STRUCTURAL FILL NOTIFICATION

Duke Power Company
Port Village Business Park
B. V. Belk Investments

The proposed project will utilize approximately 500,000 cubic yards of fly ash in a structural fill application to develop the property for marketing. The property is located on NC Highway 150 in Iredell County near the I-77 intersection as indicated on the attached USGS map (Mooresville Quadrangle, North Carolina - 7.5 minute series). The project is scheduled to commence on May 1, 1996 and to be completed on December 31, 1996. The fly ash will be supplied from Duke Power's Marshall Steam Station located on Highway 150 in eastern Catawba County at the following address:

Duke Power Company
Marshall Steam Station
PO Box 210
Terrell, NC 28682

Larry Evans will serve as the Generator Contact and can be contacted at:

Larry Evans
Duke Power Company
13339 Hagers Ferry Road (MG03A5)
Huntersville, NC 28078-7929
Phone: 704-875-5956

The following documents are attached:

- Signed statement of acknowledgement and consent from property owner
- TCLP data and certification
- USGS topographic map showing location of project
- Construction Plans

B. V. Belk Investments, by contract, has the responsibility for compliance with all applicable regulations for this structural fill project. Duke Power is responsible for providing and transporting the coal ash to the site. Please mail a copy of the acknowledgement letter to Larry Evans, above, and to:

Thomas W. Scott, President
B. V. Belk Investments, Inc.
440 Park Road
Suite 300
Charlotte, NC 20209

ELECTRIC SYSTEM SUPPORT
DUKE POWER COMPANY

Hazardous Waste Analysis Results

⇨⇨⇨ *Environmental Center * McGuire Nuclear Complex * Building # 7405* ⇦⇦⇦

New York Department of Health Laboratory Identification # 11366
North Carolina Department of Environment, Health and Natural Resources (DEHNR) Certification # 248
South Carolina Department of Health and Environmental Control (DHEC) Laboratory Identification # 99005

Field I.D.	**MONEX SILO FLYASH**		
Station / Contact	MARSHALL	LARRY EVANS	
Collection Date	02/14/96	Analysis Date	03/18/96
Laboratory I.D.	9602179-01	Matrix Type	Solid NA % Volume NA Weight (g)
Laboratory Contact	Penny Franklin	(704) 875-5209	

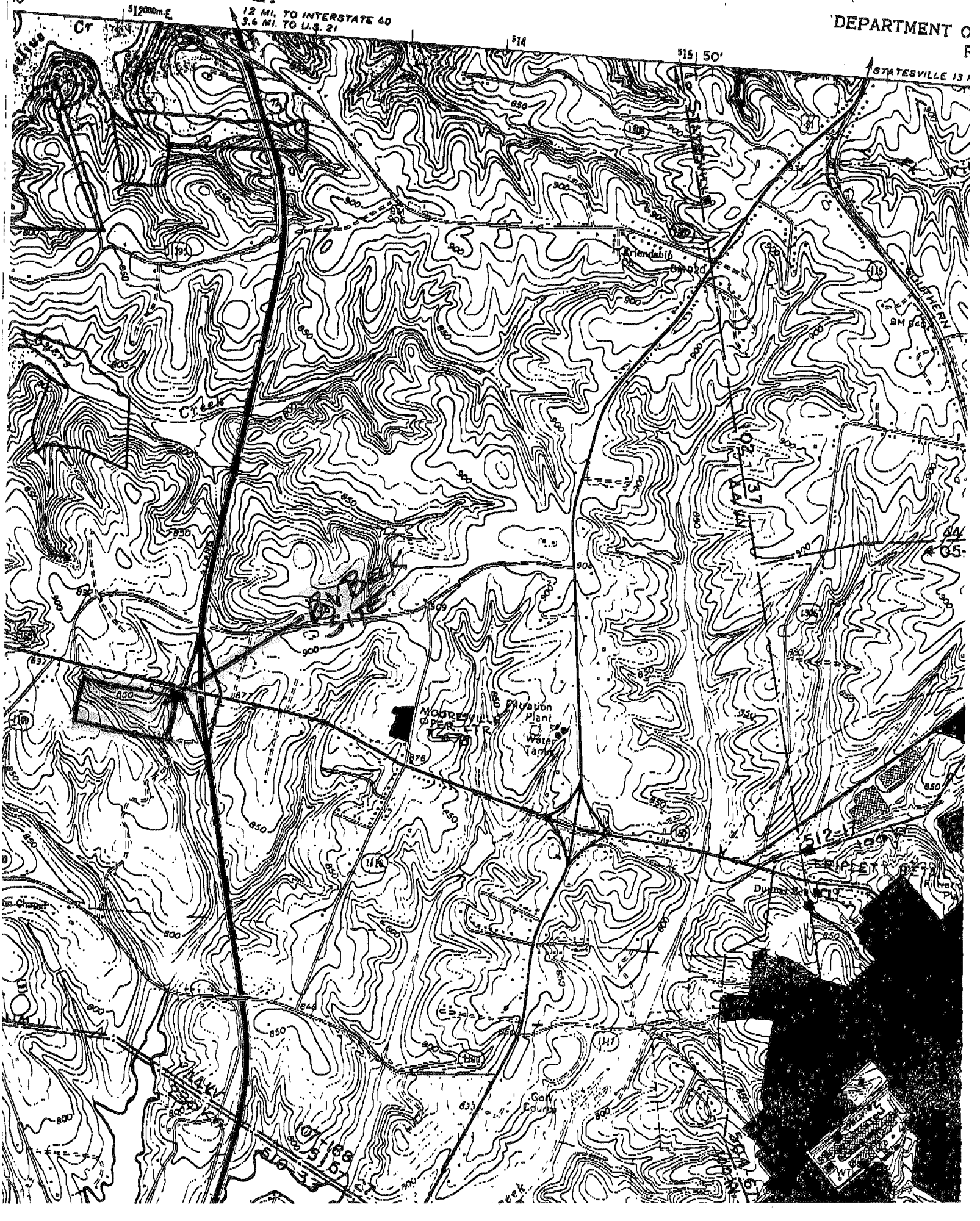
Analyte	T.C.L.P. Conc.		T.C.L.P. Regulatory Limit	Waste Code	Analytical Method
Silver (Ag)	✓ < 0.02	mg/L	5 mg/l	D011	7760
Barium (Ba)	✓ 0.26	mg/L	100 mg/l	D005	6010
Cadmium (Cd)	✓ 0.02	mg/L	1 mg/l	D006	6010
Chromium (Cr)	✓ 0.39	mg/L	5 mg/l	D007	6010
Lead (Pb)	✓< 0.09	mg/L	5 mg/l	D008	6010
Arsenic (As)	✓< 0.06	mg/L	5 mg/l	D004	7740
Selenium (Se)	✓ < 0.06	mg/L	1 mg/l	D010	7740
Mercury (Hg)	✓< 0.001	mg/L	0.2 mg/l	D009	7471
Nickel (Ni)			134 mg/l	---	6010
Thallium (Tl)			130 mg/l	---	6010
% Ash @ 550° C			N/A	---	ASTM D297/D817 E830 @ 550° C
B.T.U.			N/A	---	ASTM D3286-91
Total Sulfur			N/A	---	ASTM D4239-85
Total Chlorine			N/A	---	EPA 9020
Ignitibility			(Y/N)	---	ASTM D93
pH			< 2.0 or > 12.5	---	EPA 9045
% Water			N/A	---	ASTM D3792

