

From: [Keller, Andrea](#)
To: BLKays@aol.com
Cc: [Parris, Bruce](#); [Marks, Cheryl](#); [Watkins, Jason](#); [Kucken, Darlene](#); [Shackelford, Dennis](#); john@legertonarchitecture.com; don.sims@asheville.k12.nc.us; [Mckee, Shawn](#)
Subject: RE: Isaac Dickson - 1950's era waste site - Buncombe County
Date: Tuesday, April 01, 2014 6:27:57 AM
Attachments: [image001.png](#)
[image002.png](#)

Mr. Kays,

Thanks for your prompt clarification. The intention of the email, as I had stated during the closing of our meeting last Friday, was to put you in contact with IHSB so that they could discuss the site further with you. I will be happy to go through your statements point-by-point, to ensure that all parties are clear on the issues raised.

- 1. You stated in the second paragraph that "It was unclear if other wastes were encountered (batteries, televisions, etc.) as they were listed as 0% of the total, based on CY – but this does not mean that they were not encountered during excavation, or if other waste types exist on site, yet to be uncovered." However, it was clearly stated that other items on the list with 0% of the total have not been found, but were listed so that the construction contractor would know that they had to be recycled.*

The main point here is that the site has not been fully excavated, and a full extent of waste or waste determination has not been completed. There are several other issues with the management of materials on this list. In part, with "roots, stumps, and wood" it is unclear what "wood" is meant, in that in no other column is dimensional construction/demolition wood noted. Wood waste, as shown in the pictures attached to my email, cannot be ground for mulch on site. It should be an item included with your "carpet and paper" item for landfilling. Additionally, the "bricks and glass" item is noted as going for site fill. Bricks must be unpainted and construction and demolition (C&D) glass waste is not allowed for "beneficial fill." I understand that there is a major endeavor here to develop a plan for what can be left in place. At this time, it is unknown if there are other impacts to the site, including potential soil impacts - in which case the soils can not necessarily be left on site as "beneficial fill" either.

- 2. You stated in the third paragraph that "On 3/24/14 Mr. Kays contacted the Solid Waste Section, central office in Raleigh and spoke with Ms. Shawn McKee. It is my understanding that Mr. Kays received the same answer from Ms. McKee as he did on site this past Friday – Construction and Demolition materials cannot be "notified" and left in place as a landfill under our program. However, this is incorrect. I stated that I contacted Ms. Shawn McKee and she suggested that I contact Mr. Dennis Shackelford of FRO to determine what was considered to fall under the definition of "inert waste". At no time did either Ms. Shawn McKee or Mr. Dennis Shackelford indicate that construction and demolition materials can or cannot be left in place.*

During our conversation you stated that you had not contacted Mr. Shackelford but that you had spoken to Ms. McKee. Regardless of what was said in your conversation with Ms. McKee,

I will re-state what I told you on site on Friday, that the Section does not consider construction and demolition materials, of the type you have encountered on site, as fully allowable to be left in place. There are elements to demolition materials that could be deemed “inert” or would meet our “beneficial fill” requirements. However, it is difficult to determine this as the extent of waste and types of waste have not fully been assessed.

- 3. You failed to indicate that we discussed the definition of “Pre-1983 Landfill” in regard to this project. I stated that it was our understanding of the statutes that the buried debris on the site does not come under the definition of “Pre-1983 Landfill” and you indicated that you would discuss this with your supervisors. Mr. Don Sims, the Director of Facilities of Asheville City Schools stated that the site was never used as a municipal solid waste disposal facility and no public or private solid waste management service was ever operated from this site. Even though the demolition from the previous building was buried on the site prior to construction of the new 1951-cir. school on the site, the waste does not constitute a “Pre-1983 Landfill” as defined in NCGS 130A-290 (a) (22a) and (18a).*

I stated during our site meeting that the determination of whether this site would or could be governed under the IHSB program needed to be discussed with that Branch, not with the Solid Waste Section. I was concerned, and I did state this, that the interpretation of their Rules be done by their Branch, and that I could not speak for them. I also contacted Jason Watkins during our meeting and after relaying the details of our site visit, he again stated that he felt that IHSB needed to be involved. Thus the agreement that I would give a brief summary and include all parties.

