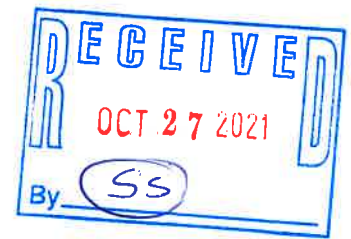




October 20, 2021



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Mr. Chad Stewart Chairman
Westfall Township Municipal Authority
155 Westfall Town Drive/ P.O. Box 525
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Ms. Shahana Shamim Secretary
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Ms. Marianne Brown Secretary
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10 Avenue I, Suite 1
Matamoras, PA 18336

Re: Administratively Incomplete Application – Plan Update Revision
Act 537 Planning
Eastern Pike County Regional Official Act 537 Update Revision
Westfall Township, Milford Township,
Matamoras Borough, and Milford Borough
Pike County

Ladies and Gentlemen:

The Department of Environmental Protection (DEP) has reviewed the above referenced application and has determined that it is incomplete. The application is administratively incomplete due to the failure to provide sufficient information and supporting documentation as required by Act 537, The Clean Streams Law (CSL), and regulations promulgated thereunder, for DEP to conduct a full review and act upon the application.

The submission, dated April 2021 was received by the Department via partial submissions over the course of the following three separate days: May 27th; June 1st; & June 2nd, 2021), as submitted by HRG Inc. on behalf of Westfall Township Municipal Authority and the municipalities listed above.

Due to the unusual manner in which the Plan was received, it is necessary to document as to what was received and when as follows:

- May 27th: Two large binders received, the first begins with a Plan title page and ends with Appendix D. The second binder begins with a page numbered 3-10, which appears to be the middle of a municipal document. It was apparent the second binder did not match up with the last page of the first binder, since the Plan's Table of Contents identifies ten (10) more appendices (E-N) which were not included in either binder received. Thus, it was clear the two-binder submission did not constitute a complete copy of the Plan, in conflict with the May 25th transmittal letter received with the submission which states "*two (2) copies*" of the Plan were included.
- June 1st: Two more binders were received along with a copy of the same May 25th transmittal letter stating two (2) copies of the (entire) Plan were being submitted. Instead, one binder contained the heretofore missing Appendices E thru N, the other was a second copy of binder No. 1 of the Plan (title page thru Appx. D).
- June 3rd: The apparent, final two binders of the intended Plan submission were received: A second copy of binder No. 2 of the Plan (Appx's E thru N) and evidently a second copy of Plan binder No. 3. However, that binder is not identical in page content to the first copy of binder 3 received May 27th. Trying to match up all six (6) total binders to determine exactly what constituted a complete copy of the Plan was quite awkward. This was compounded due to the fact none of the Plan's binders contained any numbering scheme, no external cover page as would normally be included, nor information on the exterior spine of the binders identifying what was contained inside.

It was eventually determined that binders 2 & 3 of the first copy of the approximate 1,600 paged Plan differed in arrangement of page content vs. the second copy of the Plan's corresponding binders. Thus, binders 2 & 3 are not interchangeable between Plan copies, which is rather unusual.

Additionally, one complete copy of this Plan is nearly 11 in.'s in thickness over three binders, only a small fraction of which contains binder tabs. The majority of the Plan's first two binders consists of hundreds of pages of the fourteen appendices A-N, none of which contains any binder tab inserts to locate individual appendices. This anything but facilitates review of a Plan of this volume for current or future reviewers. Sectional location tab sheets would normally be provided at a minimum

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for the appendices, particularly in a Plan of this size. Also, all Plan binders should bear external document title information identifying the Plan, volume, etc., as is typically always provided.

The following list includes the items deemed administratively incomplete in your application in accordance with the Administrative Completeness items as required in Part 2 – Administrative Completeness Checklist of the Department’s *Act 537 Plan Content and Environmental Assessment Checklist*, which must be satisfied so that the Plan may be accepted complete. The regulatory citation that requires each item be adequately addressed in the Plan is found in each Checklist item.

