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**DRAFT
APPENDIX A**

**Recommended Public Participation Program
Western Wake Regional Wastewater Management Facilities Project**

Recommended by:

Ms. Inga Kennedy, President



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INTRODUCTION

As requested by NC DENR in the guidance letters of July 27, 2006 and October 2, 2006, prior to submitting a revised EIS the Partners should conduct a public participation program for the affected community located in the vicinity of the proposed WRF. This document has been prepared for the Western Wake Partners (Partners) by Planners for Environmental Quality (PEQ) to describe the recommended public participation program that should be implemented by the Partners to receive input and comments from individuals located in the vicinity of the proposed WRF.

Based on the information and data prepared by the Western Wake Consultants (Consultants) and presented in Table 6 of the technical memorandum, Site 14 offers the least impacts at the lowest cost for the proposed Project. The recommended public participation program described in this document has been designed by PEQ to collect input from the affected community located adjacent to Site 14.

OBJECTIVE

PEQ recommends that the primary objectives of the public participation program be (a) to provide individuals located in the affected community with factual information and data regarding the scope, scale and schedule for the proposed Project, and (b) to identify issues of concern for the community relative to the proposed Project.

RECOMMENDED APPROACH

In Appendix I of the April 2006 edition of the preliminary draft EIS, the Partners have documented the various public participation forums that individuals and groups have used during the course of the EIS process to provide comments for the proposed Project. The forms of public participation documented in Appendix I include, but are not limited to, governing board meetings at which the project is discussed and the public is afforded an opportunity to speak about the project; public meetings at which information is presented about the project; public hearings at which NC DENR presents information and receives formal written and verbal comments about the project, and websites that allow for submission of questions by and answers for the public about the project.

However, while there are a number of public participation forums that have been available and have been used during the course of the EIS process, information and data reviewed by PEQ regarding public participation indicates that individuals located adjacent to Site 14 have not actively participated in the traditional forums that have been available for the Project. Accordingly, PEQ recommends that the public participation program be conducted using another

form of public participation: door-to-door, one-on-one interviews. PEQ's experience from similar projects with similar community characteristics indicates that door-to-door, one-on-one interviews will be the most effective method for engaging the affected community in a meaningful dialogue about the proposed Project.

Upon completion of the door-to-door, one-on-one interviews, PEQ will prepare a preliminary findings report based on the discussions resulting from the door-to-door, one-on-one interviews. The preliminary findings report will include information on common themes observed during the interviews and guidance to the Partners regarding information, data and other materials that should be prepared in order to respond to issues, concerns and questions raised by interviewees.

Based on the recommendations of the preliminary findings report, PEQ recommends that a second round of meetings be conducted with individuals from the affected community. The second round of meetings may be conducted as one-on-one meetings, small-group focus meetings, or possibly a larger-scale open house meeting. PEQ's recommendation regarding the most appropriate forum for the second round of meetings will have to be deferred until completion of the initial one-on-one interviews with individuals from the affected community.

Upon completion of the second round of meetings, PEQ will prepare a final public participation report for the Partners. PEQ recommends that the Partners present the findings of the public participation program to NC DENR and include the findings and recommendations in the Final EIS as agreed upon by NC DENR.

RECOMMENDED WORK PLAN

- 1) Identify parcels, parcel owners and residents located within the affected area (0.5 mile radius from centroid of Site 14)
- 2) Prepare the public input data collection plan, which will include the data collection methodology, the proposed community participants to be contacted, and the approach for documenting the results of the data collection effort.
- 3) Prepare a fact sheet with information and graphics regarding the proposed project and the WRF at Site 14. The fact sheet will be provided to the community participants to be interviewed.
- 4) Conduct door-to-door interviews with residents located within the affected area. Initiate one-on-one interviews as the beginning of a "good neighbor" policy.
- 5) Prepare preliminary findings report based on the discussions resulting from the door-to-door, one-on-one interviews.
- 6) Respond to any issues/questions raised by interviewees.

- 7) Based on the findings of the one-on-one interviews, conduct a second round of focus group meetings (as necessary).
- 8) Prepare report on findings of public participation program.
- 9) Meet with NC DENR to review the report on the public input data collection process.

RECOMMENDED SCHEDULE

PEQ recommends that the public participation program be initiated during the week of December 4, 2006.

