



DIN 26151

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May 31, 2016

Allen Gaither, Environmental Engineer  
North Carolina Department of Environmental Quality  
Division of Waste Management, Solid Waste Section  
2090 U.S. Highway 70  
Swannanoa, North Carolina, 28778

**RE: Burke County John's River Waste Management Facility  
Permit NO. 12-03  
C&D Landfill Expansion – Site Plan Addendum  
JOYCE Project No. 277.1602.12.01**

Dear Mr. Gaither,

On behalf of Burke County, North Carolina, Joyce Engineering (JOYCE) is submitting this addendum to the Site Plan Application (Volume 1, Section I, Site Suitability Report) for the John's River Waste Management Facility, Permit 12-03, dated December 2011. In response to the December 2011 Site Plan Application, the Solid Waste Section issued a Conditional Site Suitability Approval on February 28, 2014, for Phases 1A, 2A, 4, 5, 6, 7, and 8 of the C&D landfill expansion. A Permit to Construct for Phase 1A was issued in March 2014 and Burke County completed construction of Phase 1A of the C&D landfill expansion in July 2014. A Permit to Operate for Phase 1A was issued on August 14, 2014.

JOYCE is currently preparing a Design Hydrogeologic Report and Permit to Construct Application for Phases 2A and 4 of the C&D expansion. It is our understanding that the only section of the original Site Plan that needs to be updated is the wetlands determination, due to the fact that the Army Corps of Engineers (ACOE) considers wetlands determinations to be valid only for a period of five years from the date they are issued. JOYCE is submitting this addendum in order to bring the Site Plan up to date with regard to wetlands on the facility property, particularly with regard to Phases 2A and 4.

JOYCE conducted a wetlands investigation in August 2010 to determine whether any wetlands exist within the proposed waste footprint, the results of which were included in the December 2011 Site Plan Application. Three wetland areas were identified as Wetlands W1, W2 and W3. These wetlands are shown on the Attached drawing. Wetland W1 is the wetland closest to the proposed expansion area; however, its northernmost extent is more than 650 feet south of the proposed edge of waste for Phases 2A and 4.

Mr. Allen Gaither  
May 31, 2016  
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In September 2015, JOYCE conducted a follow-up wetlands investigation focused on Phases 2A and 4 which confirmed that there have been no significant changes to the wetlands. JOYCE submitted the results to the ACOE. The ACOE issued a Notification of Jurisdictional Determination (NOJD) dated October 29, 2015. The NOJD found that “there are no waters of the U.S., to include wetlands, present on the above-described project area [Phases 2A/4] which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344).” The NOJD expires October 29, 2020. The ACOE NOJD is attached.

This addendum to the Site Plan Application concludes that no wetlands will be impacted by construction of Phase 2A or Phase 4, including no disturbance due to Erosion and Sediment Control features, access roads, and soil borrow areas. Please let me know if you have any questions or concerns regarding this addendum.

Sincerely,  
**JOYCE ENGINEERING, INC.**



Van Burbach, Ph.D., P.G.  
Sr. Technical Consultant

Attachment: NOJD (ACOE, October 2015)

cc: Perry Sugg, NCDEQ  
Chris Hollifield, Burke County

**U.S. ARMY CORPS OF ENGINEERS**  
**WILMINGTON DISTRICT**

Action ID: 2015-02263 County: Burke U.S.G.S. Quad: NC-Morganton North

**NOTIFICATION OF JURISDICTIONAL DETERMINATION**

Property Owner: Burke County / Chris Hollifield  
Address: P.O. Box 1486  
Morganton, NC 28680  
Telephone Number: 828-438-5452

Size (acres): Approximately 6.1  
Nearest Town: Morganton  
Nearest Waterway: Catawba River  
River Basin/ HUC: Catawba /05050001

Coordinates: 35.784118 °N, -81.645217 °W

Location description: The project area is Phase 2A and Phase 4 of a proposed expansion area located within the existing John's River Waste Management Facility located at 2500 Marsh Trail, Morganton, Burke County, North Carolina.

**Indicate Which of the Following Apply:**

**A. Preliminary Determination**

- Based on preliminary information, there may be waters of the U.S. including wetlands on the above described project area. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**B. Approved Determination**

- There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- There are waters of the U.S. including wetlands on the above described property subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- We strongly suggest you have the wetlands on your property delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.
- The waters of the U.S. including wetlands on your project area have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.
- The waters of the U.S. including wetlands have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on \_\_\_\_\_. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- There are no waters of the U.S., to include wetlands, present on the above described project area which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our

published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management to determine their requirements.

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Tasha Alexander** at 828-271-7980, ext. 226 or [tasha.l.alexander@usace.army.mil](mailto:tasha.l.alexander@usace.army.mil).

