-367-2531 if you have any questions or comments.

Sincerely,

URS CORPORATION

Matthew J. Gordon P.HGW.
Project Director

Project Director

Enclosures

CC. Mr. Steven DeSalva, City of Bethlehem Department of Public Works

Hon. Steven Samuelson, Pennsylvania House of Representatives

Hon. T. J. Rooney, Pennsylvania House of Representatives

Hon. Lisa Boscola, Pennsylvania Senate

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