



North Carolina Department of Environment and Natural Resources

Dexter R. Matthews, Director

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary

December 18, 2003

Mr. William A. White
Moore & VanAllen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 30189

Re: ReUse Technology Inc. Highway 301 Swift Creek Coal Combustion by-Product Structural Fill Site.

Dear Mr. White,

Your letter submitted on behalf of ReUse Technology, Inc. dated November 19, 2003 requested that the Solid Waste Section (Section) consider data submitted for review. Ellen Lorscheider, a Section Permitting Hydrogeologist completed the review and determined the information to be inconclusive.

The August 19, 2002 Notice of Violation (NOV) did not void the April 2, 2002 NOV but at the request of ReUse suspended enforcement until ReUse could demonstrate by methods other than installing groundwater monitoring wells that water quality has not been impacted. Data reviewed by the Section did not provide the necessary information to demonstrate compliance. Now ReUse must use monitoring well(s) as set forth in the April 2, 2002 NOV to show groundwater has not been impacted by the coal flyash structural fill.

ReUse proposed and agreed to a level of performance in order to operate a coal ash structural fill project. Mr. Waldrop committed to the following noted conditions in the November 11, 1991 letter to the Section. December 3, 1991 the Section accepted the proposal but did not exempt the activity from any other regulations. Relevant terms of conditions from the November 11 proposal appear as numbered in the letter.

6. Approval of coal ash fill shall become voidable unless the facility is constructed in accordance with the approved plans, specifications, and supporting data.
11. Approval may be rescinded unless the Reuse program will protect the assigned water quality and groundwater quality standards.
13. The facility shall be effectively maintained and operated as a non-discharge system to prevent the discharge of any wastewater resulting from the operation of the facility.

February 11, 2004

Mr. Mark Poindexter
Branch Head, Field Operations Branch
Solid Waste Section
North Carolina Department of Environment and Natural Resources
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Moore & Van Allen

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**Re: ReUse Technology, Inc. Hwy. 301 Swift Creek Project Coal
Combustion By-Product Structural Fill Site**

Dear Mr. Poindexter:

I am responding on behalf of ReUse Technology, Inc. ("ReUse") to your letter dated December 18, 2003. ReUse believes that it has previously satisfied the requirements of the Division of Waste Management's April, 2002 NOV (as Amended by the August 19, 2002 NOV correspondence) by (a) diverting the surface water drainage flow from the under-fill pipe and sealing it; (b) by filing and recording a deed and a plat to remove the internal property boundary and to show the location of the CCB structural fill, and (c) by submitting the May, 2003 site investigation of the Swift Creek Project to show the relationship of the under-fill pipe, the ash fill and the water levels.

As the Division is aware, the area east and downgradient of the buffer consists of swamp and wetlands beginning just past the buffer and extending for a distance of more than a mile. There are no residences or other receptors which utilize groundwater resources within a mile downgradient of the site. Municipally supplied water from the City of Rocky Mount is present along Highway 301 and is available to the area of the project.

ReUse understands that the Division nonetheless remains concerned about the potential for groundwater impact from the as-built fill. ReUse does not believe that obtaining groundwater samples within the 50 foot buffer area as requested by the Division will generate any data that are actually relevant to resolving a concern about potential off-site impacts to human health or the environment. Data taken at that distance is effectively data from within the project itself. This point is supported by the USEPA as presented in the Federal Register/Vol. 65, No.99, May 22, 2000, 40CFR Part 261 – Regulatory Determination on Waste from the Combustion of Fossil Fuels; Final Rule.

"We do not believe that it would be appropriate to consider an exceedence directly beneath a waste management unit or very close to the waste boundary to be a documented, proven damage case. State regulations typically use a compliance procedure that relies on measurement at a receptor site or in groundwater at a point beyond the waste boundary (e.g., 150 meters)."

