



July 25, 2016

The Honorable Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Re: Issues and Actions: The Pinewood Site, the Twelve Mile River Restoration, and Underlying Ethical and Legal issues in South Carolina Government

Dear Governor Haley:

Synopsis

This letter addresses issues central to the legitimate and ethical governance of the State of South Carolina; as such these issues are – or certainly should be – at the core of responsibilities of the Governor in her/his service to the citizens of South Carolina.

This message calls for immediate and decisive actions on your part, Governor.

The subjects addressed in this letter involve physical, legal, ethical and fiscal issues. If the information I have received is accurate you, Governor, are at the epicenter – one way or another. Transgressions of commission as well as omission. That is why I am providing a body of information designed to allow you to step up, prove your mettle, and be accountable for your actions and actions of those under your constructive control. Those include DHEC managers, DNR managers, and SLED agents, among others.

By way of formal introduction: You know of me, but we have never met. For nearly eleven years (December 24, 2003 through October 31, 2014), the company I co-founded and managed, Kestrel Horizons, LLC, served the citizens of South Carolina as Trustee of the Pinewood Site Custodial Trust. You certainly know of the Pinewood Site and the purpose and history of the Pinewood Site Custodial Trust, so I'll leave it at that. You probably don't know much about Kestrel Horizons, LLC or me, so I've attached some background information.

I have chosen to address these issues with you, Governor, because you are in the position of ultimate responsibility for these matters. I have chosen to address these issues on this date because this is the second anniversary of the ambush by South Carolina government designed to discredit, silence, and intimidate me with regard to exposing the actual conditions, risks, and legal issues – and true costs – associated with the Pinewood Site.

I believe you have a central, yet shadowy, role in the deception and attempted intimidation I – along with the Kestrel Horizons, LLC Trustee team members – experienced. This letter, its attachments, and much more information to be posted on rubiconpartyofone.us will discuss that in detail. If I am wrong, you can set the record straight by a direct dialogue and I will follow up publicly in writing; if you and/or other government officials choose to engage in a public relations battle as have SC DHEC managers and mouthpieces to date, the spectacle similar to



Chris Christie's **Bridggate** scandal and Governor Rick Snyder's Flint Water Crisis will appear in South Carolina.

The Pinewood Site issues discussed first certainly illustrate the issues and form the basis for actions needed on your part and by current DHEC management. In addition, this letter describes issues and needs related to Twelve Mile River in Pickens County. The Twelve Mile River Restoration Project has several parallels to the Pinewood Site – most notably the unethical and illegitimate actions of DHEC management and others. In other words, the Pinewood Site is not an isolated situation.

Governor, I acknowledge neither you nor current DHEC management or DNR management actually **perpetrated** the “original sins” at the Pinewood Site or Twelve Mile River discussed here.

The unholy mess of the Pinewood Site was fostered by and perpetuated by Democratic Governor Richard Riley between 1979 and 1987 in his administration's misguided zeal to attract commercial hazardous waste companies to the State as a lure for industrial companies requiring affordable waste disposal. That strategy initiated “deals with devils”, notwithstanding the fact that some of the companies were legitimate and responsible.

The Twelve Mile River/Lake Hartwell mess was originated by industrial discharges of PCB capacitor fluids by Sangamo Weston through a state-permitted wastewater discharge to Town Creek in Pickens, South Carolina. Town Creek connects to Twelve Mile Creek, which becomes Twelve Mile River before it discharges into Lake Hartwell near Central, South Carolina – just north of Clemson. Sangamo Weston was purchased in the mid-1980's by Schlumberger – a large corporation headquartered in France.

Also attached are several documents that illuminate and discuss the issues summarized here. These documents have all been released publicly, as have numerous others that address details of the issues and related facts, events, and actions by agents of the government of South Carolina and others. Soon, these documents and many more will be made readily available at rubiconpartyofone.us. Web sites that will redirect there include: rubiconpartyofone.me, rubiconpartyofone.info, rubiconpartyofone.net, and rubiconpartyofone.com. If you are a student of world history, you know the significance of “crossing the Rubicon.”

Several other topics will be addressed in the content of that web site, so the documents related to the issues in South Carolina will be grouped and clearly identified.