Items Missing/Inadequate from Submission

Administrative Completeness Checklist

1. Regarding the Act 537 Plan Content and Environmental Assessment Checklist (Checklist) found in the Plan, we note that in Part I - General Information, Section B. - Client (Municipality) Information, Section B does not contain the required municipality information relative to the four client municipalities involved within the scope of this Plan. All required information for Section B must be provided for each of the four (4) adopting municipalities involved with the Plan. We also note the Act 537 Plan Checklist was not found in the initial pages of the Plan where normally found, nor was it found anywhere within the four inch thick first binder of the Plan. It was instead discovered in the final appendix (N) of the Plan, deep within the Plan’s second large binder. Please note relative to future Act 537 Plan submissions, the checklist serves as the Department’s review guide and should be presented within the initial pages of an Act 537 Plan document.
2. Section 2 – Table of Contents (TOC): Several un-tabbed sections of the Plan were discovered in binders 2 & 3, each identified as Exhibits A thru H. However, the TOC does not identify any Exhibits as being contained in the Plan: this must be reconciled. Also, it is not understood why these Exhibit sections were not included in the Plan as Appendices, which are included in the Plan.

An Exhibit H titled “Correspondence” is included at the end of binder No. 3 of the Plan, while a second identically titled ‘Correspondence’ section located in Appendix J is also included in the Plan. It is unknown as to why these two sections have not

been consolidated, since no Act 537 Update Revision should contain two separate correspondence sections. Thus, the redundant second correspondence section should be eliminated from the Plan.

3. Section 2 – Plan Summary, Item B: Page ES-1, paragraph 1 of the Plan states it is recommended that public sewer service Alternatives No.'s 2B, 3B, & 6F “should” be provided for the respective identified three municipalities - Matamoras Borough, Westfall Twp., and Milford Borough. However, Item B of the checklist rather requires that the *chosen* alternatives to be definitively implemented (to solve the identified problems and areas of sewage needs) as a result of the Plan be identified in the Plan Summary. The summary must clearly identify all chosen alternatives of the Plan to be implemented. In addition, the summary should identify as to how the chosen alternatives of the Plan will directly affect the problems and sewage needs of Milford Township, what if any wastewater infrastructure will be constructed in the Township, etc. As per Ch. 71 – Administration of Sewage Facilities Planning Program of the Department’s regulations, the Plan must select one alternative to solve the need for sewage facilities in each area studied and support this choice with documentation that shows the alternative is technically, environmentally and administratively acceptable.

Item B of the Checklist also requires any institutional arrangements necessary to implement the Plan’s chosen alternatives be included in Item B. Thus the proposed institutional alternative should be identified in the Plan Summary relative to each chosen alternative, including: impacts on administrative resources in each of the four municipalities; identification of exactly what institutional entities (authorities, municipalities, etc.) will be responsible for setting user fees, raising capital, and implementing planning recommendations; who will own & maintain any newly constructed infrastructure; what entities will be responsible for the collection of user fees and management of debt service in each of the four municipalities adopting this Plan, etc.

Regulatory Citation: Title 25 Pa. Code §71.21(a)(7)(ii)

4. Section 2 – Plan Summary, Item C: Page ES-1 of summary provides estimated costs of Alternatives 2B & 6F based upon the assumptions of “45% grant and USDA funding”. Therefore, regarding the assumed grant funding, has the USDA’s Rural Utilities Service (RUS) already earmarked grant monies equal to 45% of the cost of

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implementing Alternatives 2B & 6F? If not, has the RUS indicated that grant funding equivalent to 45% of the cost of these two alternatives would be available from USDA upon implementation of these alternatives?

If USDA is not providing the assumed 45% grant funding for these two alternatives, specifically where will the 45% grant funding for implementation of 2B & 6F originate from?

Regulatory Citation: 25 Pa. Code §71.21(a)(7)(ii)

5. All municipal commitments necessary to implement the Plan relative to all four municipalities adopting the Plan must be identified in the Plan Summary.