U.S.E.P.A. SW-846 Methods

I certify that the TCLP analysis is representative of the fly ash to be used for this project.

Larry D. Evans

DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG **ACKNOWLEDGMENT AND CONSENT**

Pursuant to the provisions of G. S. 130A-294 and 15A NCAC 13B.1703, we state that we are the Owners of the following described property.

BEING ALL that tract or parcel of real estate situated on the southern right-of-way of State Road 150 near Interstate 77, near the City of Mooresville, Davidson Township, Iredell County, North Carolina, more particularly described as follows:

Beginning at an existing iron pin on the western edge of Rolling Hill Road, corner to Brown (Deed Book 683, page 330); thence leaving Brown and running with the western edge of Rolling Hill Road S Olo 08' 13" W 760.99 feet to a new iron pin placed for a corner, said pin being a corner to Steimle (Deed Book 697 Page 946); thence leaving Rolling Hill Road and running with Steimle and Vinasu Ltd. (Deed Book 697 Page 932) with an old abandoned gravel road ben N 78o 00' 00" W 948.35 feet (passing iron pins on line at 400.5 feet, 499.91 feet and 699.93 feet) to an existing iron pin found, corner to Howard (Deed Book 398 at Page 492 and Deed Book 374 at Page 114); thence running with Howard and continuing with an old abandoned gravel road bed N 79o 13" 16" W 838.97 feet to an existing iron pin corner, being a corner to J. P. Martin Subdivision (Plat Book 5 page 110); thence leaving Howard and running with said Martin Subdivision N 36o 41" 26" F 1006.78 feet (passing existing iron pins on line) to a point in the center of State Highway 150, a new iron pin placed on the right-of-way thereof at 972.88 feet; thence leaving the Martin Subdivision and running with the center of State Route 150 S 81o 01'31" E 328.00 feet to a point in the center of aforesaid State Route 150, corner to Green (Deed Book 678 Page 169); thence leaving Route 150 and running with Green S 09o 13' 22" W 226.55 feet (passing an iron pin placed on the right-of-way 30 feet) to an existing iron pin; thence continuing with Green S 80o 46' 38" E 151.09 feet to an existing iron pin; thence continuing with Green N 09o 13' 22" E 227.20 feet (passing an iron pin placed on the right-of-way at 197.20 feet) to a point in the center of State Route 150; thence leaving Green and running with the center of State Route 150 S 81o 01'31" E. 502.23 feet to a point in the center of Route 150, corner to Brown (Deed Book 683 Page 330); thence leaving Route 150 and running with Brown S 01o 08' 13" W 216.35 feet (passing an iron pin placed on the right-of-way of State Route 150 at 50.00 feet) to an existing iron pin; thence continuing with Brown S 81o 09' 37" E. 202.74 feet to the point of beginning and containing 29.85 acres more or less, and being a portion of that real estate owned by the Atwell Estate and of record in the Iredell County Deed Registry in Deed Book 80 at Page 140, all bearings being with the deed north, as surveyed by Terra-Tek, Inc., of Charlotte North Carolina under the supervision and direction of Mary A. Fisher, Registered Land Surveyor, said survey being entitled "Plat of Boundary Survey", a Portion of the R. J. Atwell, Estate Property for B. V. Belk Investments, Inc., State Route 150 and I-77, Davidson Township, Iredell County, N. C." and bearing date of December 20, 1986, Scale 1" = 100'.