My hope is that South Carolina government can rise above the despicable twin cesspools Americans are being forced to endure at the national level – the ones called “The Republican Party” and “The Democratic Party”. Governor – in January you admonished Republican Presidential Primary voters not to listen to the shrillest voices. In South Carolina and our neighboring states the majority didn't listen to you. They should have.

Now, I am asking that you find **your voice**. The voice of **reason and responsibility** – not the voiceover of optical illusions and misdirection. And certainly not the voice of intimidation and denigration. We all see more than enough of that on television nightly.



Basics of The Pinewood Site

Attachment A to this letter describes the technical, legal, and economic issues of the Pinewood Site. The issues are complex and the facts many. I will not try to summarize those here except as follows:

The Pinewood Site in a nutshell: Four million cubic yards (800 million gallons) of hazardous waste placed (in effect) as close as 75 feet from the headwaters of Lake Marion (source of drinking water for more than 1 million people), with a rubber raft liner and some packed-down clay containing the most toxic 1 million cubic yards next to the lake – all monitored by a strategically misdirected monitoring system, based on a fatally-flawed Conceptual Site Model perpetuated by “experts” and regulators who are not experts, at all – with an inadequate and unmaintainable leachate extraction now entering or in full failure mode. And virtually no remaining public funds. And a regulatory steward that has been in all-out denial and managed as a political concubine since 1980.

The early days of Pinewood facility involved organized criminals. Some former government officials became facilitators for nefarious – if not illegal -- activities. DHEC managers and staff were complicit primarily through incompetence, gullibility, and foolishness. Despite two criminal investigations where a least one investigator claimed SLED had more-than-adequate of basis for multiple criminal indictments of several key actors, no criminal indictments have ever been issued.

In fact, the 2003 Trust Agreement between South Carolina Department of Health and Environmental Control and Safety-Kleen specifically absolves Safety-Kleen, its predecessors, and its officers, employees, shareholders, and agents of all criminal wrong-doing and bans criminal action against all those parties for any reason. The agreement includes a statement that Safety-Kleen makes no representations or warranties regarding *[paraphrasing a more complex set of provisions]* the site (e.g., latent defects or site conditions) or the foundations for the Agreement. (e.g., the accuracy of the cost estimates or adequacy of the funding).

Whether such provisions are actually binding on the State of South Carolina or its citizens is highly questionable. The inclusion of such provisions raises serious questions about the underlying motives of the parties – especially considering the citizens and legislature were led to believe the settlement would be sufficient to fund all needs of the site for 102 years and the site was in full compliance with applicable laws, regulations, and standards. Kestrel Horizons, LLC discovered and exposed that charade to DHEC managers involved at the time before becoming Trustee in December 2003 – as well as all DHEC managers routinely involved since.

The most serious threats posed to citizens and the environment of the State of South Carolina arise out of perpetuation and cover-up of the illicit acts and foolish blunders of DHEC management from 1979 through 1994. A decades-long “bunker mentality” on the part of government managers and elected officials has produced a genuine disaster waiting to happen. Try as we did for ten years and ten months as Trustee, the bunker proved nearly impenetrable – and well defended by snipers.

The body of information regarding the Pinewood Site I have placed into the public domain and into the hands dozens of South Carolina government officials since Kestrel Horizons, LLC became Trustee of the Pinewood Site Custodial Trust on December 24, 2003 is detailed and compelling to any knowledgeable person who takes the time to review it.



Basics of Twelve Mile River

Attachment B to this letter describes the technical, legal, and economic issues of Twelve Mile River. The issues are simpler than those of the Pinewood Site and the facts fewer. The cast of characters is much larger for Twelve Mile River, and the complexity of some issues lie in the tortured relationships among the cast members. I will not try to summarize those here except as follows:

The Confederacy of Shirkers involved in Twelve Mile River is only about a decade old and involves seven other state and federal agencies (other than DHEC) – and a federal judge and his sidekicks (“Special Receivers”). Yet, there again, DHEC management played a pivotal role – a role that could have resulted in a responsible and safe outcome had DHEC (and SC DNR) management chosen to step up and serve the citizens according to applicable laws and their public charges.

