

September 28, 2010

Gil Vinzani  
Surface Water Protection Section, Point Source Branch  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

Re: Additional Comments to the September 28, 2010 Public Hearing on NPDES Permit

Dear Mr. Vinzani:

This letter concerns what is, in my opinion, the premature consideration of an NPDES permit given that the Western Wake Partners (WWP) have not yet resolved concerns held by Chatham County in regards to many miles of pipeline over Chatham County land.

It is no secret that the entire WWP project, from its inception until today, has been fraught with numerous errors and omissions, and as a result, the NPDES permit should be denied, as should any other permits that come before NC DENR until the WWP resolves past mistakes.

Let me give you a few examples of errors / omissions by the WWP thus far:

**Number Description**

1. The selection of the site for the sewage plant, commonly known as Site 14 was done in secret, with no input from New Hill residents.

2. The WWP hired engineering firms to locate a suitable site for the sewage plant.

The engineering firms initially examined 30 sites, and then narrowed the list to 12 sites. These sites were then ranked from most desirable to least desirable.

The top ranked sites are located on Progress Energy property, and will affect very few, if any people, churches, cemeteries, playgrounds, historic districts, etc.

Site 14 was at best ranked 4<sup>th</sup>, and was ranked 5<sup>th</sup> in one study.

For unexplained reasons, the engineering reports were not followed; and the final site selection was done by clerks from each of the 4 towns. As a result Site 14 in the center of New Hill was chosen. The New Hill Community Association has repeatedly asked for the reasoning behind this decision, but we have yet to receive documentation or an explanation.

3. In several of the Technical Memorandums published by the WWP engineering firms, one of the ranking criteria for the sites stated the further a site is away from any of the WWP towns, the more favorable the rating.

What this means is that the WWP towns don't want a smelly, noisy sewage plant in their towns, but it is o.k. to force it into someone else's community.

4. The WWP claims to have had an open and transparent process for selecting the site in the center of New Hill. However, we have discovered emails written by Cary Public Information Officer, Susan Moran, that state the partners wanted to keep the site a secret until the land was acquired.

**Number Description**

5. During May 2005, New Hill residents accidentally discovered Cary's plan to condemn the land in New Hill.

Because this was accidentally discovered, New Hill residents requested the WWP delay condemnation for 30 days. We wanted a chance to study what had been going on in secret for the previous 5 years. Our request was denied.

6. In June 2005 Mayor McAlister told the Cary Town Council that in order to keep the project on schedule; the land must be acquired by August 2005, however, the WWP web site clearly stated that should the land need to be acquired by eminent domain; the land should be acquired by June 2006.

In that same Town Council Meeting, Mayor McAlister stated he and Council Member Doral met with a few New Hill residents and answered ALL their questions. While it is true he did meet with a few New Hill residents, he and Ms. Doral did not answer all our questions because they could not answer them.

One can only speculate why Mayor McAlister made these false statements to the Cary Town Council.

7. All of the towns that make up the WWP were supposed to document their agreement with Site 14. Apex Mayor Weatherly never let the Apex Town Council vote on the site. By doing this, he exceeded the authority given to him by the Apex town charter.
8. Holly Springs Town Manager, Carl Dean, wrote in an email that they need to find a way to do these utility projects without the need for public hearings.
9. After reviewing the Draft EIS submitted during the Spring of 2006. DENR hearing officer's wrote "...do not consider the April 2006 Draft EIS as an accurate, complete and adequate document."
10. Following the unfavorable review of the Draft EIS by DENR, the Army Corps of Engineers (ACE) was brought onboard and touted that they would do a thorough/independent review of the site selection process.

Unfortunately ACE hired the same engineering firms to do the "independent" review. How is it possible that these same consultants could do an independent review when they have been paid thousands of dollars by the WWP already, and will continue to be paid by the WWP?

I contend an independent review was not possible as they have had and continue to have too much allegiance to the WWP.