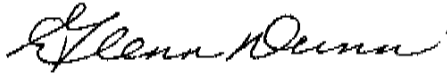
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MEMORANDUM

To: Kim Fisher
Leila Goodwin

From: H. Glenn Dunn



Date: November 27, 2006

Re: Environmental Justice

Background

The Western Wake Partners are working with the N.C. Division of Water Quality ("DWQ") to appropriately address Environmental Justice ("EJ") issues related to the EIS and site selection process for the Western Wake Wastewater Reclamation Facility ("WRF"). EJ concerns have arisen based on the minority statistics (82% minority based on US Census Data) identified for the census block area associated with Site 14, the Partner's preferred site. As a result, the Partners have been directed to include an EJ score into the site selection evaluation presented in the EIS in accordance with an October 2, 2006 letter from Colleen Sullins, Deputy Director of DWQ. More specifically, the letter states that the Partners are to reevaluate thirteen sites by adding an EJ technical factor to table 5-6 in the EIS. EJ demographics must be analyzed within a .5 mile and 1.0 mile radius. All sites with a minority population less than 50% receive an EJ technical factor weighted at 1.0 and those greater than or equal to 50% receive an EJ technical factor weighted at 5.0. The higher factor results in lower ranking for the site. Site 14 and two other sites received a 5.0 score.

The Partners are initiating a process for obtaining input from citizens located in the affected area adjacent to Site 14. The Partners are engaging an experienced public participation consultant to discuss the proposed WRF with the individuals in the affected area using door-to-door, one-on-one interviews and group meetings as may be necessary. The consultant will provide factual information regarding the scope and scale of the project and identify issues that concern the community regarding the Project. As part of the process, measures that are being considered to mitigate any potential adverse impact from the Project will be discussed and input from the community will be used to consider further mitigation measures. This public input effort has not yet begun.

These circumstances have caused the Partners considerable concern. This approach does not include a factor for the environmental impacts of the wastewater collection system and effluent lines associated with each of the alternatives. This results in a relative ranking of the fourteen sites that consideration excludes of the infrastructure necessary to take wastewater to and away from each site. Of equal concern, this approach assumes that locating the WRF at Site 14 would have a negative impact on the surrounding community even though the public input

process specifically concerning the affected community has yet to be completed. Also, this approach doesn't allow mitigation measures to be factored into the overall alternatives analysis.

The following legal analysis indicates to me that adding the EJ factor to table 5-6 of the EIS at this time provides an incomplete and inaccurate basis for comparing the alternative sites, and should not be included in the EIS. To comply with applicable rules and guidance, no factor for EJ should be used in comparing sites until the public input process regarding the EJ impacts for Site 14 is completed, including an opportunity to address mitigation of any adverse impacts legitimately based on impacts to the natural or physical environment. Only then can a determination be made as to whether Site 14 has adverse EJ impacts and, if so, what weight to give to those impacts in comparing sites. Also, the environmental impacts of the collection system/effluent lines should also be included and given appropriate weight along with the other factors in ranking the thirteen alternative sites.

Issue 1.

Whether the above-described scoring approach to ranking sites is appropriate without including a ranking factor for the environmental impacts of the wastewater collection system and effluent lines associated with the alternative sites?

Answer

No. The Wastewater collection system and the effluent lines are essential to, and therefore part of, the Project. Consequently, not including their impacts in any ranking of alternative sites is inconsistent with the CG&L's Engineering Guidance for the Preparation of Engineering Reports (the "Engineering Guidance") and the National Environmental Policy Act ("NEPA") and North Carolina Environmental Policy Act ("NCEPA").

Discussion

CG&L's Engineering Guidance requires in Section D.3. that the engineering report must include descriptions, diagrams and preliminary design criteria for all proposed unit processes, pump stations and interceptor sewers. As I understand it, from its inception the Project for which the loan is requested has been defined to include the collection system and effluent lines along with the WRF, and there is no basis for separating their environmental impacts from those of the WRF for purposes of ranking alternatives. In fact, such segmenting of impacts is not permissible under NCEPA. It is fundamental law under NEPA and NCEPA that a Project cannot be segmented for purposes of discussing environmental impacts where the components are so functionally interdependent that they constitute a single or "connected" action. Council for Environmental Quality ("CEQ") guidelines for NEPA define projects as "connected"- i.e. not to be segmented- where (1) they cannot or will not proceed unless other actions are taken previously or simultaneously or (2) they are interdependent parts of a larger action and depend on the larger action for their justification. These criteria, which have been applied in many

federal and state cases to prevent segmenting a project, clearly describe the relationship between the WRF and the collection system/effluent lines.