The body of information regarding the Twelve Mile River site I have placed in the public domain and into the hands dozens of South Carolina government officials since learning of deception perpetrated by Schlumberger and its law firm and consultant is detailed and compelling to any knowledgeable person who takes the time to review it. Like the Pinewood Site, SC DHEC management were active participants in the deception of adjacent property owners, various other stakeholders, and the public at large.

In the case of Twelve Mile River, rather than suppressing and discrediting the work of my firm and me, SC DHEC managers chose to pursue a path of “plausible deniability”, suggesting that or intentionally not challenging alterations to the professional work of my firm made by the consultants to Schlumberger (at the direction of Schlumberger managers) employ dashed lines rather than solid lines – and that portions of the Kestrel Horizons, LLC drawings which would reveal the deceptions by Schlumberger be cropped off.

Governor, what Schlumberger and their consultant did was and is fundamentally illegal. Their law firm – the McNair Law Firm (which was also Kestrel Horizons’ law firm at the time) – chose to attack me, attempt to denigrate my reputation, and intimidate me in an effort to support the more important client of the two. In fact, a partner of that firm intimated that, if my four partners could eject me from the firm and repudiate my exposure of Schlumberger’s illegal and deceptive ruse, the two firms would surely enjoy business success as close partners in the future.

I ended up buying out all four partners and my crusade to expose the truth of Twelve Mile River and the Pinewood Site continued unabated – except that McNair was unceremoniously fired, of course. Legal actions against two McNair attorneys and the firm never became public. The Office of Disciplinary Action of the Supreme Court of South Carolina declined to pursue action against the McNair attorneys or the firm after closed door meetings and exchanges to which neither I nor any third party was privy. The ODC manager cited limitations of legal provisions governing ethics of attorneys and law firms. Several attorneys I consulted (I have worked with nearly 200 over the span of 37 years) said, in essence, “horse pucky.”



Regarding Abuse of Government in the Two Situations

Governor, if you have read this far, you might surmise I have very little faith in government regulators or elected officials. This is an opportunity to prove me mistaken - at least with regard to you, Governor. In proving me mistaken, you will also assure hundreds of thousands of citizens of South Carolina you are a person of integrity who puts responsibility to citizens above manipulation of "optics" and political malfeasance.

Governor, I have no notion as to whether you know anything about the Twelve Mile River situation. I do know that Special Agent Christina Gainey didn't mention Twelve Mile River when she called me again on January 25, 2016 – just two hours after I met with an editor and reporter of the Greenville News about coal combustion residuals management, the Pinewood Site, and Twelve Mile River. Maybe she figured mentioning the Pinewood Site and stating that "The Administration" wanted to know who I was would be sufficient as a reinforcement of intimidation she delivered in conversations in July 2014.

Governor, if you don't know by now, let me say intimidation and denigration don't go over real big with me. Those produce only steely resolve – regardless of the adverse consequences.

Repeating a few sentences from Kestrel Horizons Final Report to the Citizens of South Carolina as Trustee of the Pinewood Site Custodial Trust, dated September 18, 2014 (text of body of the report included separately as an attachment):

J My Promise:

If the independent CPA firm concludes that Kestrel "took" money we did not earn from the Trust, I will eat my hat under the flagpole at the Statehouse.

And if anyone again impugns my reputation or the reputation of Kestrel Horizons or its team members, they will eat all of my hats. Whole. In one sitting.

Ask yourself, if you were in my position would you trust that the powers that be will do the right thing and act fairly and squarely?

Now, we all recognize many folks use the phrase "eat my hat" as a figure of speech. I mean it quite literally. And the first person will get off easy compared to anyone who follows his or her example.

Governor, below is a recent set of emails to Director Catherine Heigel and General Counsel Marshall Taylor – both of SC DHEC. I believe the messages are self-explanatory and quite illuminating. The most recent email is first.