Regulatory Citation: 25 Pa. Code §71.21(a)(7)(iii)

6. Municipal Adoptions: As per the Checklist, the Plan must contain an original, signed, and sealed Resolution of Adoption by each of the adopting municipalities which contains at a minimum, alternatives chosen and a commitment to implement the Plan in accordance with the implementation schedule. A copy of a resolution from each municipality studied in the Act 537 Update Revision (4 total) was found in the Plan. All four Resolutions of Adoption were found to contain similar language. We find the resolutions unacceptable as follows:
 - Original versions of each resolution were not found; original versions must be provided. Also, none of the resolutions were found to contain an official, embossed municipal seal. The resolution signed by Milford Township contains what appears to be a plain return address ink-stamping of the Township's P.O. Box mailing address where an official municipal seal would normally be found. But it does not appear at all to resemble an official municipal seal, which is normally a more ornate circular embossed seal standing in relief.
 - None of the resolutions contain the required references to each alternative of choice located in the proposed Act 537 Plan. The resolutions must contain specific reference to the alternatives chosen in the Plan. Please note that Appendix F of the Department's guidance document *Sewage Facilities Planning: A Guide for Preparing Act 537 Update Revisions* provides Model Resolutions of Adoption for Plan revisions in this regard.

- None of the resolutions were found to contain the required language proclaiming a commitment to implement the Plan within the time limits established in the implementation schedule. All resolutions must contain such a commitment declaration. Again, note that Appendix F of the Department's guidance document *Sewage Facilities Planning: A Guide for Preparing Act 537 Update Revisions* provides Model Resolutions of Adoption containing the required language in this regard.

Reference - 25 Pa. Code §71.31.f

7. Planning Commission Comments: Evidence is required that comments on the Plan, submitted by appropriate official planning agencies of the municipalities and the county, have been requested, reviewed and considered.

- Milford Township Planning Commission (MTPC) - 68 Comments:

- i. Contrary to the Plan's response to MTPC's comment No. 5, the Department does not require the insertion of complete entire copies of historical municipal ordinances or comprehensive plans into Act 537 Update Revision Base Plans.
- ii. Comments 9-18: Responses to these comments must be provided. The Township has raised many pertinent concerns regarding important aspects of the Plan. Milford Township is in no way an external commentor to the proposed Plan. Rather, they have adopted and are included in the study area of this Plan which includes a proposal to construct a permanent public sanitary sewerage system through the Township. Design parameters upon which this line is based may have future impact on the sewer main possibly affecting the Township, and the design capacity of the line will directly affect future potential connections to the line within Milford Township.

With the public wastewater transmission line in mind, the statement made in Appendix K to the effect Milford Township has selected a 'No Action Alternative' relative to this Plan is not understood. Moreover, similar to the other three municipalities of the Plan, page ES-2 states Milford Township will embark on and implement the 4-step "OLDS Sewage Management Ordinance – Phase I" activities and tasks (to be conducted over a potential ten years) as

described in the Implementation Schedule, which surely appears to be a selected action alternative.

- iii. No initial response was provided for comments 24, 26 & 63. The ultimate responses from Westfall Township's subsequent review of these comments should be added to Appendix K. Similarly, for comments 28, 29 & 30, the result of Milford Borough's review should also be included.
- iv. MTPC comments 48 & 49 were not addressed and appear to disclose a lack of transparency as to exactly how wastewater project tapping fees are presented in the Plan. Tapping fees are a serious and fundamental financial element of any public sewer project which in this case directly affects project financial viability of the proposed sewer line to be constructed in the Township. Thus, these two comments must be addressed in Appx. K for not only the Township's benefit, but for benefit of citizens in all four municipalities adopting this Plan, not to mention the Department's benefit as well.
- Borough of Milford P.C.: Provide the Plan's responses to the last three (3) bullet item recommendations provided in the Borough's October 14, 2020 comment letter.
- Westfall Township P.C.: The Planning Commission provided comments via letter of September 23, 2020 stating the Draft Plan provided to them is not in an acceptable form to the P.C. and is subject to their comments provided via Kiley Assoc. and Mr. Chris Wood, SEO. With this in mind, we have the following comments:
 - i. The Township's letter repeatedly indicated the Plan they reviewed was a "Draft" Plan. Therefore, was Westfall Township ever provided a Final version of the Plan to review which includes all material amendments, revisions, etc.? If so, provide supporting documentation to that effect in the Plan. If not, Westfall Township must be provided a complete copy of the finalize Act 537 Update Revision for their review/comment.
 - ii. Kiley Assoc. Comment 4: As the comment states, the municipalities should be listed in this table; thus why haven't the municipality locations for each project been included in the table?