In conclusion, applicable guidance and case law leave no doubt that the environmental impacts of the collection system/effluent lines should be considered as part of the Project and, therefore, as part of any comparison of alternatives. I understand that CG&L has indicated that such impacts may be discussed separately from the site scoring in table 5-6. Nevertheless, I see no basis for not including these impacts in any scoring and/or comparison of sites.

Issue 2.

Whether in comparing the preferred alternative with the twelve other alternative sites and ranking it relative to those twelve alternatives, it is appropriate to assign the preferred alternative a negative factor for environmental justice before completing the process of obtaining public input from the disadvantaged community?

Answer

No. The Engineering Guidance and Executive Order 12898 require a determination as to whether the minority and/or low income populations consider the effects of the project to be adverse, which requires input from those populations.

Discussion

There is no basis at this time to assume that the impacts of the Project will be considered "adverse" by the affected community surrounding the WRF. The negative comments received so far have been, to my knowledge, submitted by individuals who do not live within the boundaries of the affected area as defined by NC DENR. These people cannot be assumed to represent the individuals in the affected community, particularly concerning such subjective impacts as cultural, economic or social impacts. In fact, EPA's Engineering Guidance for Special Appropriation Projects ("SPAPs") Grants states that representatives must truly represent the communities' views.

Furthermore, the impacts of a project of this nature can be beneficial because it makes sewer service available to the community in question. This fact is acknowledged in the EPA Region 4's NEPA Environmental Justice (EJ) Review for SPAPs Grants, which states that drinking water and wastewater projects are generally beneficial to the public health.

I should also point out that we have been told by DENR's NCEPA Coordinator that the EIS cannot be finalized until the public input process is completed, and DENR's NCEPA rules do not allow CG&L to make a decision until the EIS is completed. Specifically, 15A NCAC 1C.0104(b) requires that CG&L shall make its decision only "after weighing all of the impacts and mitigation measures presented in the environmental document, which shall become a part of the decision-making record."

In conclusion, without getting public input from the affected community located adjacent to Site 14 there is no basis yet for assuming that the Project will be considered to have adverse impacts, and any ranking of the Preferred Site based on such an assumption is contrary to applicable state and federal guidance and procedures. I should also emphasize that as discussed below any adverse effects identified by the EJ community must have a basis in actual environmental impacts and cannot be based on purely speculative or subjective concerns.

Issue 3.

Whether measures mitigating the impacts of the preferred alternative may be taken into consideration in the public input process in determining whether the affected community considers the Project to have adverse impacts for Environmental Justice purposes?

Answer

Yes. The Engineering Guidance indicates that mitigative measures may be used to avoid and/or minimize adverse impacts on the minority and/or low income population.

Discussion

CG&L's Engineering Guidance reflects Executive Order 12898 in regards to Environmental Justice, which requires identifying and addressing "disproportionately high and adverse human health and environmental effects." There is no basis for concluding that the WRF will have adverse health effects, and the Partners believe that environmental impacts will be minimal when design and other planned mitigation measures are properly understood by the community. CEQ Guidelines for EJ allow that such non-physical impacts as cultural, economic or social impacts may be considered **when those impacts are interrelated to impacts on the natural or physical environment.** It is not enough that such impacts are purely speculative or subjective without basis in physical impacts. Mitigation measures can be a major determinant of whether there are effects on the natural or physical environment which justify any concerns regarding cultural, economic or social impacts.

CG&L's Engineering Guidance is even more specific in allowing for mitigation of adverse impacts as part of an EJ analysis. It states in Paragraph 5.d. that "(I)f the minority or low-income populations are impacted disproportionately and adversely, the applicant may need to reevaluate alternatives and develop mitigative measures to minimize adverse impacts." Certainly, then, mitigative measures that are already planned for the project may be explained to the community in order to show the impacts will be minimal, and additional measures may be proposed based on public input to address the concerns expressed. If the mitigative measures result in the project's having no or very minimal adverse impacts, then the EJ issue should be considered resolved.

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In conclusion, mitigation measures are a legitimate consideration in determining impacts for purposes of EJ analysis. I would add that mitigation regarding EJ should not be required for the other alternative sites because they do not meet DENR's criteria for scoring EJ demographics, thus there are no EJ impacts to be mitigated. Considering mitigation measures for alternatives is logically appropriate only where the alternatives are for the same site, or for another site that has similar minority demographics as Site 14.