From: Bill Stephens
Sent: Saturday, July 16, 2016 9:28 AM
To: 'Taylor, W. Marshall'
Subject: Closure

Marshall –

In the past few days I have made my final attempts at seeking employment or consulting engagements in the environmental and engineering fields in South Carolina. After 18 months of continuous efforts to secure an engagement to continue my 40+ years career, the defining moments were these:

1. On Wednesday, the owner of a civil engineering and construction management firm we had worked with on several projects graciously accepted the attached letter and qualifications package in response to an advertisement for a role for which I am a near-perfect match. He came out to meet me; that was only the second time anyone has done that in 18 months, so I was grateful for the courtesy. His last words were, *"If I don't see you before Christmas, maybe you can stop by and say hello as St. Nicholas."*

2. Yesterday I had lunch with a colleague who had been a Project Manager in the group I managed at RMT (now TRC). This is a man I mentored and assisted in his career – and a man of integrity. His parting words for me were, *"Bill, the environmental community in South Carolina is small and tight-knit. You have been tried, filleted, and fried in the court of public opinion. He made a vague reference to DHEC staff comments, then added, "It doesn't make any difference what the truth is. You need to focus on becoming the best grandpa ever now."*

I have included my qualifications package, redacted to eliminate reference to a particular firm or person. Yesterday afternoon I picked up a box of printed copies of the attachments to this letter. While three excellent attorneys have given me stellar references, none have hired me or recommended me to his clients. I realize now, they can't. Copies of the printed "scrapbook" will be given to my wife, children, and grandchildren. I want them all to realize I was a productive, worthwhile person for many years.

Below is consistently one of the top results when searching the internet for the "Pinewood Site" and "Bill Stephens" – as well as many other variations. It serves as a perpetual reinforcement of the slander DHEC management perpetrated and has perpetuated. Marshall, you will recognize this article as one of the several that resulted from Catherine Templeton's ambush on the afternoon of July 25, which she executed while you were on the way to Greenville to request the resignation of Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust. Templeton's public statements to reporters and DHEC staff before, on, and after July 25, 2014 – combined with her slanderous inferences in the DHEC-Kestrel Horizons meeting on March 10, 2014 – have nailed my coffin shut.

I have also attached a piece titled, *"The Guy in the Glass"*. I haven't cheated the guy in the glass – or anyone else – ever.

Bill Stephens

[DHEC wants to replace company managing Pinewood hazardous ...
www.thestate.com/news/local/article13870994.html](http://www.thestate.com/news/local/article13870994.html)

The State
Loading...

Jul 25, 2014 - The site, between Summerton and Pinewood, is operated by Kestrel Horizons ... Kestrel Horizons' executive Bill Stephens was not immediately ...

LOCAL

JULY 25, 2014 6:16 PM

DHEC wants to replace company managing Pinewood hazardous-waste landfill

State regulators are unhappy with the job being done by the company managing Pinewood's notorious hazardous-waste site, director Catherine Templeton says.



Buzzards fly over the shuttered Pinewood hazardous-waste landfill in January 2014. The site, between Summerton and Pinewood, is operated by Kestrel Horizons and regulated by the S.C. Department of Health and Environmental Control. FILE PHOTOGRAPH

By SAMMY FRETWELL - sfretwell@thestate.com

The state's environmental department wants the management company for a closed hazardous waste dump at Lake Marion to resign, citing dissatisfaction with some of the firm's expenditures.



Kestrel Horizons was hired to monitor and oversee the dump so that toxic chemicals don't leak into groundwater and trickle into the popular reservoir southeast of Columbia near Sumter.

But Catherine Templeton, the Department of Health and Environmental Control's director, said Kestrel has spent \$10 million on administrative costs during the past 12 years – and her agency is increasingly uncomfortable with the overhead expenses.

"Our relationship is to the point where we are going to have to ask for another trustee," Templeton said late Friday afternoon.

Templeton said her department on Friday asked Kestrel to resign, as the company has threatened, effective in October, so that a new company can take over. If Kestrel does not resign, DHEC could fire the company or ask a judge to replace the company for cause, she said.

Kestrel Horizons' executive Bill Stephens was not immediately available for comment Friday. Templeton said Stephens has been dissatisfied with DHEC's questions about the company's performance.

Kestrel Horizons, headquartered in Greenville, is headed by a team of experienced environmental professionals. Among those is Stephens, the company's principal executive, who has 36 years of environmental and engineering experience. In South Carolina, Stephens helped manage removal of hazardous waste from the infamous Aqua-Tech/Groce Labs site in the Upstate.

