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New Hill, NC 27562

February 6, 2010

U. S. Army Corps of Engineers, Wilmington District
Regulatory Division
Attn: File Number 2005-20159
69 Darlington Avenue
Wilmington, NC 28403

Dear Mr. Wicker:

I am writing in reference to the Final Environmental Impact Statement for the Western Wake Regional Waste Water Treatment Facility. Specifically, I am writing because several of the important points made during the public comment period for the draft Environmental Impact Statement have not been answered or have not been completely and properly addressed.

Response I.8 of the public comments and responses section states, "The Partners have not initiated any activities on the site and reasonable alternatives to the proposed project are still available. Further, this rule specifies that: (d) This section does not preclude development by Applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance."

The reference to Section (d) in Response I.8 to the Public Comments is irrelevant. The Partners exceeded the performance of work necessary for an application by acquiring, through condemnation, the Seymour Farm. Because the Partners are seeking Federal financial assistance for the construction of this facility, Federal regulations regarding Environmental Justice should apply. The Partners have bypassed this requirement by ignoring the Federal Wetland Regulations for the first year and a half of the permitting process, purchasing the land under the SEPA process, then claiming that the law did not apply to them when they broke it. Cleverness in exploiting loopholes in the environmental review process by the Partners should not be an excuse for failure to enforce the law by the review agency.

Comment IV.28, asking about responsibility and accountability on the part of the Partners, was not answered. The Town of Cary is listed as being responsible, but how can they be held accountable? How can New Hill residents hold the Partners accountable for excessive light pollution, noise pollution, odor, and adverse traffic impacts? What is the process by which local residents can force the partners to comply with the standards of performance for the proposed facility? Although this issue applies regardless of the site selected, it is especially relevant with regards to Site 14, where such impacts are most severe and affect the most residents.

Response V.5, stating that Wake County has cooperated throughout the process, is inaccurate. Wake County has only “cooperated” with the partners by abdicating their responsibility to represent the interest of their New Hill constituents and allowing the Western Wake Partners to act with impunity and arrogance towards the residents of New Hill. Wake County is also powerless to act on behalf of the New Hill residents to protect them from the actions by the Partner towns, including condemnation of their land and disruption of their lives and interests.

Section 3.3.1 of the Environmental Impact Statement, Federally Listed Threatened and Endangered Species, is incomplete. It does not address habitat impact of the red-cockaded woodpecker by related facilities outside of a ½-mile radius around the proposed sites. It is also inaccurate. Section 4.15 inaccurately states that “overhead power lines can be placed in such a manner to avoid impacts.” This has not been the case. Unfortunately, since the waterline has already been placed and the power line easements have already been cleared (prior to the legally-required review under the National Environmental Policy Act), the impacts have already occurred. How will the Corps of Engineers and/or the partners correct this, and who will be held responsible for causing these impacts prior to proper review since, as the EIS states, the utility impacts are linked to the proposed project?

In order to install the water lines and power lines associated with the proposed project specifically for Site 14, the Town of Apex has destroyed ten (10) 60 to 70-year-old Longleaf and Loblolly pines on our property. The impact of the removal of these trees by the Town of Apex, for work directly related to the proposed wastewater treatment facility at Site 14, may have had a direct effect on the habitat of the red-cockaded woodpecker. This property is greater than ½-mile from the proposed Site 14, so it was not included in the National Heritage Element Occurrence search. The Environmental Impact Statement needs to address endangered species habitat impacts by past and future actions related to the proposed facilities.

The impacts by the Town of Apex utility extensions to serve the proposed Site 14 were pointed out during the Public Hearing on April 14, 2009. See comment 174. A response to this comment was not provided anywhere within the EIS. Please provide a response.

In conclusion, this Final Environmental Impact Statement has failed to accurately address the impacts due to the proposed facility. The Army Corps of Engineers, in forwarding this work, has failed to resolve the earlier violations of the National Environmental Policy Act carried out by the Partners. I strongly urge you to reject this Environmental Impact Statement in your final Record of Decision.

Sincerely,

John D. Brubaker