Mr. Mark Poindexter
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With this guidance, ReUse proposes to install a monitoring well in the swamp area at a distance of approximately 130 feet (40 meters) from the project. The monitoring well will be constructed by a certified well driller and will comply with 15A NCAC 2C Standards. This can be accomplished by constructing a temporary roadway as presented in Figure 1. The roadway as planned will have a wetlands impact of 0.082 acres.

After construction of the roadway the monitoring well will be installed using an ATV drilling rig. Split spoon samplers will be driven at 5-foot centers and the samples will be described and recorded by a licensed geologist. The boring will be taken to a depth of approximately thirty feet below the surface of the temporary roadway. The boring will be completed as a Type III monitoring well to insure the integrity of the monitoring well and avoid any potential influence from the surrounding surface water body. Hollow-stem 6.5 inch ID augers will be advanced to a depth of 15 feet. A 4 inch diameter PVC casing will be placed to a depth of 15 feet and the annular space cemented with grout. The next day, the boring will be advanced using a 3-7/8 inch roller cone bit. Rotary drilling will be performed to a depth of 30 feet. The monitoring well will be completed using 2-inch diameter Schedule 40 PVC with a 10 foot section of slotted screen pipe. The well will be completed above ground with protective outer casing and bollards. A schematic of the proposed Type III monitoring well is shown as Figure 2.

After the monitoring well has been properly developed, the well will be purged and a groundwater sample collected. As requested, the groundwater sample will be analyzed for RCRA metals and sulfates. A second sampling event will be scheduled to follow 6 months later. The duration of the sampling will be annual for a minimum additional 4 years and the results will be submitted to the Solid Waste Section following each sampling event.

ReUse is willing to perform the above proposed measures at once in order to resolve the Division's concern with the issue and to close out this matter. We look forward to discussing this matter with you.