We further acknowledge and consent to the use of coal combustion byproducts as structural fill on the above-described property. The volume of ash placed on this property is 500,000 cubic yards. We agree to record this document in accordance with 15A NCAC 13B1707.

Signed this 18th day of March, 1996.

PORT VILLAGE ASSOCIATION

BY: B V Belk
B. V. Belk, Managing General Partner

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, a Notary Public in and for said County and State aforesaid, do hereby certify that B. V. Belk, Jr. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial seal, this 18th day of March, 1996.

Jerry S. Satt
Notary Public

My Commission Expires: 4-10-96

Duke Power Company
Electric System Support
13339 Hagers Ferry Road
Huntersville, NC 28078-7929

DUKE POWER

March 28, 1996

William Hocutt
North Carolina Department of Environmental,
Health and Natural Resources
Solid Waste Section
401 Oberline Road
Suite 150
Raleigh, NC 27605

SUBJECT: Structural Fill Notification
Port Village Business Park
B. V. Belk Investments
File: GS-707.02 (Fossil)

Mr. Hocutt:

In accordance with Section .1706 of the Solid Waste Management Rules (Requirements For Beneficial Use Of Coal Combustion By-Products), please find attached the required written notification for the referenced structural fill project. Please note that this project utilizes greater than 10,000 cubic yards of coal combustion by-products, therefore construction plans are included.

In addition, please note that the submittal of this notification is being done as a courtesy to B. V. Belk Investments and compliance with all requirements of the applicable regulations for this structural fill project is the responsibility of B. V. Belk Investments. This assignment of responsibility for compliance is addressed in the contract between B. V. Belk Investments and Duke Power Company.

Printed on recycled paper

If you have any questions concerning the notification, please contact me at 704-875-5956.

Larry D. Evans

L. D. Evans, Scientist
Environmental Protection - Waste Protection

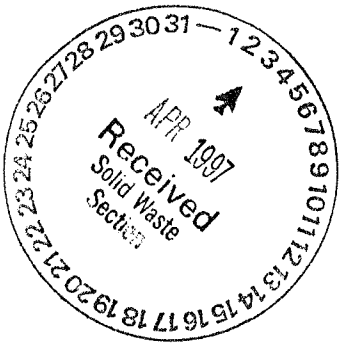
LDE/E03967

Attachments

cc: Thomas W. Smith, President
B. V. Belk Investments. Inc.
4400 Park Road
Suite 300
Charlotte, NC 28209

Duke Power Company
Electric System Support
13339 Hagers Ferry Road
Huntersville, NC 28078-7929

DUKE POWER



March 31, 1997

William Hocutt
North Carolina Department of Environment,
Health and Natural Resources
Solid Waste Section
P.O. Box 27687
Raleigh, NC 27611-7687

SUBJECT: Structural Fill Closure Requirement
Record Number: 006021

Mr. Hocutt:

In accordance with Section .1706(d) of the Solid Waste Management Rules for the Beneficial Use of Coal Combustion By-Products, please find attached "Closure Certifications" for all of the coal ash structural fill projects conducted by Duke Power Company as listed on the NC Solid Waste Section's "List of All Coal Ash Structural Fills". In addition, a copy of the "Recordation Statement" for each project is also included. Please note that the "Recordation Statement" is a requirement of the land owner and is being provided by Duke Power as a courtesy/service to the land owner.

The information attached will supersede the closure certifications previously submitted on January 2, 1997. Therefore, the previously submitted closure information should be deleted from your file(s) and replaced with the attached.

If you have any questions concerning these documents, please contact me at 704-875-5956.

Larry D. Evans

L. D. Evans, CHMM
Scientist
Environmental Division - Waste Management

LDE/E03972

Attachments

Printed on Tree Free Paper

Duke Project As Listed On The NC Solid Waste Section's List of All Coal Ash Structural Fills:

Iredell; Port Village Business Park;
Duke Power; B. V. Belk; B. V. Belk;
June 1, 1996; December 31, 1996;

NOTE: Duke is the constructor on this project. The project started January, 1997 and is scheduled to be completed in August, 1997. Therefore, no closure certification and recordation documentation is available. Attached is an updated construction plan (drawing) for the project.

Blue Ridge Engineering PLLC

529 Main Street
North Wilkesboro, NC 28659
(336) 838-2500
Firm #P-0205

RECEIVED
APR - 5 2012
SOLID WASTE SECTION

April 4, 2012

NCDENR
Division of Waste Management, Solid Waste Section
Charles T. Gerstell, Regional Representative
610 East Center Ave, Suite 301
Mooresville, NC 28115
(704) 663-1699

Ref: **CERTIFICATION OF STRUCTURAL FILL / COAL COMBUSTION BY-PRODUCTS**
Port Village Business Park
Mooresville, Iredell County, NC
Permit #CCB0052

Purpose

This letter is in response to a Facility Compliance Audit Report dated December 23, 2009 in which a Notice of Violation was issued to Lowe's Home Centers, Inc. The reference deed for the property is recorded at Deed Book 1058, Page 951 in the Iredell County Registry.