ACE implemented the PDT process and allowed a very few New Hill residents to participate.

Then ACE announced they would not investigate how Site 14 was selected. This is a contradiction to what was publicized.

**Number Description**

Other outstanding questions about the engineering consultants:

- o Since the engineering firms never ranked Site 14 higher than 4<sup>th</sup>, how can they support it as the preferred site?
- o Given the engineering about face on site selection, how can they be trusted to do an independent review?

In my opinion, the WWP ignoring the results of the engineering analysis, and the engineering firms flip flopping, clearly demonstrates that neither the WWP nor ACE can be trusted.

By not investigating how Site 14 was selected, USACE issued their ROD in 2010 based on flawed data.

11. On September 20, 2010, the Chatham County Commissioners held a public meeting to discuss the WWP desire to route effluent sewage lines through Chatham County.

- o One question pertained to sewage spills and the plans to restore ponds, lakes, fields, and provide fresh water to people and livestock once a spill occurs. (The New Hill Community Association has made numerous requests for a copy of the plan to clean up raw sewage once it spills onto our farms; into our ponds and streams; and contaminates our wells. We want to know who will be responsible for the clean-up; who will provide clean water for our livestock and ourselves; and who will restore our farm ponds and wells. We have not yet received a plan from the WWP.)

The answer provided by Steve Brown stated Appendix L of the FEIS contains a very detailed spill management plan. A review of Appendix L shows there is no plan for a sewage spill from a pipeline carrying millions of gallons of sewage an hour, that has the ability to destroy acres of land.

As of today, a satisfactory plan has not been produced, and I submit no such plan exists today or will exist tomorrow.

- o Another question asked by residents of Chatham County pertained to the WWP's backup plan should the Chatham County commissioners deny access to Chatham County.

Mayor Weatherly stated there is no backup plan. This is laughable.

Anyone who has ever undertaken any type of project management knows you always have to plan for worse case scenarios. The WWP has been working on this project for nearly a decade (the last 2 years under the direction of Mayor Weatherly) and they state they do not have a back-up plan.

This in itself is reason enough to deny the NPDES permit.

12. There are many unknowns as to what rights the property owner has once the WWP obtains an easement for their sewage lines.

For example:

**Number Description**

o Some land owners have been told they will not be able to cross the sewage lines with farming/harvesting equipment. Consequently many land owners will have to build new access roads, which will mean more lost land for which they will not be compensated.

o Some land owners have been told that even though prescribed burning is recommended by the NC Forestry Service, forest owners will not be able to control burn the forest next to the sewage line.

Once again, this will mean lost revenue for which land owners will not be compensated.

o Will the WWP be permitted to sublease the sewage rights of way? If yes, who receives the benefit from the sublease, the property owner or the WWP? Will the land owner have any say in what type of utility is allowed to use the right of way?

o The WWP claims that their influent and effluent sewage lines will follow existing utility corridors in order to minimize impact to property owners. How does a utility corridor get established? Once a utility is installed across private property, does that mean that is a utility corridor forever and will be subject to other utilities in the future?

Because the WWP so far has not documented land use restrictions, nor answered the questions above, one can only guess as to how many more restrictions will be imposed on the property owners.

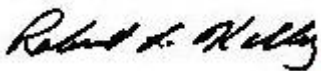
Until the rights of the property owners are clearly documented and distributed to all concerned, the NPDES permit should be rejected.

These are just a few of the errors that have been made thus far by the WWP, and show the WWP has a terrible record of:

- o keeping the public involved;
- o conducting business in the open;
- o reporting the truth; and,
- o involving those most impacted by their decisions.

For these reasons, I urge you to deny this permit, and all other permits that are brought to you by the Western Wake Partners until they resolve the errors they have made in the past.

Sincerely



Robert L. Kelly  
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Apex, NC 27502

cc: Coleen Sullins

Paul Rawls  
Chatham County Board of Commissioners