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- iii. Response to Comment 7 of Mr. Chris Wood, SEO: Page 3-10 of the Final version of the Plan received by the Department appears to contain a Table 3-4 referencing survey results. However, given WTPC's comment along with the fact they received a "Draft"- September 2020 version of the Plan, it is conceivable the Draft may have contained differing content. Thus, did the Draft Plan version provided to the WTPC last year contain the identical Sec. 3.0 content (with reference to any sewage needs survey information contained in Appendices) as appears in the current 2021 version of the Plan? The Plan's response states the results are already included in the Plan but does not state the Sept. 2020 Draft included the results. Also, Mr. Wood was tasked with review of the Act 537 Plan on the Planning Commission's behalf; not with the review of past correspondence received by the Township.
- Matamoras Borough P.C.: Appendix K of the Plan contains a brief December 14, 2021 statement identified as a response to a 12/7/2020 comment letter received from Matamoras Borough P.C. However, no actual letter document was found in the Appx. What is found appears to rather be some sort of brief un-official memo of sorts containing no addressee header, no letterhead stating from what agency/address the document was sent, no topic "Re" reference block, no identification as to what particular "Council" the document was being sent, nor what board or agency Mr. Kudrich was representing. Also, the two-sentenced body of the document does not state the memo was written or provided in response to the August 19, 2020 HRG letter which requested comments on the Draft Plan. Thus, please provide a complete copy of the 12/7/2020 comment "Letter" identified as being received from Matamoras Borough P.C. in the Plan.

We also note the title of the above-mentioned December 14, 2021 brief statement document appearing to be a response to the Matamoras Borough P.C. states: "Matamoras Borough - Response to Milford Borough Planning Commission Comments". We believe the title is in error and therefore should be corrected.
- Pike County Office of Community Planning Comments:
 - i. Comment Bullet 6 requests verification of Sec. 3.3.2, which the commentor claims states there are no properties within the planning area serviced by private wells. The Plan's response states: "*Based on information received, there appear to be no private wells that would connect to the sewer system.*" From where was this information upon which the conclusion was based received, and how was it derived? Is that information contained in the Plan? If

not, why not? Also, exactly what qualifies as a private well *'that would connect to the sewer system'*? For instance, is it based upon a standard chosen linear distance from the proposed sewer system?

The County P.C.'s comment requested a verification of the claim there are no properties within the planning area serviced by private wells. Since the commentor did not request whether there are any private wells that would connect to the sewer system, the response does not appear to address comment 6. Therefore, the Plan should verify the absence of private wells claim.

- ii. Comment Bullet 23 inquires whether properties along the line in Milford Township will be able to connect to the sewage system. The response indicates Planning Modules would be used to connect to the proposed sewer system individually. Clearly the Plan does not prohibit new connections to the sewer line in Milford Township. Therefore, the Plan must consider and provide for all initial and future new connections from within Milford Township. Thus, the estimated total projected wastewater flows (Ann. Avg., Peak, etc.) upon which the proposed sanitary sewer transmission system (from Milford Borough border to the Westfall Township wastewater treatment facility) is based must include total initial and future expected flows from connections within Milford Township.

With the above in mind, what input did Milford Township have into the issue of future Equivalent Dwelling Unit (EDU) connections, ultimate sewage flows, etc. in their Township relative to this Plan? Who will own and operate the constructed sewer line in Milford Township? What properties in Milford Township will be allowed to connect? Will all Milford Township property connections to the sewer main be strictly limited to those lying within a prescribed linear distance from the sewer line? If so, it should be incorporated into the Plan as well as municipal ordinance. Will new connections be limited to confirmed malfunctioning on-lot disposal systems (OLDS)? Allowing any connections to the sewer line in Milford Township would require the Plan to contain all appropriate Intermunicipal Sewer Service Agreements with Milford Township. Additionally, the proposed Plan should clearly define which areas within the Milford Township study areas are to be designated to remain served by OLDS's, and which areas in the Township are designated to be served by the proposed public sewer line.

8. Public Notice: The Plan must provide documentation of a Public Notice which includes clear identification of all Planning Study Areas included in the Plan. As stated in DEP's guidance document "*Sewage Facilities Planning: A Guide for Preparing Act 537 Update Revisions*", as a minimum, the following items must also be contained in the Public Notice: Name of project; Type of project (sewer line extension, collection, etc.); User Fees; Specific location or areas of each municipality affected by the Plan; Summary of all major recommendations of the sewage facilities Plan (including description & location of all proposed sewage facilities); Where and when the Plan can be seen for review and comment - preferably the municipal office or other local site; and Address of municipal office or person accepting comments.