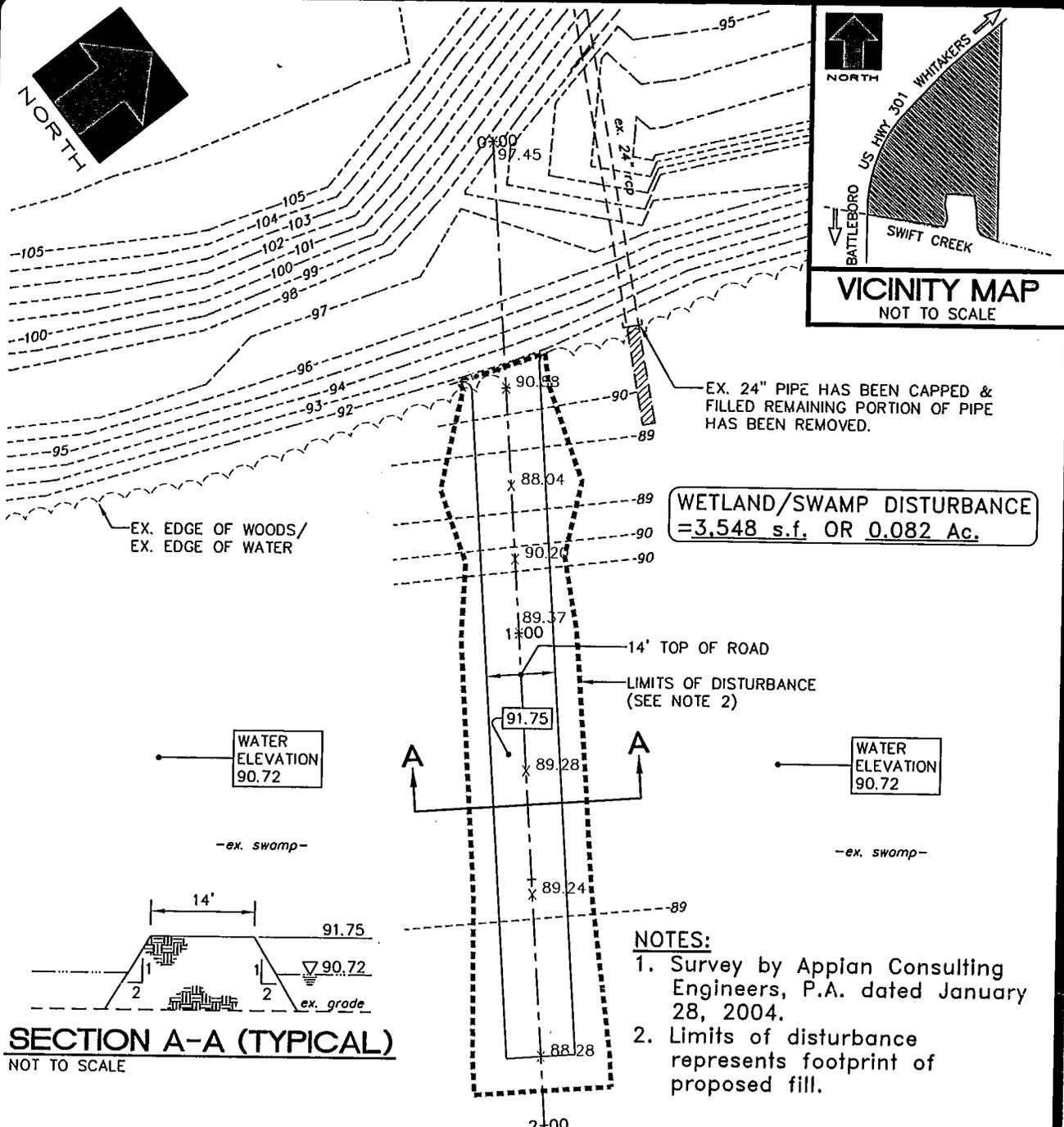
Very truly yours,



William A. White

cc: Robert J. Waldrop
Mark A. Casper

Attachments



PROPOSED DRILL RIG TEMPORARY ACCESS EMBANKMENT for REUSE TECHNOLOGY, INC. SWIFT CREEK PROJECT

DATE: REV. 2-3-04
SHEET #: 1 OF 1
SCALE: 1"=30'
J.N. -

CONSULTING ENGINEERS, P.A.
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BOUNDARY DESCRIPTION SHOWN IS NOT FOR RECORDATION



MONITORING WELL INSTALLATION SKETCH

Project: SWIFT CREEK Monitoring Well Number: MW-1

Drilling Firm: _____ Date of Well Installation: _____

Elevation of Top of Open Riser Pipe (Reference El. for Water Level Measurements,ft): _____

Depth to Bottom of Well from Top of Open Riser Pipe (ft): _____

Horizontal Location (ft): Northing: _____ Easting: _____

Depth on above line does not equal totaled depth in 'Depth from Ground Surface' column!!!!

Elevation (ft, M.S.L.)	Depth or Height (ft) from:				
	Top of Open Riser	Ground Surface			
-	-	-			
-	0.0	-		O.D. of Outer Protective Casing	4-inch PVC
-	-	0.0		Type of Surface Seal	Cement
-	-	-			
-	-	-			
-	-	-			
-	-	-15.0		Diameter of Borehole	10-inch
-	-	-		I.D. of Surface Casing	4-inch
-	-	-		Surface Casing Material	PVC Shedule 40
-	-	-15.0		Type of Backfill	Cement Grout
-	-	-		Diameter of Borehole	4-inch
-	-	-		I.D. of Riser Pipe	2-inch
-	-	-		Riser Pipe Material	PVC Shedule 40
-	-	-15.0			
-	-	-18.0		Type of Seal	Bentonite
-	-	-		Type of Filter (if installed)	None
-	-	-20.0			
-	-	-		Size of Filter Sand	
-	-	-		I.D. of Screen	2-inch
-	-	-		Screen Opening	0.01-inch
-	-	-		Screen Material	PVC Shedule 40
-	-	-30.0		Slot Type	
-	-	-			

Diagram Not to Scale

NOTES:
