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September 22, 2008

Via Email and U.S. Mail

Bill Fischbein
Deputy Director, Legal Affairs
Ohio EPA
P.O. Box 1049
Columbus, OH 43216-1049

Re: Storm Water Permit/Akron Airdock

Dear Bill:

The purpose of this letter is to follow up on our recent discussions regarding the storm water permit requirements for the Akron Airdock (the "Airdock"). My client, the Summit County Port Authority (the "Port Authority") owns the Airdock. Lockheed Martin Corporation ("Lockheed Martin") leases the Airdock from the Port Authority.

The Airdock parcel (along with adjoining parcels) is currently subject to Ohio EPA's General Industrial Storm Water Permit ("General Permit"). On September 4, 2008, the Ohio EPA sent a letter to Jennifer Krueger of URS Corp. Jennifer is a Certified Professional under the Ohio EPA's Voluntary Action Program ("VAP") and has been engaged by the Port Authority and Lockheed Martin as part of the parties ongoing voluntary actions to remediate the Airdock parcel under the VAP. Within the September 4, 2008 letter the Ohio EPA takes the position that an individual storm water permit is required for the Airdock parcel. Specifically, the September 4, 2008 letter provides:

Due to the potential to discharge PCB contaminated storm water, inclusion in this General Permit is not appropriate for this situation as it cannot be modified to monitor for PCBs. Your client will have ninety days from receipt of this letter to submit an individual NPDES permit application to seek coverage for the storm water leaving the Akron Airdock facility.

Both the Port Authority and Lockheed Martin appreciate Ohio EPA's concerns with regard to the storm water discharges from the Airdock parcel. However, the parties

are in the process of completing the remediation activities at the Airdock Parcel. These remediation activities include eliminating pathways for future releases of PCBs, which includes releases to storm water. Thus, by eliminating the "potential to discharge PCB contaminated storm water" Ohio EPA's concerns will be addressed, and an individual permit will not be necessary.

As part of the voluntary action the PCB conditions at the Airdock parcel have been fully evaluated and assessed. To date, the following remediation activities have been completed: source removal; pavement cleaning; interior and exterior cleaning; and interior and exterior encapsulation. Currently, the storm drain system is being cleaned. Pursuant to a draft Risk Assessment that has been provided to the Ohio EPA under VAP technical assistance, these remediation activities will eliminate PCB pathways to the storm water leaving the Airdock parcel. The Risk Assessment is supported by a storm water model. The model provides that, at the completion of the remediation activities, any PCBs in the storm water will be below the method detection limit. Importantly, consistent with the recommendation of the Certified Professional, the storm drain system will be monitored to confirm the accuracy of the model. This confirmation monitoring will be performed as part of an Operation and Maintenance ("O&M") Plan submitted to Ohio EPA for approval under the VAP. Further, the O&M Plan will be required to be implemented as part of an O&M Agreement entered into with the Ohio EPA. Due to the ramifications that are set forth under the VAP for violations of an O&M Agreement, there will be a strong incentive to implement the O&M Plan.

At this point, it is Jennifer's goal to submit the monitoring provisions of the O&M Plan to the Ohio EPA by October 1, 2008, and the remaining portions of the O&M Plan shortly thereafter. The O&M Plan will include provisions for maintaining the remedy, as well as contingency provisions that will immediately trigger in the unlikely event that PCBs are detected in the storm water during the confirmation monitoring.

As set forth above, the voluntary actions that have been undertaken, and that will be completed in the near future, will eliminate the potential for PCB discharges to the storm water. Thus, Ohio EPA's concern has been addressed and there is not a need for an individual permit. That being said, Ohio EPA is not being asked to make a formal decision at this time. Rather, Ohio EPA is being asked to defer a determination on the need for an individual storm water permit until after the data from the confirmation monitoring has been gathered and evaluated.

There are additional factors that also need to be considered. The Port Authority has obtained a grant pursuant to the Clean Ohio Revitalization Fund ("CORF"). The grant monies have been applied toward the significant cost of the remediation. Pursuant to the grant obligations, the Certified Professional needs to submit her NFA no later than November 24, 2008. If an individual storm water permit is required at this time as part of the VAP, it will not be possible to obtain such a permit and meet the CORF

to address this pathway.

Moreover, it will be more efficient to collect the data pursuant to an O&M Agreement opposed to an individual storm water permit. It is the parties understanding that the individual permit that has been proposed will be a monitoring only permit. As you know, the issuance of such a permit is part of a regulatory process that will take considerable time to complete. Under the VAP process, the O&M Plan can be approved and implementation can begin in a much shorter period of time. Moreover, the O&M Plan will include contingencies that will be immediately implemented in the unlikely event that PCBs are detected as part of the confirmation monitoring activities.

The Port Authority and Lockheed Martin appreciate the Ohio EPA's consideration of the foregoing. If you, or anyone else has any questions or concerns, we would be glad to meet with Ohio EPA to address the same.

Sincerely,

ROETZEL & ANDRESS, LPA



Terrence S. Finn

TSF/lo

cc: Jennifer Krueger
Norma Horwitz
Norm Varney

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