

Subject: FEIS Comment #3

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Date: Sat, 6 Feb 2010 17:54:02 EST

To: Henry.M.Wicker.JR@saw02.usace.army.mil

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Email address: Henry.M.Wicker.Jr@usace.army.mil

Dear Mr. Wicker,

I am writing in reference to the Final Environmental Impact Statement (FEIS) for the Western Wake Regional Waste Water Treatment Facility.

I take exception to parts of the following responses contained in App_A12d_CommentResponses.pdf. These are responses to comments made during the NEPA DEIS comment period.

Response I.5: Consultants working as third-party contractors for USACE were required to sign a conflict of interest disclosure statement prior to beginning the NEPA process, stating that they have no direct or indirect financial interest in the planning, design, construction, or operation of the WWRWMF project...

Please confirm that this means there is a requirement that the consulting firms they work for can not bid on the project once it is approved.

Response II.14: NCDENR does require that a portion of the water be returned to the Cape Fear River, and the Partners have temporarily met the IBT condition by pumping water from the West Cary Pump Station to the Durham County Triangle WWTP, as described in ResponseII.13. This is a short-term solution, and the WRF is needed to comply with the IBT certificate over the long run. Cary and Apex will continue to use their facilities which discharge to the Neuse River Basin. NCDENR did recommend that Holly Springs relocate its discharge, but included it as a condition of a FONSI to expand its treatment facilities. Cary and Morrisville do have an agreement for water purchase from Durham, whose source is the Neuse River Basin. These are short-term purchases to manage peak demands and to manage the IBT. This does not meet their long-term needs, and their main water supply is from Jordan Lake in the Cape Fear River Basin. The IBT certificate includes a condition to return water to the Cape Fear River Basin; this is a requirement, not a policy. There may have been political forces behind the IBT requirements, but it is a permit condition that the Partners must comply with. Apex needs the WRF in the near future to support growth; while Cary's needs are not as immediate,

the Town does need the WRF to support its growth. Wastewater infrastructure planning is done over a longer time frame: typically 30 years.

Throughout this project we have been told that the State (NCDENR) has mandated the return of treated wastewater to the Cape Fear by January 2011. That is why the big rush to get this sewage plant online. The point I made, and ignored, is that there is time to make a change. The WWP preferred site is wrong but correctable without any penalties. Saying there is no time to change course is fabricated. Another issue was increase in cost, also fabricated. All sites, preferred and alternatives, are similar in cost. Well within expected business parameters. In fact, costs could and can be reduced by changing course now before additional costs are realized. The towns taxpayers would be grateful in addition to doing the right thing for a neighboring (service area) community.

Response III.83: Green Level is within the Town of Cary's ETJ and New Hill is currently under Wake County's jurisdiction. New Hill is in Apex's urban service area, but Apex currently has no authority in the urban service area. New Hill could request Wake County to help them preserve the New Hill Historic District. The Partners did consider the New Hill Historic District in their plant layout and design to minimize impacts to the historic...

Response was very specific as to who has responsibility for what areas. In particular, it is stated that Apex has no authority in the urban service area. This response is in stark contrast to what was stated over and over again during the USACE PDT meetings. We were told that this sewage plant supports the "WWP service area" and New Hill is part of this "service area". We were also told that New Hill is part of Apex's Long Range Urban Service Area (LRUSA). So why isn't the New Hill Historic District being treated like we are in the WWP service area or Apex's LRUSA? This response is typical of other responses where statements are made to suit the situation. So, is New Hill or is New Hill not in the "WWP service area" and thereby its historic district treated the same as Cary is doing for its rural communities of Carpenter and Green Level?

Response III.84: This comment refers to the Partners' site selection process. As noted in Response I-1, the USACE cannot change the proposed project, only evaluate its impacts against the impacts of other viable alternatives. The USACE will use the information provided in the EIS on the impacts of the proposed project and its alternatives to determine whether or not it will permit the proposed project in accordance with Section 404 of the Clean Water Act.

We keep going around and around on the statement that "the USACE cannot change the proposed project". I am not looking to change the proposed project, just the preferred site (wrong site). If a foundation of a building is flawed or faulty, then it doesn't make any difference how well built the building. A bad foundation needs to be fixed before continuing. The SEPA DEIS process which the NEPA process is suppose to encompass, or so we were told, stated in their findings that SEPA DEIS document was inaccurate, incomplete, and in incorrect. DENR recognized that the preferred sited, and there were no alternatives sites in the SEPA DEIS, was bad. Ignoring this fact is a failing on USACE's part to do due diligence.

Response III.110: USACE's preliminary determination that EJ impacts are not significant and that the Water and Sewer Extension Policy decreases potential adverse impacts....

This sounds like a contradiction to me. USACE states, "EJ impacts are not significant" but then in the same sentence states, "decreases potential adverse impacts". Sounds like "I was for the war before I was against the war"! If there are no significant impacts, then a mitigation policy wouldn't be required. The fact that a mitigation policy is even being offered demonstrates that Site 14 must be impacted – stated or otherwise. If an alternative site is chosen, would a mitigation policy be offered by WWP? I think not but what say the WWP?

Response III.115: The meeting on May 21, 2008 was a meeting organized by members of the New Hill community. Representatives of USACE and USEPA were invited and requested to attend this meeting to provide information about the project and environmental justice. Several representatives from USACE, a representative from USEPA's Office of Environmental Justice in Region IV, and representatives of NCDENR attended the meeting. This meeting was organized by members of the community, not USACE. Public meetings sponsored by USACE must be announced by public notice.

In accordance with NEPA regulations, USACE held a public hearing on April 14, 2009 at Apex Town Hall. This public hearing was properly announced in the Federal Register at the time of publication of the DEIS.