Templeton emphasized that Kestrel has not done anything improper, but that her agency believes the site could be managed more frugally.

"It's not anything we believe to be illegal or inappropriate, it's just that it can be done better," Templeton said of Kestrel. "We need more money (to manage the site), and second of all we need to spend less money."

The landfill once was one of the South's few hazardous waste landfills but closed in 2000 after losing an extended court battle by environmentalists and the state Department of Natural Resources. The site had operated since 1978.

As part of a 2003 bankruptcy settlement with Safety Kleen, the site's previous owner, a trust was established to oversee and manage the shuttered landfill near the community of Pinewood for a century. The settlement established an annuity that was to pay the site's operating costs, including checking monitoring wells for signs of leaks and managing toxic water that trickled into the hazardous garbage years ago and must be removed regularly.

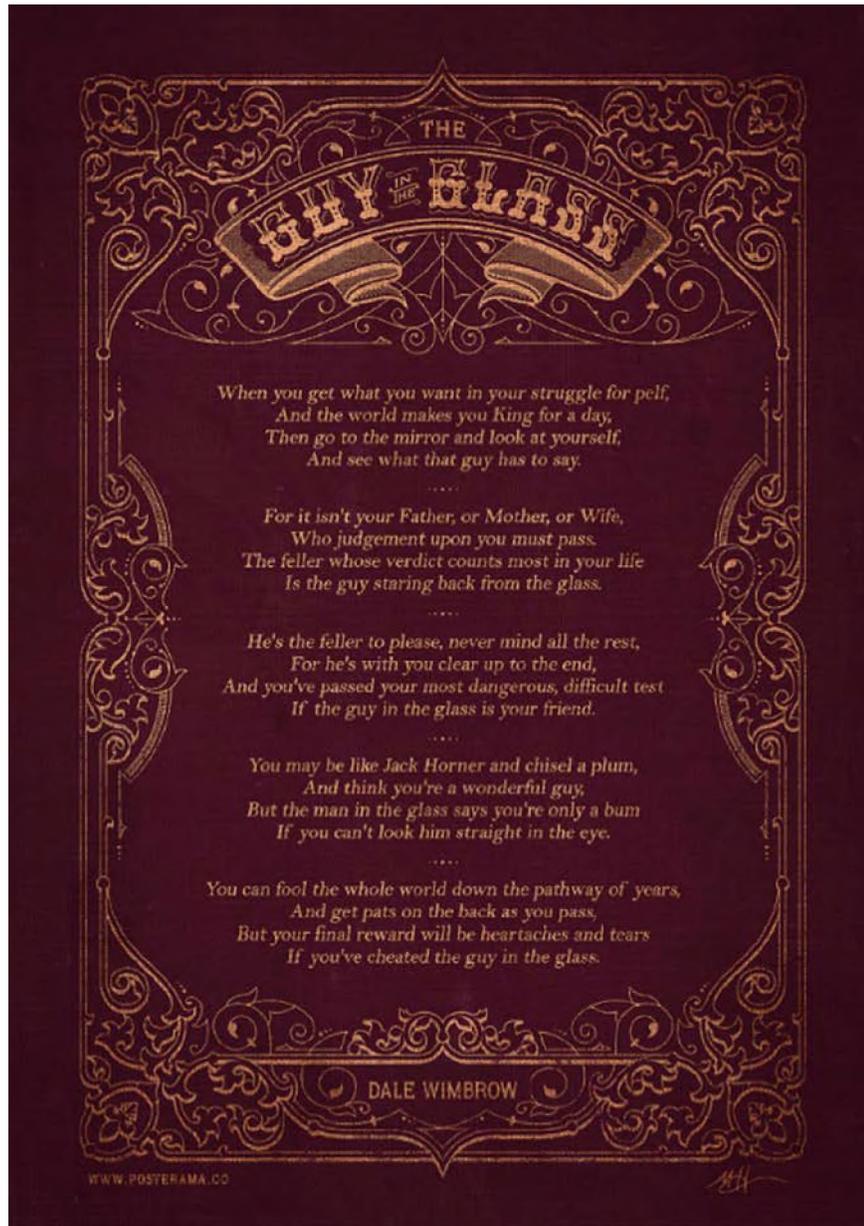
Records released earlier this year by DHEC, however, show that the annuity has brought in only about \$1.2 million annually since the 2003 settlement. Average annual operating costs have topped \$5.8 million, according to records released by DHEC.