With the above in mind, not one, but four (4) separate public notices were found in the Plan, each one containing differing content information specifically tailored to only one of the four adopting municipalities. This is rather unprecedented and is unacceptable. The proposed Plan is a single, joint-municipal, regional Act 537 Plan Update Revision; each municipality adopting the Plan is not developing their own separate individual Act 537 Update Revision. Regarding the requirement to include all recommendations of the Plan in the notice, each separate notice instead contains information specifically tailored to describing only the selected public sewer facilities construction alternative proposed for that particular, single municipality. As such, each notice leaves a citizen reading their particular municipality's notice un-informed to the fact the same Act 537 Plan also contains other selected alternatives proposing major public sanitary sewer construction projects in the three other adopting municipalities. Each selected construction alternative is not wholly independent, some of which are entirely dependent upon the other, all of which share the same wastewater treatment facility which directly affects costs analyses in the Plan.

No one-single public notice found in the Plan contains a complete description of the entire Plan as required by DEP's guidance document "*Sewage Facilities Planning: A Guide for Preparing Act 537 Update Revisions*", and the four differing notices serve to obscure the primary recommendations of the Plan across the four adopting municipalities. The citizens residing within all affected municipal areas of the Plan have a right to be informed of all major recommendations contained in the Plan, along with the specific locations of all proposed public sanitary sewerage facilities.

Thus, the Plan must contain a single (1) Public Notice relative to all four, adopting municipalities of the Plan which meets all requirements of Sec. V.E.2. of guidance document "*Sewage Facilities Planning: A Guide for Preparing Act 537 Update Revisions*". The municipalities involved in the proposed Plan have a responsibility under Title 25 - Ch. 71.31(c) of the Department's regulations to provide evidence of a (single) Public Notice containing a complete and accurate list of all the Plan's recommendations and selected sewage facilities alternatives. This includes descriptions of all facilities and actions proposed in all adopting municipalities of this Plan.

The following comments relate to the content of the four (4) separate Public Notices found in Appx. L:

- The notices do not provide any specific locations or areas of Milford Township and Westfall Township affected by the Plan's study areas. The notice simply states the Plan's study area includes "portions of" Milford and Westfall Townships without location or area descriptions, which is unacceptable. The Department required this Plan's Task/Activity Report (TAR) to specifically delineate the proposed Planning Study Areas along tax parcel and/or property boundaries in each of the four municipalities. The Public Notice must adequately describe the specific locations/boundaries of all those planning study areas within all municipalities to alert and inform readers of the notice as to what specific planning study areas are the subject of the Act 537 Update Revision.
- Second paragraph of the notices states the purpose of the Plan includes addressing wastewater disposal needs in portions of Milford Township based upon existing needs within Milford Township (along with needs in the other three municipalities of the Plan). The paragraph goes on to state the Plan's purpose is also to address continued support of OLDS within the Planning areas. Therefore, if the Plan's purpose includes addressing existing wastewater disposal needs in Milford Township, why does the Plan's response No. 1 to Westfall Township Planning Commission Comments state: "*Milford Township has selected the No Action Alternative.*"? (The separate public notice for Milford Township also states the Township's selected alternative is the "No Action Alternative".) Explain in detail how Milford Township's 'No Action' alternative will address the stated existing wastewater disposal needs within Milford Township. If it does not, the Plan must discuss why Milford Township's existing sewage needs will apparently be left un-addressed.

- Regarding selected alternatives described in the Milford Township Public Notice, the first (1) is described as “No Action”. This is not understood since the Plan appears to propose construction of a new public sanitary sewer force main line within Milford Township between the Township borders of Milford Borough and Westfall Township. We would disagree that allowing construction of such wastewater facilities would equate to “No Action”. Additionally, construction of a wastewater transmission line through the Township will likely spur future property requests to connect to the line, thus increasing raw sewage volumes and organic loadings for which the sewage force main transmission line and receiving wastewater treatment plant may not be designed to carry. Further, the Township’s public notice does not appear to mention nor describe the proposed line construction.

