

STATE FILE

20 February 1998

Richard L. Miller, PhD
Environmental Affairs Manager
The University of North Carolina at Chapel Hill
212 Finley Golf Course Road
Chapel Hill, North Carolina 27514

Re: Administrative Orders on Consent
UNC Chemical Waste Burial Area (NCD 980 557 623)
UNC Old Sanitary Landfill (NCD 980 557 615)
Chapel Hill, Orange County

Dear Dr. Miller:

I have received UNC's comments on the proposed consent agreements for the sites referenced above (ref. October 31, 1997 letter from Mr. Daniel McLawhorn to Mr. Robert Gelblum, and December 5, 1997 letter from Ms. Sylvia Thibaut to Mr. Robert Gelblum). Consent agreements under the REC program express the minimum requirements mandated by the REC program rules, and therefore are not negotiable except for minor corrections. Nonetheless, the Branch has reviewed UNC's requested modifications to the consent agreements and offers the following responses:

- 1. UNC requests that the consent agreements be modified to state that UNC will abide by the terms of the agreement only if the University has obtained funds for this purpose.

The REC program rules establish deadlines for completing site investigations and remedial actions (see 15A NCAC 13C .0302(h)). The Branch cannot enter into agreements which make compliance with state rules contingent upon obtaining the necessary funds. The University should first obtain the necessary funds, and then contact the Branch to enter into the consent agreements.



- 2. UNC requests that the following statement be added to the consent agreements: "This consent order constitutes a written declaration by the Secretary pursuant to N.C.G.S. 130A-310.3(a)."

The Branch makes a clear distinction between "130A-310.9 cleanups" and "130A-310.3 cleanups." Although sections 310.3 (d), (e) and (f) are cross-referenced with 310.9, sections 310.3 (a), (b) and (c) are not cross-referenced. That is why 130A-310.3(a) was not included in the model consent agreement. We see no justification for establishing an exception in this case by making a determination that the consent agreement constitutes a written declaration pursuant to 130A-310.3(a).

- 3. UNC requests that the consent agreements be modified to cite 130A-310.3(b).

130A-310.3(b) was not included in the model consent agreement for the reasons outlined in the response to (2) above. We see no reason to make an exception in this case.

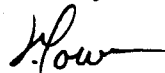
- 4. UNC requests that the sequence of site remediation be reordered to address source areas prior to commencing groundwater remediation.

This approach is acceptable provided that UNC complies with the remedial action deadlines shown in 15A NCAC 13C .0302(h).

In summary, the Branch has carefully considered UNC's proposed modifications to the consent agreements and has found them to be unwarranted. However, the Branch remains willing to enter into standard REC consent agreements for the two sites referenced above.

Thank you for your cooperation in this matter. If you have any questions, please call me at (919) 733-2801, ext. 285.

Sincerely,



Tom Power
 Environmental Engineer
 Inactive Hazardous Sites Branch
 Superfund Section

c: Rob Gelblum