- 4. You failed to indicated that the Asheville City Schools verbally agreed to continue to clean up the waste as needed for the new construction and to screen the material, recycle the necessary items (scrap metal, whole scrap tires, and other items required in NCGS 130A-303 (f)), and send to off-site landfill some waste items (carpet and paper), and to reuse the inert materials (soil, asphalt, concrete, etc.) as general fill on the site. We also indicated that we would like to grind any non-painted wood (no painted wood was found to date) and use it as mulch.*

I disagree with this statement. I did outline that there was a plan that did involve screening the materials but of course there is room for elaboration. If the continued cleanup of this site is conducted under the Rules and Regulations of the Solid Waste Section – this issue will be need to be discussed in further detail. But there are concerns with some of the proposed items, as I noted above. The “non-painted” wood you cite here is considered demolition material – it appears to be dimensional lumber used in construction. This type of material is not typically allowed as “mulch.”

- 5. You also failed to indicated that the Asheville City Schools agreed to prepare a survey of the areas of existing waste that do not need to be removed for the construction work and that the survey would be recorded. The school system simply does not have sufficient funds to remove the waste which is not required for the construction the new school.*

Correct, you did state that the existing areas of waste that are not in the way of your construction could be surveyed and recorded. This information was transmitted to Jason

Watkins during my phone conversation on site. I stated during the meeting that the standard practice for illegal landfilling activities is to have all the material removed and taken to a facility permitted to receive it – that I have no mechanism by which to allow you to knowingly leave this waste in place.

6. *Also you did not note that I would be the project coordinator with ARO and MRO. Mr. John Legerton is quite busy dealing with the construction work and Mr. Don Sims is quite busy dealing with all of the school system's facilities. Therefore, please direct all of your requests with me, but also copy them on the e-mails.*

My apologies if I did not make it clear who the City's primary contact was for this project – my first contact when discussing the site meeting was with Mr. Legerton (I was referred to him by Mr. Russell Briggs), and Mr. Sims was clearly part of the on-site discussion. At this time, is Mr. Sims the primary site representative (property owner representative) that we should be copying correspondence to?

-Andrea

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The North Carolina Solid Waste and Materials Management Plan is currently in the process of being updated for the 2014-2024 cycle and feedback is being solicited in order to develop an action-based, achievable, and inclusive plan. One significant step toward achieving this goal is to survey the various stakeholders of North Carolina on elements of the proposed plan, keeping in mind that the North Carolina General Statutes require the plan to focus on education, public participation, and waste reduction goals.

The NCDENR Division of Waste Management thanks you for your participation in this survey:
<https://www.surveymonkey.com/s/2V33G2Z>

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From: BLKays@aol.com [mailto:BLKays@aol.com]
Sent: Monday, March 31, 2014 6:03 PM
To: Keller, Andrea
Cc: Parris, Bruce; Marks, Cheryl; Watkins, Jason; Kucken, Darlene; Shackelford, Dennis; john@legertonarchitecture.com; don.sims@asheville.k12.nc.us

Subject: Re: Isaac Dickson - 1950's era waste site - Buncombe County

Ms. Andrea Keller,

I would like to respond to your e-mail to clarify what was discussed at the site meeting on Friday, March 28, 2014 at the Isaac Dickson Elementary School, Asheville, NC.

1. You stated in the second paragraph that “It was unclear if other wastes were encountered (batteries, televisions, etc.) as they were listed as 0% of the total, based on CY – but this does not mean that they were not encountered during excavation, or if other waste types exist on site, yet to be uncovered.” However, it was clearly stated that other items on the list with 0% of the total have not been found, but were listed so that the construction contractor would know that they had to be recycled.
2. You stated in the third paragraph that “On 3/24/14 Mr. Kays contacted the Solid Waste Section, central office in Raleigh and spoke with Ms. Shawn McKee. It is my understanding that Mr. Kays received the same answer from Ms. McKee as he did on site this past Friday – Construction and Demolition materials cannot be “notified” and left in place as a landfill under our program. However, this is incorrect. I stated that I contacted Ms. Shawn McKee and she suggested that I contact Mr. Dennis Shackelford of FRO to determine what was considered to fall under the definition of “inert waste”. At no time did either Ms. Shawn McKee or Mr. Dennis Shackelford indicate that construction and demolition materials can or cannot be left in place.
3. You failed to indicate that we discussed the definition of “Pre-1983 Landfill” in regard to this project. I stated that it was our understanding of the statutes that the buried debris on the site does not come under the definition of “Pre-1983 Landfill” and you indicated that you would discuss this with your supervisors. Mr. Don Sims, the Director of Facilities of Asheville City Schools stated that the site was never used as a municipal solid waste disposal facility and no public or private solid waste management service was ever operated from this site. Even though the demolition from the previous building was buried on the site prior to construction of the new 1951-cir. school on the site, the waste does not constitute a “Pre-1983 Landfill” as defined in NCGS 130A-290 (a) (22a) and (18a).
4. You failed to indicate that the Asheville City Schools verbally agreed to continue to clean up the waste as needed for the new construction and to screen the material, recycle the necessary items (scrap metal, whole scrap tires, and other items required in NCGS 130A-303 (f)), and send to off-site landfill some waste items (carpet and paper), and to reuse the inert materials (soil, asphalt, concrete, etc.) as general fill on the site. We also indicated that we would like to grind any non-painted wood (no painted wood was found to date) and use it as mulch.
5. You also failed to indicate that the Asheville City Schools agreed to prepare a survey of the areas of existing waste that do not need to be removed for the construction work and that the survey would be recorded. The school system

simply does not have sufficient funds to remove the waste which is not required for the construction the new school.

