

Kevin Lund CPG, PE  
Michigan Department of Environmental Quality  
Remediation and Redevelopment Division  
301 East Louis Glick Highway  
Jackson, MI 49201-1556

January 12, 2018

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**RE: Discussion of Restrictive Covenants at the Property Located at 2930 Ecorse Road, Ypsilanti, Michigan**

Dear Mr. Lund:

This letter describes the information reviewed by WRAD and ACM in granting an easement for the property located at 2930 Ecorse Road, Ypsilanti, Michigan [MDEQ Facility ID Number MID 980-587-893] ("Property"), which is owned by the Willow Run Arsenal of Democracy Landholdings Limited Partnership ("WRAD") and leased to the American Center for Mobility ("ACM"), for the construction and operation of the NEXUS Gas Transmission Project ("NEXUS Project") by NEXUS Gas Transmission, LLC ("NEXUS").

As you know, WRAD and ACM conveyed an easement to NEXUS through an Easement Agreement dated November 1, 2017, which was recorded with the Washtenaw County Clerk/Register of Deeds (the "Easement Agreement"). This Easement Agreement is enclosed as **Appendix 1**. In negotiating the Easement Agreement, WRAD and ACM reviewed numerous NEXUS Project documents and believe that the NEXUS Project, as planned, will comply with the Declaration of Restrictive Covenants ("DRCs") in place for the Property – provided that MDEQ and RACER grant permission to alter or disturb the slab, concrete apron, or parking lot, roadways, and pedestrian areas at the Property (and NEXUS otherwise complies with its plans, the DRCs, and the Easement Agreement). Neither WRAD nor ACM assumes any obligation or responsibility of NEXUS, and nothing in this letter is intended to relieve NEXUS of any of its obligations or responsibilities.

An Index of NEXUS Project Documents reviewed by WRAD and ACM and key excerpts from such documents are enclosed as **Appendix 2**. The analysis focused primarily upon the NEXUS Project Residuals Management Plan / Excavation Management Plan, dated February 2017 ("RMP/EMP") for the Property, which was developed by NEXUS and submitted to the Federal Energy Resource Commission in February 2017 and the Spill Prevention Control and

Countermeasure (“SPCC”) plan. The RMP/EMP summarizes the environmental activities that will be implemented for construction of the NEXUS Project on the Property. If NEXUS adheres to the RMP/EMP and SPCC during the construction and operation of the NEXUS Project, it should comply with the DRC, specifically:

*A The RMP/EMP Is Consistent with the Property’s Excavated Materials Management Plan.*

Section 3.3 of the RMP/EMP specifies that “soil from the trench excavations and other workings will be preferentially managed on-Site by returning to the open excavations at the location it was generated from as fill.” The RMP/EMP also specifies management activities, including off-site disposal of excess and/or contaminated soil and debris at appropriately licensed disposal facilities. Therefore, these management activities are consistent with Section 20120c of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended and the Excavated Materials Management Plan dated June 2, 2017 prepared for the Property.

*B NEXUS’ Planned Construction Dewatering Activities Will Be Consistent with Local Permits and with the Restrictive Covenants*

Section 3.4 of the RMP/EMP specifies that “water from dewatering of the open trench excavations and jack-and-bore pit through this section of the pipeline corridor will be preferentially managed . . . by pumping and discharging to the local sanitary sewer.” NEXUS has obtained a permit from Ypsilanti Community Utilities Authority to discharge water from construction dewatering activities to the sanitary sewer. Such activities related to short-term dewatering for construction purposes are therefore consistent with Section 2.b. of the MDEQ DRC.

*C The NEXUS Project, as Planned, Will Not Interfere with RACER Trust Monitoring Wells or Soil Gas Ports, and NEXUS Will Address Any Unplanned Damage or Interference.*

Section 3.7 of the RMP/EMP specifies that “the contractor will protect the monitoring wells present in the workspace. The type of protection will depend upon the actual proximity of the well to activities, the type of well cover (above ground versus flushmount), and the condition of the well.” Well protection steps will be based on “Low Activity/Traffic Areas (e.g., edges of workspace)” and “High Activity/Traffic Area (e.g., in working roadways, HDD assembly area).” **Figure 1** identifies the NEXUS project in relation to existing monitoring wells. Consistent with Section 3.a. of the MDEQ DRC, monitoring wells or soil gas ports if any, on the Property that are damaged or destroyed by NEXUS will be repaired, relocated or replaced as necessary.

