



KU Resources, Inc.

ENVIRONMENTAL MANAGEMENT - SITE DEVELOPMENT ENGINEERING

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REVIEW COMMISSION

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November 27, 2009

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Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17101-2301

ENVIRONMENTAL QUALITY BOARD

Re: Proposed Rulemaking on Erosion and
Sediment Control and Storm Water Management

KU Resources, Inc. (KU Resources) is an environmental consulting and remediation, and site development engineering firm. Brownfield redevelopment has been one of our areas of specialization since the company was established in 1997. One of our Principals has been a member of Pennsylvania's Cleanup Standards Scientific Advisory Board since 1996. We have a number of clients intimately involved in brownfields revitalization in Pennsylvania, and have been asked to draft this comment on the referenced rulemaking. Nine firms or individuals have asked to be included as supporters of this comment (see attached list).

In the course of our services, we have had assignments to support our clients in obtaining NPDES permits for site development work on brownfields and have undertaken these assignments in accordance with the existing Pennsylvania Stormwater Best Management Practices Manual. Our understanding of the proposed regulations adopted by the Environmental Quality Board (EQB) on June 16, 2009, is that the proposed regulations, if adopted, would essentially codify the current guidance. We believe the current guidance and the proposed regulations potentially present a significant disincentive to brownfield redevelopment in the Commonwealth. This potential disincentive arises as a result of the requirement to consider "existing predevelopment nonforested pervious areas" as "meadow in good condition or its equivalent." On brownfield sites, where demolition activities very often are undertaken well before the need for NPDES permitting, sites that were substantially covered with impervious rooftops and paved yards, in the recent past, are commonly viewed as "meadow in good condition." This can result in significant changes in the respective storm water management requirements. The fact that many of these sites have upgraded the storm water management infrastructure to manage the pre-demolition site conditions, further complicates the NPDES storm water permitting and post-construction storm water management (PCSM) compliance obligations. Attached is one case study of such a situation.

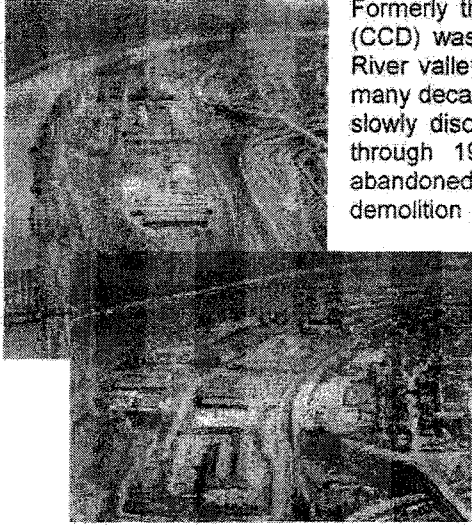
Property developers, who take the initiative to begin readying brownfields for reuse, can ultimately end up at a competitive disadvantage to developers who undertake no positive reuse activities. We believe that this potential eventuality should not be promoted and that the proposed regulations should be modified to make sure this does not occur. This can be done through the addition of an explanation of what constitutes the "existing predevelopment" condition of the site. Brownfield redevelopers should be given the opportunity to demonstrate, and the Department should be required to accept, any predevelopment condition that existed on the site based upon its previous use.

Sincerely,

Mark Urbassik
Principal

Example Project Illustrating Stormwater Disincentive to Brownfield Redevelopment

Site History



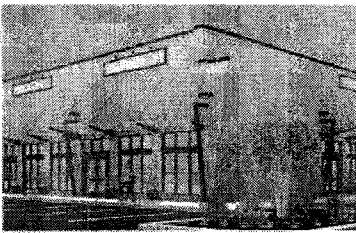
Formerly the US Steel Duquesne Works, the City Center of Duquesne (CCD) was one of the original steel making sites in the Monongahela River valley dating back to the Carnegie Steel Works and growing over many decades into a massive steel and steel products complex. US Steel slowly discontinued operations at this property over the years of 1980 through 1985 and in 1986 the facilities were entirely closed and abandoned. Phased plans for environmental remediation, selective demolition and sale of miscellaneous scrap were undertaken. Following completion of each phase of the plan, RIDC designed and constructed the beginning elements of a new on-site access road system and utility network to service cleared sites and those buildings that were designated to be retained and rehabilitated for industrial uses.

Throughout the redevelopment history, RIDC has converted existing and constructed new single and multi-tenant buildings, making the industrial park home to numerous companies and hundreds of employees.

Stormwater Requirements Contribute to Competitive Disadvantage

Brownfield redevelopment is faced with many obstacles from the start due to a multitude of disadvantages, including the expense of clean-up, subsurface requirements for construction, ongoing monitoring costs, and perceived environmental issues and marketability. Thus, most often, the pro forma for redevelopment indicates a very small margin of cost to work within during planning and construction.

In 2008 RIDC began the CCD Linden Square II project which was for the construction of an approximate 20,000 square foot, multi-tenant building on an approximate 3 acre site. This particular site was previously the location of multiple buildings and roads supporting the US Steel complex, including machine and carpenter shops, storage buildings and a guard shack. The majority of this particular site would have been characterized as impervious.



Following the demolition of the existing above grade infrastructure, RIDC graded and addressed environmental requirements on the site in preparation for future development. The site was seeded and grew into a grassed area between the time of demolition and the time of opportunity for construction of a new building, thus theoretically changing the predevelopment condition from impervious to "meadow in good condition or its equivalent".

While the resulting size and cost of the required stormwater controls were alarming, the project was continued through bidding in hopes of a value engineered solution to the high costs. In the end, the required stormwater infrastructure accounted for approximately \$16.50 per square foot of building size, and 10-15 percent of the overall construction cost based on bids received.

Ultimately the CCD Linden Square II project was cancelled due to the aforementioned obstacles/costs. The cost of stormwater infrastructure played a significant role in the decision to cancel this project, and in general, stormwater requirements are expected to significantly influence decisions regarding redevelopment going forward.

Comment Supporters



Firms/Individuals Supporting the KU Resources Comment Letter

1. Regional Industrial Development Corporation of Southwestern Pennsylvania
2. Mark Urbassik, Member, Cleanup Standards Scientific Advisory Board
3. Edgewater Properties, LP
4. A. Richard Kaceln, Inc.
5. Jerry Dettore, Michael Baker Corporation
6. Johnstown Redevelopment Authority
7. EQA Landmark Communities
8. Newbury Market Development
9. Venango Trails Development