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Gary Latsha, SMCI Supervisor  
Pottsville District Mining Operations  
PA Department of Environmental Protection  
5 West Laurel Boulevard  
Pottsville, PA 17901-2522

November 19, 2015

Dear Mr. Latsha,

Your office recently issued a 30-day extension to New Hope Crushed Stone (NHCS) on Compliance Order 15-5-048-N. We respectfully request that this be the final 30 day extension for this Compliance Order. Further action must be taken to protect public safety.

The Second Class Township Code states that we are responsible for the health, safety, and general welfare of our residents. (Section 1506) On July 31, 2014, the Environmental Hearing Board (EHB) found that NHCS's mining activities are a public nuisance and rescinded the 2011 permit. It also found that PA DEP has a duty to abate and remove public nuisances. It has been more than a year since the Department first directed NHCS to submit plans for its compliance with the EHB opinion. We are finding that in the current situation, it has become impossible for us to provide continued safety.

#### Background

In the wake of the EHB decision, PA DEP issued a Technical Deficiency to NHCS on September 11, 2014, and subsequently issued additional requests for detailed reclamation plans. On July 10, 2015, the Department notified NHCS that the proposed reclamation plan and sequence was unacceptable. In August, 2015, at a meeting of the Board of Supervisors and PA DEP, we were told that compliance actions would be taken if NHCS failed to provide a plan acceptable to the Department. On October 1, 2015, the department issued a Violation Notice and the Compliance Order, citing NHCS's failure to provide the information requested by PA DEP. On November 3, 2015, the Department granted NHCS an additional 30 days to comply.

#### Solebury Township's Concerns with Continuing Delays

We have significant concerns with the continuous string of delays in resolving the public nuisance issue. As early as November 10, 2014, in a letter addressed to the Department, we expressed concerns over NHCS's delaying tactics:

We believe that the DEP should be moving with all deliberate speed to fulfill its duty to abate and remove a declared public nuisance in Solebury. The technical deficiency letter asked for revisions to the surface mining permit and NPDES permit to bring them into compliance. NHCS could have requested a meeting well before October 10 to gain 'clarification.' We ask that you fulfill your responsibility to adhere to a defined timetable to address the nuisance issue...and to reject non-compliance with technical deficiency letters.

The delays and failures to comply have continued. More than fifteen months have elapsed since NHCS's quarry was declared a public nuisance by the EHB, and over 14 months have elapsed since the Technical Deficiency was issued. The Department's requests for an adequate Reclamation Plan and Sequence were clearly spelled out and repeatedly communicated. Unfortunately, NHCS continues to seek delays in compliance rather than providing the information requested by the department.

While NHCS continues to request extensions, the blasting in the quarry continues at a more frequent rate than prior to the EHB decision, and our residents continue to complain to our board.

**Resolving the public nuisance should be of paramount and immediate concern to all responsible parties.** The urgency is underscored by new sinkholes that have opened on neighboring properties—an indication that inaction and delay creates unnecessary risk and endangers the public. **We ask that the department compel compliance with the conditions specified in Compliance Order No. 15-5-048-N, and deny any further time extensions beyond the November 30, 2015 deadline.** There comes a time when enough is enough, and we are now well past that time in fully implementing the EHB's decision and abating and removing the public nuisance.

In addition, we are renewing our urgent request, made in at least two public meetings between DEP and the Board of Supervisors, and in our letter to PA DEP District Mining Manager Michael Menghini on April 7, 2015. **PA DEP should immediately re-evaluate and revise NHCS's quarry performance bond** to ensure that it will cover all reclamation costs and protect the Commonwealth's Noncoal Surface Mining Conservation and Reclamation Fund from liability. We believe this is even **more urgent now** due to NHCS's failure to comply with PA DEP's requests.

We respectfully request your immediate attention to these urgent issues.

Very truly yours,



Paul Cosdon, Chairman, on Behalf of the Solebury Township Board of Supervisors

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