



PAT MCCRORY  
*Governor*

DONALD R. VAN DER VAART  
*Secretary*

MICHAEL SCOTT  
*Director*

October 24, 2016

H. Glenn Dunn  
Partner  
Poyner Spruill  
301 Fayetteville Street, Suite 1900  
Raleigh, North Carolina 27601

Re: Summary of Agreements Reached at September 27, 2016 Meeting Regarding  
NCDEQ Conditional Approval of Conceptual Approach to Remediation, and  
Preliminary Schedule for Remedial Activities

Mr. Dunn,

We received your letter outlining the meeting that took place on September 27, 2016 between members of the Hazardous Waste Section (HWS) and Trex along with legal counsel for both parties. The meeting was requested by you to discuss the letter issued to Trex on September 6, 2016 giving conditional approval for the Conceptual Approach to Remediation (CAR) dated May 25, 2016 and resubmitted July 15, 2016 with the cost estimate.

With regard to your letter we have the following comments:

Item 1.A. Groundwater Injection

The HWS agreed to groundwater injection as an approach to remediation of this facility. We also agreed that the groundwater injection would be limited to injection wells IW-1 through IW-20 and that the installation of injection wells NX-1 through NX-9 will be tabled for now. Depending on the remediation results, wells NX-1 through NX-9 may have to be readdressed.

Note – the HWS does not have the authority to approve a UIC permit for the well installations.

Item 1.C. Indoor Air Sampling at Nexus Church and Leather Trimmings Buildings

As of now, tests have shown that vapor intrusion is an issue for Leather Trimmings if the ventilation system is not running. We recommend that testing without the ventilation running be conducted during non-working hours with the building shut as if for winter (heater does not have to be on for test). Once the test has been run, the ventilation system can be turned back on. We recommend that this test be conducted prior to the end of

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November and in addition to the semiannual tests already scheduled. If the results of the test show that the ventilation system is required to control vapor intrusion, Trex will be required to modify the system to address the cutoff and indoor air temperature issues that result when running the system during the winter.

Note that the lack of medial action for indoor air at Nexus Church is adequate only as long as the building usage remains the same (approximately 3 hours per week). Should usage of the building increase, Trex may be required to install additional measures to address the indoor air issues at 3144 Cullman Avenue.

#### Item II. Resolution of Conditions Set Out in the Conditional Approval of CAR

The HWS will not be issuing a revised CAR. The CAR is Trex's proposal for a corrective action remedy. The letter issued by the HWS on September 6, 2016 is an approval letter for Trex to commence with the actions laid out by the CAR and the conditions laid out in approval letter. This letter includes changes to those conditions and constitutes final approval for the CAR.

#### Item III. Trex's Cost Recovery Lawsuit

Mr. Gary Justis' letter of March 31, 2016 states that Trex has incurred over \$460,000 in response cost to date and estimates it will cost \$5,399,000 to complete the RCRA corrective action, "broken down as follows:

- Response Cost Paid (through 11/30/16) = \$462,284;
- Projected Future Active Remediation Response Cost (after 11/30/16) = \$2,640,166;  
and
- Projected Future Long-Term Monitoring Cost = \$2,296,550."

These costs are legitimate corrective costs and Mr. Justis' letter does not mention other costs included in the \$5.4 million. As such, we require the line item estimate used to calculate the \$5.4 million estimate to justify that it is not the same as the estimate provided by the CAR Cost estimate dated July 15, 2016. Otherwise, the HWS will assume the corrective cost estimate of \$5.4 million is correct and Trex will have 90 days to place the money in the corrective action trust fund.

Sincerely,



Kathleen Z. Lawson, Environmental Engineer  
Division of Waste Management, NC DEQ

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cc: Thomas Roberts, Trex

ec: David Craig, EnviroAnalytics Group  
Glenn Dunn, Poyner & Spruill  
Brian Bellis, Withers & Ravenel  
Jay Osborne  
Bud McCarty  
Sandy Mort

Thomas Pike, ELT  
Ken Rayme, EPA  
Lucia Casabo, EnviroAnalytics Group  
Brent Burch  
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