The Easement Agreement provides the legal mechanism necessary to make the project planning documents enforceable. The Easement Agreement was executed subject to the

conditions of the DRC. (See Appendix 1, page 2.) Moreover, the Easement Agreement, on page 6, expressly states that NEXUS and its agents must comply at all times on the Property with: (1) the DRC; (2) the Environmental Easement Agreement between WRAD, ACM, and RACER; and (3) the RMP/EMP and SPCC plans referenced above. The NEXUS Project, as described in NEXUS' planning documents, should comply with the DRCs applicable to the Property, and the Easement Agreement makes the NEXUS planning documents enforceable.

WRAD and ACM take their environmental stewardship obligations very seriously, and particularly with respect to allowing the RACER Trust to remediate the longstanding environmental legacy conditions at the Property. WRAD and ACM plan to coordinate closely with NEXUS and the RACER Trust moving forward to ensure that the construction of the NEXUS Project does not conflict with the RACER Trust's remedial activities. We appreciate the MDEQ's on-going oversight and assistance on this project. If you need additional information please contact us at the numbers below.

Sincerely,

WILLOW RUN ARSENAL OF DEMOCRACY  
LANDHOLDINGS LIMITED PARTNERSHIP

AMERICAN CENTER FOR MOBILITY

By Willow Run Land Management Services  
Its General Partner

By Charles Fiedler  
Charles Fiedler  
Its President and CEO

By Laurel R. Champion  
Laurel Champion  
Its Chief Operating Officer

cc: Grant Trigger, RACER Trust  
Carl Garvey, RACER Trust  
Brian Considine, Dawda Mann

cc (w/o attachments):

Charles Fiedler, Willow Run Arsenal of Democracy Landholdings Limited Partnership  
Paul Collins, Miller Canfield  
G. Alan Wallace, Miller Canfield  
Reshma Sambare, Miller Canfield  
John Maddox, American Center for Mobility

Mark Chaput, American Center for Mobility  
David Parsigian, Honigman  
Vincent Kuebler, Honigman  
Matt Barczyk, NEXUS Gas Transmission  
Jeff Dehner, NEXUS Gas Transmission

## **APPENDIX 1**

### **NEXUS EASEMENT AGREEMENT**

## APPENDIX 2

### INDEX OF NEXUS DOCUMENTS REVIEWED BY WRAD AND ACM

#### (Excerpts Attached)

- Excerpts from November 2016 NEXUS-FEIS
- NEXUS FERC Certificate
- Excerpt from NEXUS FERC Certificate (pre-construction obligations)
- Excerpt from NEXUS FINAL Implementation Plan (pre-construction obligations )
- NEXUS Spill Prevention Control and Countermeasure Plan (January 2017)
- Revised NEXUS Spill Prevention Control and Countermeasure Plan (October 2017)
- NEXUS Waste Management Plan
- NEXUS Residuals Management Plan for Willow Run Property
- NEXUS - YCUA Industrial Discharge Permit
- MDEQ Part 301, 303 and 31 Permit with Plans (1/10/17 – 1/10-22)
- NEXUS Final Residuals Management Plan / Excavation Management Plan (February 2017) [Implementation Plan]
- Washtenaw County (Tyler Dam Drain) Drain User Permit (11/3/17)
- Washtenaw County (Ypsilanti Township Encroachment on Easement #07) Drain Use Permit
- Washtenaw County (Tyler Dam Drain west end of impoundment) Drain Use Permit
- Beyer Drain Willow Run Drain and Ypsilanti Township Drain 7 Easement
- MDOT US-12 Access Permit
- Washtenaw County Road Commission Wiard construction permit (Jack & Bore crossing) (Permit #2017-000877)
- Washtenaw County Road Commission Wiard and -DR1 and - DR2 Wiard construction permit (Permit #2017-000873)
- Washtenaw County Road Commission Wiard and -DR1 and - DR2 Wiard construction permit (Permit #2017-000874)
- Washtenaw County Road Commission Wiard driveway construction permit (Permit #2017-000820)
- Washtenaw County Road Commission -RD and -DR1 Airport construction permit (Permit #2017-000834)
- Washtenaw County Road Commission -RD and -DR1 and -DR2 Wiard construction permit (Permit #2017-000818)
- Excerpt from Michels Final Punch List
- NEXUS – YCUA Letter of Understanding for Pipeline 10/6/17