6. Also you did not note that I would be the project coordinator with ARO and MRO. Mr. John Legerton is quite busy dealing with the construction work and Mr. Don Sims is quite busy dealing with all of the school system's facilities. Therefore, please direct all of your requests with me, but also copy them on the e-mails.

Thank you for meeting with us last week and note that I am available to discuss the matter with the MRO as they deem appropriate. They may contact me by e-mail or by telephone. If the DWM wants to conduct other site visits please coordinate those dates with me in advance, so that I will be able to attend. Thanks again.

Sincerely,

Barrett L. Kays

Barrett L. Kays, Ph.D.

Landis, PLLC

Soil, Hydrologic, Groundwater and Environmental Scientist

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In a message dated 3/31/2014 4:50:36 P.M. Eastern Daylight Time, andrea.keller@ncdenr.gov writes:

All,

Regarding the site visit I conducted last Friday, March 28, 2014 – present were Mr. Legerton, Mr. Sims, and Mr. Kays.

It was stated during the meeting that the waste found on site during the construction of the new school, and the demolition of the former Isaac Dickson School (IDS), was pre-1951/53 due to the age of the former IDS. It was also stated that the materials found on site were “demolition material” and that the County would like to move forward quickly, so as to not hold up construction on site. A document was provided during the meeting that detailed the types of waste and methods for management – based on the waste encountered during planned sewer line excavation, sediment basin construction, etc. However, it was also stated that the County would like to avoid removal of all known wastes if possible.

Please note that after further review –it is unclear if this list was fully comprehensive of the waste types found on site. Yes, metals can be removed for recycling and land clearing debris can be ground for mulch (and removed from the site). But demolition materials (painted blocks, painted brick, dimensional lumber, glass, etc.) would need to be removed for landfilling at a permitted Construction & Demolition landfill. It was unclear if other wastes were encountered (batteries, televisions, etc.) as they were listed as 0% of the total, based on CY – but this does not mean that they were not encountered during excavation, or if other waste types exist on site, yet to be

uncovered. There may be an opportunity to screen materials to determine if they can be used as “beneficial fill” on site. However, without assessment of the extent and types of wastes encountered, it is not possible to determine what is “clean fill” or “inert debris.”

Based on the age and location of the waste, it was determined (Jason Watkins and Andrea Keller) that it was important that the Inactive Hazardous Sites Branch (IHSB) be included in further determination on how this site would be classified. On 3/20/14 I provided Mr. Legerton the following contact information:

<http://portal.ncdenr.org/web/wm/sf/ihs/sitesnotification> - Site Notification process (in case this is the route that you are directed toward) and

<http://portal.ncdenr.org/web/wm/sf/ihs/ihsregmap> - Contact list for the Branch, showing Cheryl Marks (Pre-Regulatory Landfill program) and Bruce Parris (State directed Cleanup program).

On 3/24/14 Mr. Kays contacted the Solid Waste Section, central office in Raleigh and spoke with Ms. Shawn McKee. It is my understanding that Mr. Kays received the same answer from Ms. McKee as he did on site this past Friday – Construction and Demolition materials cannot be “notified” and left in place as a landfill under our program.

Without a site map of the current construction activities – it is difficult to align my photographs completely with property lines and extent of waste. My understanding, based on cuts in the bank due to the sewer line excavation, that waste did appear to extend beyond the IDS parcel (toward residential and church properties). In some places, the waste layer appeared thin and near the surface and in other locations the waste was much deeper. (see photos below)



3/28/14



Lumber/Soils co-mingled.



Pit on site – deeper wastes encountered, ~6-foot pit, unable to tell original grade.

Again, my recommendation is to discuss this site fully with IHSB (Cheryl Marks and/or Bruce Parris). If there is a need for a conference call, we can assist in making that happen. I have a difficult schedule this week and next, but will remain dedicated to whatever site visitation or documentation is needed to assist the County in moving forward with proper management of this site. Please contact my supervisor, Jason Watkins (336-771-5092) for clarifications or further direction.

-Andrea

Andrea.Keller - Andrea.Keller@ncdenr.gov
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