Site History

Duke Power Company submitted a notification to NCDENR in 1996 of its intent to install coal combustion by-products as structural fill at the site for use as a beneficial use. The coal combustion by-products were generated at the Duke Energy Marshall power plant on NC Hwy 150 approximately 6 miles west of the site. Plans dated March 15, 1996 prepared by Carlton Burton, PE included a temporary sediment basin located adjacent to Rolling Hills Road. An existing 66" CMP provided drainage through the site. These plans were revised on May 17, 1996. Revisions included abandonment of the existing 66" CMP and installation of a new 66" CMP located approximately 150 north of the original alignment. The notification included an Acknowledgement and Consent from Port Village Association, listing B.V. Belk as Managing General Partner. NCDENR, Solid Waste Management Division, Solid Waste Section Chief, Dexter R. Mathews approved the installation of coal ash structural fill at the site on April 10, 1996.

On March 31, 1997 Duke Power Company reported to NCDENR that it was the constructor of the coal ash fill project at Port Village Business Park which started in January 1997, scheduled for completion in August 1997. On September 26, 1997 Duke Power Company informed Mr. Tom Scott of Belk Investments, Inc. that the project would be completed October 3, 1997 and under the terms of their agreement it was the responsibility of the owner to comply with NCDENR Solid Waste Management Rules including deed recordation and certification of closure by a professional engineer. Duke Power Company reported that 357,728 tons of ash was placed at the site including 325,662 tons of silo ash and 32,066 tons of pond ash.

On November 4, 1997 Ground Technology, Inc. provided a fill compaction report to Duke Power Company which reported that all compaction test results met or exceeded 95% of the standard proctor.

The Lowe's home improvement warehouse retail store with associated parking areas and drives was constructed at the site in 1998. Plans prepared by Joseph Griffin, PE dated April 21, 1998 included development of the Lowes site, installation of service roads, and enlargement of the sediment basin. It appears no additional construction activity has occurred since 1998 with the exception of the addition of a small parking area and utility improvements.

Notice of Violation

On December 23, 2009 a Notice of Violation(s) was issued to Lowes Home Centers, Inc. which required the submittal of a closure certification signed and sealed by a registered professional engineer and a statement of the volume and location of coal combustion by-products be filed with the Register of Deeds.

Recordation with Register of Deeds

On September 23, 2010 Lowe's Home Centers, Inc. recorded a notification of structural fill facilities in Deed Book 2082, Page 2170 in the Iredell County Registry which states the volume of ash placed on the property is approximately 397,728 tons.

Separation from Groundwater and Surface Water

Plans dated 1996 do not show a stream on site. The sediment basin and storm drainage system appear to have been installed as shown on the plans dated April 21, 1998. Blue Ridge Engineering (BRE) inspected the interior of the 66" CMP on December 16, 2011. The CMP appeared to be in above average condition for its age of approximately 13 years. No significant deterioration was observed. The jointing inspected appeared to be constructed properly and in good condition. No flowing water was present in the pipe at the time of inspection. The storm water basin was designed as an erosion control sediment basin and is not a stormwater detention pond. The placement of the fly ash appears to meet the minimum required separation of 50 feet from surface waters. No groundwater monitoring wells are present on site. The original plans indicate the fly ash was to be placed on or above the ground surface that existed in 1996. Assuming the groundwater was at a depth of more than 2 feet below the ground surface, the minimum required separation of 2 feet from groundwater was met.

Floodplain

The property is not located within a 100-year floodplain based on FIRM Panel Number 4647, Map Number 3710464700J, having an effective date of March 18, 2008.

Separation from Drinking Water

BRE contacted Wesley Sparks with Iredell County Health Department, Environmental Health Section for the purpose of identifying water supply wells at or near the subject property. A site visit was conducted on February 22, 2012. Mr. Sparks reported no public water supply wells exist within 1 mile of the property

boundary. Mr. Sparks reported no private drinking water supply wells exist within 1/2 mile of the property boundary, and none were observed. A water supply well was observed at Lake Norman Animal Hospital, northwest of the property. The LUST Action Plan for the former Country Corner Marine incident further to the northwest reports that this well is used only for irrigation purposes and washing animal pens. Mr. Sparks reported that Lake Norman Animal Hospital uses a connection to the municipal water system and the former well has been abandoned. A telephone call to the owner at Lake Norman Animal Hospital was not returned. Other water supply wells are referred to in past reports in the NCDENR file for the Country Corner Marine incident but no documents were available to identify the location of these wells. No drinking water sources have been identified within 100 feet of the property. The fly ash fill appears to meet the minimum required separation of 100 feet from drinking water sources.

Soil Cover

On March 1, 2012 an excavator was used to excavate test pits throughout the site. In excavations where fly ash was encountered 1.5 feet of soil cover was provided. Groundcover has been established at the site. The fly ash fill appears to meet the minimum soil cover requirement of 1.5 feet.

Separation from Property Line

The eastern and southeastern boundary has an existing buffer of wooded areas in excess of 25 feet wide with trees up to 24 inches in diameter which pre-date the fly ash fill. On April 3, 2012 an excavator was used to excavate test pits east of the Lowe's building along the southern boundary, 25 feet from the property line. No fly ash was observed within 25 feet of the property boundary. No test pits were excavated behind the Lowe's store or in the drive aisle along the northern boundary. These areas are fully developed and paved. No evidence was found to suggest the fly ash fill does not meet the minimum required separation of 25 feet from the property boundary.

Fill Slope

A fill slope approximately 45 feet tall exists at the site with a slope of 3:1. The slope is stabilized with vegetation. The fly ash fill appears to meet the maximum slope requirement of 3:1.

Conclusions

A closure certification has not been provided by the "constructor or operator" as required by NCAC Title 15A, Subchapter 13B, Section .1706. Based on our conversations with NCDENR staff and others it is our understanding that the structural fill was not monitored by a professional engineer, and the corporation that owned the property at the time the coal ash was placed on site has been dissolved.

Lowe's Home Centers, Inc. was not the constructor of the coal combustion by-products structural fill and has not provided a closure certification.

Use of the property is subject to the conditions identified under NCAC Title 15A, Subchapter 13B, Section .1700 "Requirements for Beneficial Use of Coal Combustion By-Products".

Closing

Information provided in this report is based on site inspections, the review of available documents and information provided by others. BRE was not present at the time of installation of the fly ash but has conducted after-the-fact investigations. No environmental assessment can wholly eliminate uncertainty regarding the potential for environmental issues associated with a property. Information provided in this report is intended to reduce, but not eliminate, uncertainty regarding environmental issues associated with coal ash structural fill at this property.

For the Firm,
Blue Ridge Engineering PLLC

C. Neil Shepherd, PE, PLS
Principal

LDE
MG03A5

Duke Power Company
Electric System Support
13339 Hagers Ferry Road
Huntersville, NC 28078-7929

DUKE POWER

April 9, 1996

William Hocutt
North Carolina Department of Environmental,
Health and Natural Resources
Solid Waste Section
401 Oberline Road
Suite 150
Raleigh, NC 27605

Iredell County

SUBJECT: Structural Fill Notification
Port Village Business Park
B. V. Belk Investments
File: GS-707.02 (Fossil)

Mr. Hocutt:

This letter is in response to our telephone conversation on April 8, 1996 concerning your requested clarifications to the referenced structural fill notification. An additional review of this project with the Requirements For Beneficial Use Of Coal Combustion By-Products indicates that it is in compliance with all siting requirements in Section .1704 and with all design, construction, and operation requirements in Section .1705.

In addition, a new section of pipe will be extended from the existing storm water line, as indicated on the design drawing, to the sediment basin. A detail of the riser type sediment basin is shown in the upper left corner of the drawing. The sediment basin will be used during the construction phase and closed at the end of the project. These items will be discussed with the project engineer and the design drawing will be clarified as needed. If you require/desire a copy of the revised drawing, please contact me at your convenience.

Printed on recycled paper

If you have any questions concerning the letter, please contact me at 704-875-5956.

Larry D. Evans

L. D. Evans, Scientist
Environmental Protection - Waste Protection

LDE/E03967

cc: Thomas W. Smith, President
B. V. Belk Investments. Inc.
4400 Park Road
Suite 300
Charlotte, NC 28209

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Solid Waste Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

DEHNR

April 10, 1996

Mr. Larry Evans, Scientist
Electric System Support Department
Duke Power Company
13339 Hagers Ferry Road
Huntersville, NC 28078-7929

Subject: Coal fly ash structural fill at B. V. Belk Investments' Port Village Business Park property, located on NC Highway 150 near the I-77 intersection (Iredell County); scheduled to begin approximately May 1, 1996.

Dear Mr Evans:

We are in receipt of your March 28, 1996 notification and the requested supplemental information received April 9, 1996 for constructing the subject structural fill beginning on approximately May 1, 1996 and with anticipated completion by approximately December 31, 1996. The information submitted satisfies the requirements for coal ash structural fill activities as set forth in Solid Waste Management Rules 15A NCAC 13B Section .1700 concerning beneficial use of coal combustion by-products.

As previously agreed to between Duke Power and the Solid Waste Management Division, Duke Power is accepting the responsibility of informing the landowner(s) of their responsibility should any groundwater contamination occur due to this structural fill activity.

Sincerely,

Dexter R. Mathews, Chief
Solid Waste Section
Solid Waste Management Division

cc: Julian Foscue
Anthony Foster
Bill Hocutt
Larry S. Harper
John P. Nerison

c:wp6doc/letter/evans.11

NCDENR
North Carolina Department of Environment and Natural Resources

Dexter Matthews, Director | Division of Waste Management | Beverly Eaves Perdue, Governor
Dee Freeman, Secretary

April 13, 2012

Corporation Service Company, Registered Agent
Lowes Home Centers, Inc.
327 Hillsborough Street
Raleigh, North Carolina 27603

SUBJECT: **Notice of Violation(s) issued January 8, 2010**
Port Village Business Park Coal Combustion by-products Structural Fill Project
Permit #: CCB0052
Iredell County

Dear Sir or Madam:

On January 8, 2010, the Division of Waste Management - Solid Waste Section, issued a Notice of Violation(s) to Lowe's Home Centers, Inc for violations of the North Carolina Solid Waste Administrative Code. These violations were discovered as a result of inspection and review of the subject coal combustion by-products structural fill project. The following violations were noted:

A. 15A North Carolina Administrative Code 13B .1706(d) states: *The constructor or operator shall submit a certification to the Division signed and sealed by a registered professional engineer or signed by the Secretary of the Department of Transportation or his designee certifying that all requirements in the Rules of this Section have been met. The report shall be submitted within 30 days of application of the final cover.*

A certification was never submitted to the Division for this structural fill facility prior to the inspection of the property. Therefore, Lowe's Home Centers, Inc. was found in violation of 15A NCAC 13B .1706(d).

