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March 19, 2012

**VIA ELECTRONIC AND  
FIRST CLASS MAIL**

David L. Bimber  
Deputy Regional Permit Administrator  
Division of Environmental Permits  
New York State Department of Environmental Conservation  
6274 East Avon-Lima Road  
Avon, NY 14414-9519

Re: *Finger Lakes LPG Storage Facility; DEC Facility No 8-4432-00085; Water Quality Certification Application*

Dear Mr. Bimber:

This is response to the Department's Notice of Incomplete Application letter dated March 5, 2012 with regard to Finger Lakes' application for a Water Quality Certificate ("WQC"). For the reasons that follow, the information previously provided to the Department by Finger Lakes constitutes a complete application under the Department's regulations. As a result, Finger Lakes requests that the Department proceed to public notice and comment on the WQC application at this time.

As you know, a Pre-Construction Notification ("PCN") was submitted to the U.S. Army Corps of Engineers ("Corps") on or about February 15, 2012. On behalf of Finger Lakes, we supplied a copy of the PCN to the Department with our letter of February 16, 2012. The PCN reflects the changes that have been made to the project to reduce the size of the brine ponds and have two brine ponds instead of one. These changes will reduce impacts to federally regulated wetlands and navigable waters -- so much so that the nominal impacts are now covered by the Corps' Nationwide Permit program. The PCN was accompanied by a Joint Application for Permit because of the need for a WQC under Section 401 of the Clean Water Act ("CWA").

The Department's review of an application for a WQC is governed by 6 NYCRR § 608.9 and Part 621. Section 621.4 specifies what constitutes a complete application for a WQC. This section of the Department's regulations simply states that a complete application must include a written request for a WQC and a properly completed Joint Application for Permit form. The Joint Application for Permit form included with the PCN checks the appropriate box for a request for a WQC. Supporting documentation for the

David L. Bimber  
March 19, 2012  
Page 2

request for a WQC is included with the PCN, including a comprehensive wetland delineation and impact report.

As the Department is aware, under the CWA, it is necessary for a WQC to be issued in connection with a verification from the Corps that the activity described in the PCN is authorized under the Corps' Nationwide Permit program. This process is described on the Department's web site. See <http://www.dec.ny.gov/lands/5505.html>. It is important to note that no state wetlands or regulated streams will be impacted by the brine ponds or any other aspect of the proposed project.

Given that Finger Lakes has included a properly completed Joint Application for Permit form and the documentation necessary for the Department to evaluate compliance with 6 NYCRR § 608.9, the application should be declared complete and a Notice of Complete Application should be issued for public comment. There is no impediment to doing so under SEQRA since this project is the subject of an accepted draft EIS.

Thank you.

Sincerely,

BOND, SCHOENECK & KING, PLLC



Kevin M. Bernstein