**C. Basis for Determination: There are no waters of the U.S. including wetlands within phase 2A or Phase 4.**

**D. Remarks: See overall site plan labeled John's River Waste Management Facility Burke County, North Carolina, Phase 1 C&D Landfill Expansion Study Map.**

**E. Attention USDA Program Participants**

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

**F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)**

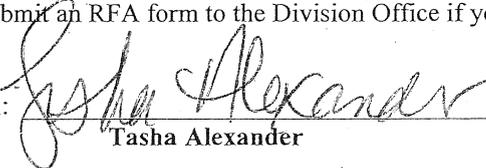
This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers  
South Atlantic Division  
Attn: Jason Steele, Review Officer  
60 Forsyth Street SW, Room 10M15  
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by Dec. 28 2015.

\*\*It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.\*\*

Corps Regulatory Official:

  
Tasha Alexander

Issue Date of JD: October 29, 2015

Expiration Date: October 29, 2020

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at <http://regulatory.usacesurvey.com/>.

Copy furnished:

Ron Heater, Joyce Engineering, Inc., 2211 W. Meadowview Road, Suite 101, Greensboro, NC 27407

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: **Burke County / Chris Hollifield**

File Number: **SAW-2015-02263**

Date: **October 29, 2015**

Attached is:

See Section below

INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)

A

PROFFERED PERMIT (Standard Permit or Letter of permission)

B

PERMIT DENIAL

C

APPROVED JURISDICTIONAL DETERMINATION

D

PRELIMINARY JURISDICTIONAL DETERMINATION

E

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
**District Engineer, Wilmington Regulatory Division,**  
**Attn: Tasha Alexander**  
**828-271-7980**

If you only have questions regarding the appeal process you may also contact:  
Mr. Jason Steele, Administrative Appeal Review Officer  
CESAD-PDO  
U.S. Army Corps of Engineers, South Atlantic Division  
60 Forsyth Street, Room 10M15  
Atlanta, Georgia 30303-8801  
Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

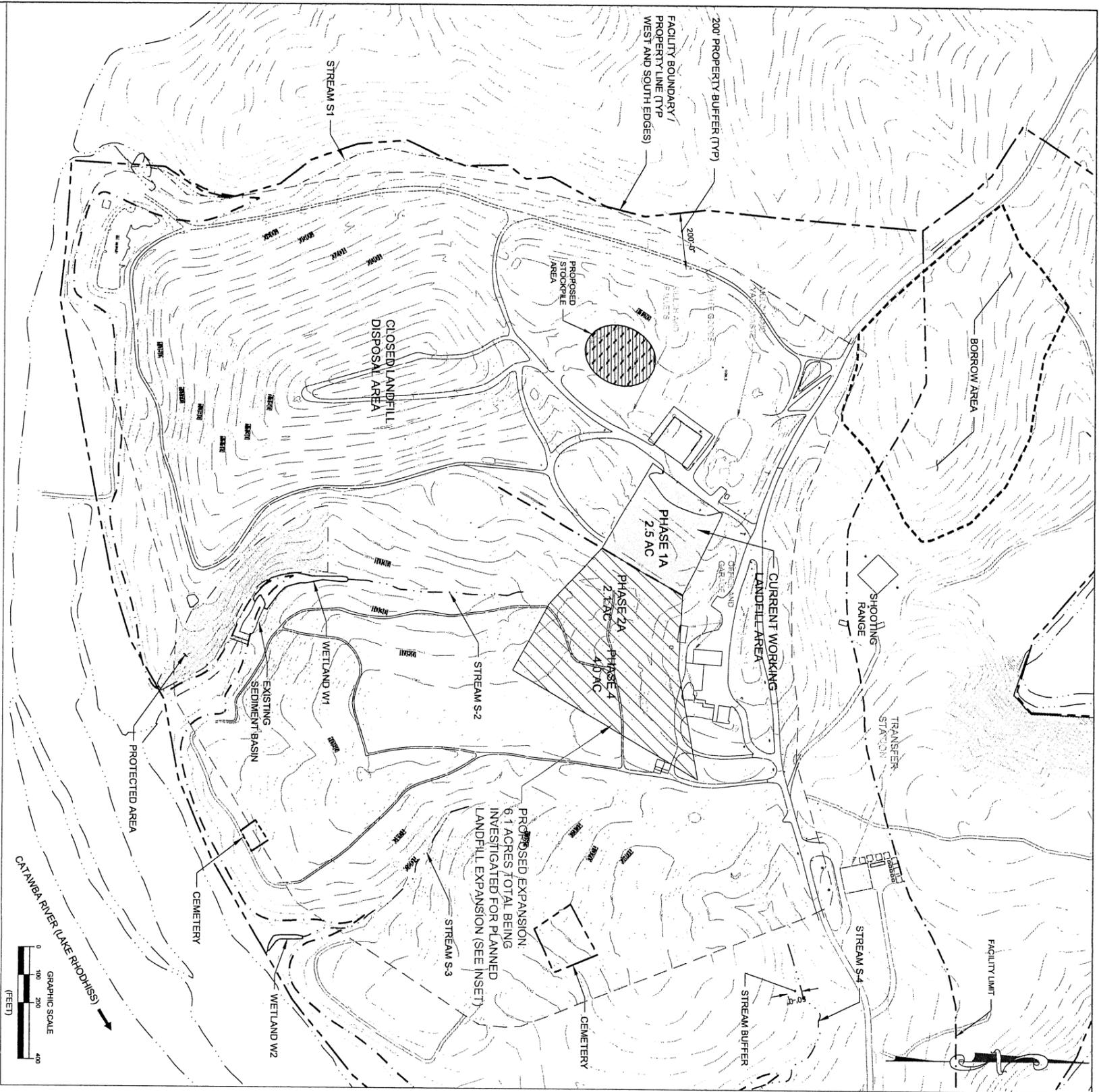
Signature of appellant or agent.	Date:	Telephone number:
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For appeals on Initial Proffered Permits send this form to:

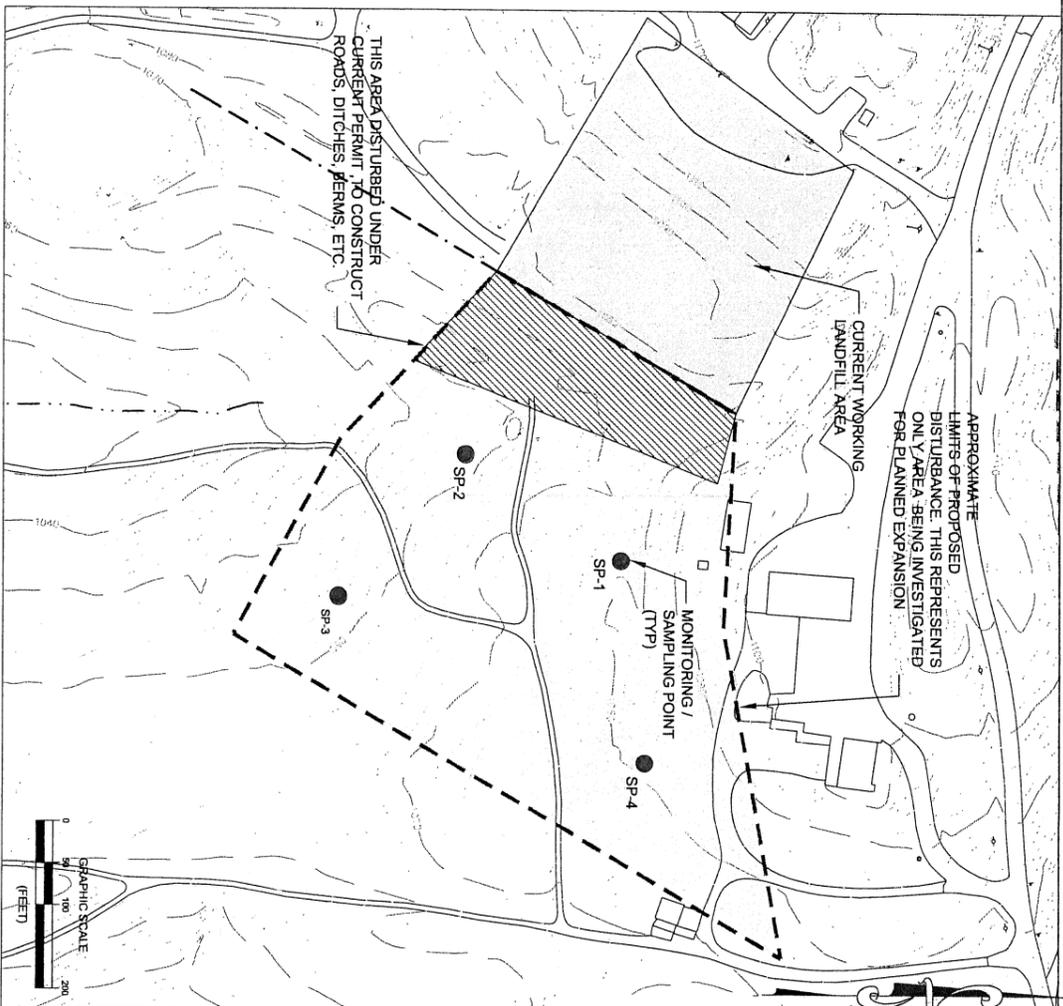
District Engineer, Wilmington Regulatory Division, Attn.: Tasha Alexander, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801  
Phone: (404) 562-5137



OVERALL  
SITE PLAN



INSET  
VIEW

JOHN'S RIVER WASTE MANAGEMENT FACILITY  
BURKE COUNTY, NORTH CAROLINA

PHASE 1 C&D LANDFILL EXPANSION  
SITE STUDY MAP

**JOYCE**  
**ENGINEERING**

2211 W. MEADOWVIEW ROAD  
GREENSBORO, NC 27407  
PHONE: (336) 323-0082  
NC CORP LIC. C-0782

DESIGNED RWB  
DRAWN RWB  
CHECKED GVB  
APPROVED GVB  
DATE 2015

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DATE	REVISIONS AND RECORD OF ISSUE	NO	BY	CHK	APP

PROJECT NO.  
277

SCALE  
AS SHOWN

DRAWING NO.  
DWG-03