B. **15A North Carolina Administrative Code 13B .1707 (a) states:** *The owners of land where coal combustion by-products have been utilized in volumes of more than 1,000 cubic yards shall file a statement of the volume and locations of the coal combustion by-products with the Register of Deeds in the county or counties where the property is located. The statement shall identify the parcel of land according to the complete legal description on the recorded deed, either by metes and bounds, or by reference to a recorded plat map. The statement shall be signed and acknowledged by the landowner(s) in the form prescribed by G.S. 47-38 through 47-43.*

15A North Carolina Administrative Code 13B .1707(b) states: *Recordation shall be required within 90 days after completion of coal combustion by-product fill project.*

15A North Carolina Administrative Code 13B .1707(c) states: *The Register of Deeds in accordance with G.S. 161-14 shall record the notarized statement and index it in the Grantor Index under the name of the owner(s) of the land. The original notarized statement with the Register's seal and the date, book and page number of recording shall be returned to the Division after recording.*

Lowe's Home Centers, Inc. was found in violation of 15A NCAC 13B .1707(a) through .1707(c) in that the structural fill facility was not recorded on the deed for the property prior to the inspection of the property.

On September 23, 2010, Lowe's Home Centers, Inc. recoded a "Recordation of Structural Fill Facilities" with the Iredell County Register of Deeds. The document was recorded in Deed Book 2082, Page 2170 and states the volume of ash placed on the property is approximately 397,728 tons.

On April 5, 2012, the Solid Waste Section received a document entitled "Certification of Structural Fill / Coal Combustion By-Products" in reference to the subject site. The document was submitted by Blue Ridge Engineering, PLLC and signed and sealed by Mr. C. Neil Shepherd, PE, PLS. The information provided in this documentation appeared to satisfy the requirements for certification of the coal combustion by-products structural fill activity.

Based on the foregoing, all violations in this matter are considered resolved. The Division of Waste Management - Solid Waste Section thanks you for your cooperation in this matter.

If you have any questions, please contact me at (704) 235-2144 or charles.gerstell@ncdenr.gov.

Sincerely,

Charles T. Gerstell

Charles T. Gerstell
Environmental Senior Specialist
Solid Waste Section

Cc: Mark Poindexter, Field Operations Branch Head
Jason Watkins, Western District Supervisor

Prepared by and Return to:

Angela D. Marshall

1000 Lowe's Blvd.

Mooresville, NC 28117

Doc ID: 013102640004 Type: CRP
Recorded: 09/23/2010 at 09:20:20 AM
Fee Amt: $23.00 Page 1 of 4
Iredell County, NC
Brenda D. Bell Register of Deeds
BK 2082 PG 2170-2173

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

RECORDATION OF STRUCTURAL FILL FACILITIES

Lowe's Home Centers, Inc., the owner of the property described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), hereby acknowledges the use of coal combustion by products as structural fill on the Property. Lowe's Home Centers, Inc. was not the owner of the Property at the time of the use of the coal combustion products as structural fill on the Property, however, to the best of the actual knowledge of Lowe's Home Centers, Inc. and based on information provided to Lowe's Home Centers, Inc., the volume of ash placed on the Property is approximately 397,728 tons. 4

LOWE'S HOME CENTERS, INC.

BY: W Layne Adams Jr

STATE North Carolina

COUNTY Wilkes

I, Melissa Richardson, a Notary Public of the County and State aforesaid, certify that W Layne Adams Jr., as a Vice President of Lowe's Home Centers, Inc properties, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal this the 9 day of September, 2010.

Melissa Richardson

Notary Public

My Commission Expires: 2/20/2012

MELISSA RICHARDSON
Notary Public, North Carolina
Wilkes County
My Commission Expires
February 20, 2012

EXHIBIT "A"

Legal Description

Page One of Three

A certain tract or parcel of land containing 25.118 acres, lying and being in Davidson Township, Iredell County, North Carolina, at NC Hwy 150 West, approximately 900 feet west of Interstate 77 South. Bounded on the north by Greene and NC Hwy 150, the east by SouthTrust and Rolling Hill Road, on the south by Lakeside Park and on the west by Reinen and Martin and being more particularly described as follows:

To find the true point of beginning commence on NCGS Monument "Linkmore" (NAD-83 N=206,150.700 Meters; E=441,030.653 Meters), said monument being South 81 degrees 36 minutes 30 seconds East 2,562.05 feet from NCGS Monument "Marina" (NAD-83 N=206,364.649 Meters; E=440,258.223 Meters) and running thence North 85 degrees 53 minutes 05 seconds West 898.82 feet (NCGS Coordinates: N = 676,410.584 feet, E = 1,446,851.558 feet) to an existing iron pin in the southern margin of NC Hwy 150, the northeastern corner of that certain parcel of land conveyed by deed to SouthTrust Bank recorded in Deed Book 1001 Page 1476, Iredell County Registry - all deed references hence are of said registry, and being the POINT OF BEGINNING; thence North 01 degrees 43 minutes 51 seconds West 40.65 feet to a P-K Nail set in the centerline of N. C. Highway 150; thence with said centerline North 80 degrees 12 minutes 56 seconds West 125.87 feet to a P-K Nail in said centerline, the northeastern corner of One-Stop Associates (Deed Book 808 Page 949; Plat Book 22 Page 136); thence with the centerline of an un-named street South 07 degrees 41 minutes 23 seconds West 27.70 feet to a P-K Nail; thence 119.69 feet along a curve to the right of radius 678.64 feet a chord bearing and distance of South 14 degrees 01 minutes 38 seconds West 119.53 feet to a P-K Nail; thence South 17 degrees 16 minutes 47 seconds West 76.48 feet to a P-K Nail; thence 102.86 feet along a curve to the left of radius 676.46 feet a chord bearing and distance of South 13 degrees 04 minutes 46 seconds West 102.76 feet to a 5/8" iron rebar set; thence leaving said centerline and with the southern line of One Stop Association, Inc. North 81 degrees 15 minutes 49 seconds West 30.93 feet to a 5/8" iron rebar set; thence North 81 degrees 52 minutes 12 seconds West 213.65 feet to a 5/8" iron rebar set, the southwestern line of One Stop Association, Inc.; thence with the western line of One Stop Association, Inc. North 08 degrees 07 minutes 03 seconds East 70.00 feet to a 5/8" iron rebar set in the western line of One Stop Association, INc, and the southern line of Floyd E. Greene (Deed Book 866 Page 960; Plat Book 22 Page 136); thence North 81 degrees 52 minutes 11 seconds West 222.98 feet to a 5/8" iron rebar, the southwestern line of Greene; thence with the western line of Greene North 07 degrees 53 minutes 03 seconds East 210.84 feet to a 5/8" iron rebar set in the southern 100 foot right-of-

way margin of N. C. Hwy 150; thence North 07 degrees 59 minutes 47 seconds East 45.48 feet to a P-K Nail in the centerline of said highway; thence with said centerline North 82 degrees 05 minutes 10 seconds West 260.42 feet to a P-K Nail set, the northeastern corner of Michael J. Heinen (Deed Book 751 Page 180; Plat Book 27 Page 19); thence leaving said highway South 35 degrees 17 minutes 00 seconds West 56.82 feet to a 5/8" iron rebar set in the southern margin of said highway in the line of Heinen; thence South 35 degrees 05 minutes 08 seconds West 544.13 feet to an existing 1" iron pipe, the southeastern corner of Richard D. Martin (Deed Book 290 Page 273; Plat Book 5 Page 110); thence South 35 degrees 33 minutes 02 seconds West 403.08 feet to an existing 1" iron pipe, in the line of Smith-Schneider Properties, Inc. (Deed Book 947 Page 188; Lot 3 of Crosslake Industrial Park, Plat Book 26 Page 87); thence with the northern line of Lot 3 and E. J. Bill Simpson (Deed Book 993 Page 266; Lot 4 of Crosslake Industrial Park, Plat Book 26 Page 88) South 80 degrees 19 minutes 20 seconds East 368.99 feet to an existing 1/2" iron rod, the northwestern corner of Penske Racing South, Inc. (Deed Book 969 Page 1427; Lot 5 of Crosslake Industrial Park, Plat Book 26 Page 88); thence South 80 degrees 19 minutes 07 seconds East 225.02 feet to an existing 1/2" iron rod, the northwestern corner of Penske Racing South, Inc. (Lot 6 of Crosslake Industrial Park, Plat Book 26 Page 88); thence South 80 degrees 22 minutes 02 seconds East 225.01 feet to an existing 1-1/2" iron pipe in the line of Penske Racing South, Inc. (Deed Book 978 Page 1536; Lot 5 and Lot 6 of Lakeside Park, Plat Book 19 Page 19); thence with the line of Penske Racing North 09 degrees 40 minutes 55 seconds East 75.09 feet to an existing 5/8 iron rebar; thence with the northern line of Penske Racing South 78 degrees 59 minutes 21 seconds East 349.87 feet to an existing 5/8" iron rebar, the northwestern corner of Roush Motorsports, Inc. (Deed Book 1000 Page 526; Lots 3 and 4 of Lakeside Park, Plat Book 19 Page 19); thence with the line of Roush South 79 degrees 03 minutes 15 seconds East 200.25 feet to an existing 5/8" iron rebar, and South 11 degrees 00 minutes 06 seconds West 75.04 feet to an existing 1" iron pin, the northwestern corner of Realty, Inc. & Jasper Engines (Deed Book 870 Page 1549, Lots 3 and 4 of Lakeside Park, Plat Book 19 Page 19); thence with the northern line of Realty, Inc. and Juan L. Steimle (Deed Book 855 Page 802; Plat Book 19 Page 19) South 79 degrees 04 minutes 33 seconds East 400.32 feet to an existing 1/2" rebar in the western margin of Rolling Hill Road (Deed Book 908 Page 794; Plat Book 19 Page 19); thence with said margin North 00 degrees 03 minutes 57 seconds East 590.73 feet to a 5/8" iron rebar set in said margin, a common corner with SouthTrust Bank; thence the following nine (9) courses and distances with the line of SouthTrust Bank: (1) 61.01 feet along a curve to the right of radius 41.69 feet

a chord bearing and distance of North 38 degrees 50 minutes 10 seconds West 55.71 feet to a point; (2) thence North 00 degrees 01 minutes 35 seconds East 78.63 feet to a point; (3) thence 39.72 feet along a curve to the left of radius 20.74 feet a chord bearing and distance of North 40 degrees 49 minutes 23 seconds West 37.24 feet to a point; (4) thence North 81 degrees 52 minutes 05 seconds West 149.81 feet to a 5/8" iron rebar set; (5) thence North 81 degrees 52 minutes 05 seconds West 257.94 feet to a 5/8" iron rebar set; (6) thence 16.08 feet along a curve to the right of radius 648.46 feet a chord bearing and distance of North 16 degrees 42 minutes 44 seconds East 16.08 feet to an existing iron rebar; (7) thence North 17 degrees 56 minutes 46 seconds East 85.18 feet to an existing 5/8" iron rebar; (8) thence 99.51 feet along a curve to the left of radius 708.64 feet a chord bearing and distance of North 14 degrees 06 minutes 56 seconds East 99.43 feet to an existing 5/8" iron rebar in the southern right-of-way margin of N. C. Hwy 150; and (9) thence with said southern right-of-way margin South 81 degrees 44 minutes 16 seconds East 202.80 feet to a 5/8" iron rebar set, the POINT OF BEGINNING containing 25.118 acres (1,094,120 square feet), more or less according to that certain survey by Robert J. Wilkins, Registered Land Surveyor, (L-3393), dated 16 October, 1997 (File No. 970122) to which reference is made for a more detailed description.

Duke Energy

Duke Energy Corporation
Wachovia Center
P.O. Box 1007
Charlotte, NC 28201-1007

September 26, 1997

Mr. Tom Scott
Port Village Project
Belk Investments, Inc.
4400 Park Road, Suite 100
Charlotte, NC 28209

Re: Closure Requirements for Port Village Engineered Ash Fill Project:
Certificate of Compliance and Deed Recordation

Tom:

Per our contract agreement, page 5, Section 4.2, third paragraph, the Owner agrees to provide evidence to Duke of compliance with NCDEHNR Solid Waste Management Rules 15A NCAC 13B Sections .1706 entitled "Closure of Structural Fill Facilities" and .1707 entitled "Recordation of Structural Fill Facilities". Pertinent sections are highlighted on enclosed copies. It is important to note that compliance with these sections of the State regulations is the responsibility of the Owner (regardless of potential impending sale). This letter serves to notify and assist you with this responsibility. Duke has complied with all other rules of Section .1700. The State is hereby notified of your responsibility by copy of this letter (without attachments).

Section .1706 requires a certification of compliance signed and sealed by a registered Professional Engineer. This must be completed within 30 days of application of the final cover. Duke completes the final cover effective October 3, 1997. I have copies of all density reports for ash and soil cover if needed. Enclosed is a sample Certification of Closure letter for the Owner's P.E. to complete and send to the State.

Section .1707 requires deed recordation of 357,728 total tons of ash placed at the site location as specified on Acknowledgment and Consent Form (copy attached) within 90 days of project completion. The project is completed including seeding effective October 3, 1997. This total volume includes 325,662 tons of silo ash and 37,066 tons of pond ash but deducts 5,000 tons of pond ash placed on adjoining Floyd Greene's property. Notarization is required.

-32,066 TONS

Please advise if I can assist further with the above requirements. Please copy me on all compliance documents sent to the State. Final billing for cover soil and seeding is forthcoming. Duke Energy would again like to thank you for your participation in a very successful project. Please keep us in mind for your future property development needs.

SEP 1997
Received
Solid Waste
Section

Sincerely,

Jeffrey W. Newell

Jeffrey W. Newell, P.G.
Project Manager
Duke Energy
382-8991
382-3034 fax
517-9931 mobile

Attachments:

1. Sample Certificate of Compliance letter.
2. Copy of Acknowledgment and Consent form (as reference information for deed and volume recordation).
3. Section .1700 Requirements for Beneficial Use of Coal Ash Combustion By-Products.
4. Contract: Conditioned Pond Ash Usage Agreement, Performance Standards, Amendment and Amendment 2.

CC: (cover letter only without attachments):

Mr. Bill Hocutt, NCDEHNR-DWM, Raleigh, NC
Tom Mitchell
Larry Harper
Joe White
Garry Rice
Larry Evans
Project file

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Waste Management
Dexter R. Matthews
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

December 15, 2011

CERTIFIED MAIL #: 7009 2250 0004 3265 8005
RETURN RECEIPT REQUESTED

Mr. B.V. Belk, Jr., Registered Agent
B.V. Belk Properties, Inc.
204C Woodlawn Road
Charlotte, North Carolina 28217

RE: Port Village Business Park Structural Fill Project (CCB0052)

Dear Mr. Belk:

Our records show that you were the Registered Agent for B.V. Belk Investments, Inc. which is now dissolved. B.V. Investments, Inc. was responsible for the development of Port Village Business Park off Highway 150 in Mooresville, NC which included the placement of approximately 397, 728 tons of coal ash as structural fill. The Solid Waste Section is currently working with existing property owners in resolving a recordation matter as outlined under 15A North Carolina Administrative Code 13B Section .1700. As such, the Section requests all information that you may have in reference to this project as discussed by phone on December 15, 2011. Please submit all information to my office not later than January 15, 2012.

If you have any questions regarding this request, please contact me at (704) 235-2144. Your assistance in this matter is appreciated.

Sincerely,

Charles T. Gerstell
Environmental Senior Specialist
Solid Waste Section

610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115
Phone: 704-663-1699 \ FAX: 704-663-6040 \ Internet: www.wastenotnc.org

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