The second alternative (2) included in the notice reads as follows: “*Development and Implementation of a 5-year enhanced monitoring program in Milford Township to determine the need for additional ordinance requirements in addition to the current ordinances.*”. However, the wording for this chosen alternative is vague, leaving the reader to wonder, *monitoring program* and *additional ordinance requirements* for what? Such vague language should not appear in a Public Notice since how would the reader know it’s referring to OLDS vs. say, a Township traffic study.

- No public sanitary sewer system user fees were found to be contained in the Public Notices. The Plan’s Public Notice must contain all estimated user fees relative to all proposed public sanitary sewerage facilities alternatives (as related to project debt service, future O&M etc.) in the Plan. This applies to all four (4) municipalities of this regional Plan as affected.
- The Matamoras Borough Public Notice fails to identify any of the “other municipal roads” that were determined as needs areas and proposed to be served by new public sanitary sewer construction. As stated above, the notice must contain specific locations or areas of each municipality affected by the Plan.
- As part of a long sentence immediately following the statements of approximate project cost amounts found in three of the four Public Notices, the following phrase appears: “over a period of 5 to 10 years”. However, it is unclear as to in what context that time period actually refers to. For example, does the 5 to 10-year period refer to the proposed total timeframe over which the projects would be

constructed? Or does it refer to the total duration of project funding amortization being 5-10 yrs., after which all project debt would be extinguished? The reference to the time period must be clarified in the public notice so the meaning is unambiguous and clear to any reader of the notice.

- The public notice does not provide any physical location as to where the Plan can be seen for review and comment by the public. The above-referenced Act 537 Planning guide states a municipal office or other local site is preferable. Instead, the public notice limits the public's review of the proposed Plan to an internet website address (<http://tiny.cc/easternpike537>) as to where the Plan can be viewed, which is highly unusual, particularly given the extreme size of this Update Revision. Attempts to access the electronic copy of the Plan using that link now yields a website address beginning with "hrg3.app.box....", where the opened webpage states: "*This shared file or folder link has been removed or is unavailable to you.*" Thus, has the 537 Plan document been removed from the specified shared website location? In any case, it appears infeasible to verify exactly what was previously available for viewing electronically relative to the official Plan revision.

Regardless, it is determined that restriction of the public's access to the Plan solely to an internet website for purposes of the thirty-day public comment period is unacceptable. It is reasonable to conclude a significant sector of the municipal population, particularly older people, may not be proficient enough with or may not even have convenient or reliable access to the internet, and would therefore be disenfranchised by the internet website restriction. Also, viewing a Plan of this extraordinarily large size (~1,600 pg.'s) on-line would tend to complicate an otherwise more efficient review, particularly if information contained deep within differing binders of the Plan needs to be viewed concurrently. Therefore, the Public Notice must include a physical location as to where and when the entire Plan can be seen for review and comment, preferably the municipality's office or other local site.

Reference - 25 Pa. Code §71.31.c

9. Implementation Schedule (Sewer System Extensions): A complete implementation schedule must be provided in the Plan which designates the time periods within which the specific milestone dates relative to each proposed project will be completed. The schedule must also designate the methods and sources of financing

of each project in regard to the specific existing and future areas of need. Since the Implementation Schedule provided on page 8-3 of the Plan does not comply with the required content, the schedule is unacceptable.

Specific comments on the Plan's Implementation Schedule are as follows:

- The 'Years' column does not define any specific starting time benchmark as to when the specified annual time-frames are to begin.
- There is no schedule date for completion of all required Inter-Municipal Agreements; only an activity period to negotiate agreements. A specific time for completion must be included.
- The unusually long multi-year time intervals specified for each of the four activities are unusual and not understood. Thus, what are the reasons for what appear to be very protracted time intervals specified for implementation of the Plan's activities? For instance, finalization of inter-municipal agreements as well as application and receipt of funding might normally occur within a 3-6 month period vs. the specified 2-year period, and the allotted four years for construction generally appears to be rather extensive.
- The Implementation Schedule calls for completion of project funding procurement for Alternatives 2B, 3B, and 6F prior to initiation of project design and permitting. It is extremely unusual that project funding would be procured up to 3 years prior to completion of design and permitting. It is not understood how any meaningful project funding costs estimates could be developed prior to project design phase, or permitting, both of which inherently have great potential to affect project costs.
- Several key important activities/dates typically appearing in Plan Update Revision implementation schedules appear absent from the schedule provided. As a minimum, for each project proposed, the following activities should be included in the Plan's Implementation Schedule indicating tentative dates as occurring a finite number of months from a major milestone, such as "from Act 537 Plan Approval": Completion of all required Inter-Municipal Agreements (typically 3 months); Completion of Design and Submission of Part II WQM Construction Permit (typ. 12 months); Receive Part II WQM Permit Approval (typ. ~9-12 months); Apply for and Obtain Project Financing (typ. 6 months); Bidding of Project; Finance Closing; Initiation of Construction (typ. ~6 months

following Funding Approval); Substantial Completion; and Construction Completion/Final Restoration.

Reference - 25 Pa. Code §71.31.d

10. Consistency Documentation:

- A single-paged PHMC Project Review Form was found in Appx. J. No other PHMC-related documentation was found. The Act 537 Plan must include a copy of all documentation that was transmitted to PHMC for their review relative to the Plan's project(s) descriptions, scope of proposed work, as well as site plans and/or plan drawings showing location of earth disturbance proposed by the Plan.
- The Review Form document bears a checkmark designating a mapping attachment be include with the PHMC form. However, an on-line review of the project documents received by PHMC relative to this Act 537 Update Revision contained no maps or plan drawings. Documentation for PHMC review must contain mapping depicting all areas to be impacted by all proposed selected alternatives in the Plan, copies of which must be included in the Act 537 Plan.
- The PHMC Review Form document, under "Proposed Work – Attach project description, scope of work, site plans, and/or drawings", requests Total Acres of Project Area, and Total Acres of Earth Disturbance relative to the Plan. The form response entered for project area is "Approximate", which is unacceptable. Evidence documenting a revised form sent to PHMC which bears the actual Total Acres of Project Area must be provided in the Plan. Also, the response entered on form for Total Acres of Earth Disturbance is "Negligible", which is also unacceptable, particularly since the Plan apparently proposes to construct multiple miles of new sanitary sewer lines across four (4) different municipalities. Thus, evidence documenting a revised form sent to PHMC which bears the actual proposed Total Acres of Earth Disturbance (along with the associated calculations) must be provided in the Plan. Sanitary sewer line installation trench excavation widths used to estimate such areas are typically 10 – 20 ft.
- The Indicated 'Page # in Plan' for Item 8 – Consistency Documentation of the Administrative Completeness Checklist submitted with the Plan refers the reader to Appx. L. However, no apparent documentation related to the consistency requirements was found in Appx. L. Thus, please indicate which documents in Appx. L related to Item 8.

- Three (3) project review response letters from the following required consistency agencies were found in Appx. J: PA Department of Conservation and Natural Resources; Pennsylvania Game Commission; & the Pennsylvania Fish and Boat Commission. However, no response letter was found from the U.S. Fish & Wildlife Service (U.S.F&WS) which is also required. The Consistency Documentation is not complete without a project review response letter from U.S.F&WS, including copy of the exact project description information and documentation sent to that agency for their review.
- There is a documentation problem in the Plan regarding all four (4) required consistency agency review requests. No documentation was found in the indicated appendices (J & L) of the Plan that includes the required copies of all proposed project descriptions, scope of work, site plans, drawings, maps etc., which were sent to each of the four agencies for review. The Plan must contain copies of the exact information/documentation describing all proposed projects of the Plan, including all transmittal letters to the agencies, project descriptions, scope of work, site plans, drawings, maps etc. that were actually sent to each of the four agencies referenced in above bullet item, relative to each request for review. Essentially, if it is unknown and undocumented as to what information/documentation the consistency agencies reviewed and were responding to, the letter alone is inconsequential.
- Appx. A – Uniform Environmental Review/ER, Sec. 3.4 Historic Resources: This section merely states the PHMC must be consulted to identify potentials impacts of the Plan's alternatives. Rather, as per the UER Guidelines, this section of the UER must comply with the following:

Address any effects on archaeological resources and historic properties. To document any impact, send the following to the Pennsylvania Historic and Museum Commission requesting comments: A) USGS Map showing project structures and lines. B) Discussion of recent utility work or other soils disturbances in the project area.

Include a copy of the PHMC response letter as an exhibit to the ER. This letter must reference Section 106 requirements if federal financing is contemplated. Describe the steps that have been taken to respond to PHMC's comments or concerns. For instance, if the PHMC review indicates a "high probability" of impacting archaeological resources, the applicant can hire a PHMC-approved professional to conduct a Phase I-A scoping survey during planning. The Phase I-A report should be submitted to PHMC for approval and a copy of PHMC's approval letter would be included as an exhibit to the ER.

If further archaeological evaluation (such as Phase I or Phase II) is required by PHMC, before proceeding further, the funding applicant should contact the funding agency to confirm eligibility of such work for funding by the agency.

- Appx. A – Uniform Environmental Review (UER), Sec. 3.5: The Department's *Guidelines for the Uniform Environmental Review Process* indicates Sec. 3.5 of the UER should be titled and pertain to discussion of Sensitive Biological Resources (i.e., PNDI agencies review and U.S. Fish and Wildlife Service). However, the UER in Appx. A apparently breaks with the guidance document format after Sec. 3.4, entirely omits the required discussion on the important Sensitive Biological Resources topic, and instead inserts the topic of Sec. 3.6 Water Quality Issues into Sec. 3.5 which is unacceptable. Thus, why was the Sensitive Biological Resources section omitted from the UER? The UER must include a complete summary section, as indicated in Sec. 3.5 on pg.10 of DEP's *Guidelines for the Uniform Environmental Review Process* document, relative to discussion on the effects of the Plan's selected alternatives upon sensitive biological resources in the planning area as follows:

Address any effects on endangered, threatened, or candidate species and their critical habitats. Indicate the project area on a 7.5 minute USGS Map, and submit it to the Pennsylvania Natural Diversity Inventory (PNDI) for Pennsylvania listed species (see Appendix E for an example format for making a PNDI request), and the U.S. Fish and Wildlife Service for federally listed species. Include a copy of the PNDI and U.S. Fish and Wildlife Service response letters as exhibits to the ER.

Reference – 25 PA Code §71.31.e

The comments appearing above relate to determining whether the Plan submitted by the municipalities is administratively complete and if it can be accepted for full technical review. Since the Plan is incomplete, this correspondence does not contain detailed technical review comments. The technical review of the Plan, along with the generation of technical review comments (if any are required), will not be fully completed until after a "complete" Plan, as defined in Section 71.31(a)-(f) of the Department's regulations, is received by the Department.

As an additional note, it is highly important to ensure that the Delaware River Basin Commission (DRBC) has been provided adequate review opportunity relative to this particular Plan. The Plan includes correspondence of August 19, 2020 addressed to DRBC directing the Commission to an internet website location where a Draft copy of the Plan can

Mr. Chad Stewart, Chairman
Ms. Laurie Digeso, Secretary
Ms. Marianne Brown, Secretary
Ms. Shahana Shamim, Secretary
Ms. Jodi Manheim, Secretary

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be viewed. It is unclear as to whether or not a complete 'hard' copy of the draft Plan was also attached to the correspondence sent. We also see the August 19, 2020 letter emphatically informs DRBC (capitalized letters in dark bold print) that the Plan being transmitted was a "DRAFT" version of the regional Act 537 Plan, and there are also indications in Plan that perhaps not all of the final alternatives were even chosen at the time the letter was sent. It also appears the Draft Plan was sent to DRBC approximately nine (9) months prior to final completion of the Plan. Thus, the Plan must rather include clear evidence documenting that the DRBC was provided a complete copy of the *Final* version of the Act 537 Update Revision for their review and comment, along with written evidence that DRBC had received it.

If you have any questions or concerns, please contact Mr. Patrick Devitt, of my staff, at 570.826.2328.

Sincerely,



Scott F. Novatnak
Planning Section Chief
Clean Water Program

cc: Mr. Matthew Roberts, Staff Professional/HRG, Inc.
Mr. Eric Kudrich Chairman/Matamoras Borough Planning Commission
Ms. Janice Halsted, Chairperson/Milford Borough Planning Commission
Ms. Shahana Shamin Secretary/Milford Township Planning Commission
Ms. Jodi Hulse Secretary/Westfall Township Planning Commission
Mr. Michael Mrozinski Planning Director/Pike County Office of Community Planning