Templeton took those concerns to the Legislature earlier this year in an attempt to find additional money for the landfill. At the time, she did not express concerns about Kestrel.

But Templeton said Friday the agency has been "nitpicking" in an attempt to save money for the site and "refusing to do business as usual with Kestrel Horizons. Just because you sent us a bill, that is not going to work. We need to know what the money went to."

Specifically, Templeton said DHEC has questioned a \$60,000 bill from Kestrel to work with a third-party consultant the agency plans to hire to examine the site, including how much waste was put there.

Read more here: <http://www.thestate.com/news/local/article13870994.html#storylink=cpy>



From: Bill Stephens

Sent: Thursday, June 30, 2016 1:59 PM



To: 'Heigel, Catherine E.'; 'Taylor, W. Marshall'

Subject: Ethical Standards for SC DHEC and South Carolina Government in General, as potentially influenced by submittals to ASCE - including Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

Catherine and Marshall – I am sending you the *Code of Ethics for Professional Engineers* of the National Society of Professional Engineers (NSPE) and the State of South Carolina Rules of governing Professional Engineers and Professional Engineering Firms. Note especially *Article 3: Rules of Professional Conduct* in the South Carolina rules and how most of the cannons and provisions of the *Code of Ethics for Professional Engineers* of the NSPE are incorporated as legal requirements.

The American Society of Civil Engineers (which includes Civil and Environmental Engineering) maintains a very active Ethics Committee, and the national organization gets involved in pursuing situations where Professional Engineers and Professional Engineering Firms encounter serious ethics issues resulting from the acts of others, including clients, other Professional Engineers, non-engineers, government employees, and elected officials. For example, the organization became involved when the registered Professional Engineer in the Flint, Michigan drinking water case became a “whistleblower.”

Clearly, I have transitioned from Trustee/PE/Permit Holder as Trustee through the “Whistleblower” stage to the “Watchdog” stage.

Given SC DHEC’s choice earlier this year to resume deceiving the public by posting a void/withdrawn RCRA Part B Post-Closure Permit Application with my certification and the certification of Kestrel Horizons, LLC, as Trustee – as well as continue to post incomplete, inaccurate, and deceptive pieces regarding the Pinewood Site represented as “authoritative” documents – I have decided that I need help to sustain the “Watchdog” role. The “Whistleblower” role is reserved for instances where new information or new transgressions come to light. That includes both the Pinewood Site and Twelve Mile River.

Having met with many individuals and entities over the past 20 months – and having received another call from Special Agent Kristina Gainey of SLED - I have concluded that no justice – civil or criminal – will be available at the State of South Carolina level.

The fact is, the role of SC DHEC management, SC DNR management, the Governor of South Carolina, and some SC legislators in the past five years regarding these two sites makes Chris Christie’s “Bridgeway” scandal, the Duke Power/ North Carolina Department of Environmental Quality (alleged) collusion scandal, and the Flint drinking water scandal pale by comparison.

My suggestion is that you commit SC DHEC to strict conformance with all applicable laws and regulations – and the NSPE *Code of Ethics* (or at least the SC *Professional Engineering Rules of Professional Conduct*). Further, I suggest that SC DHEC come clean with the public very soon regarding these two sites. You are not responsible for the past acts of others – but you will certainly be responsible for perpetuating them and continuing to conceal or attempt to legitimize them.



Frankly, I see some rather pathetic efforts to get arms around some of the most fundamental issues and choices involved in the Pinewood Site, in particular – and the Twelve Mile River site to a lesser, but still important, extent. The poor and misguided efforts, I believe, are due in large part to regulatory staff, consultants, and managers operating ignorant of the facts and technical understanding of the history, conditions, dynamics, conceptual site model elements, and critical physical and chemical fundamentals of the sites.

My promise to post a very large body of information regarding these two sites on a web site will be made good soon. Further disparagement of my reputation or further misuse of my work or the work of Kestrel Horizons, LLC or any of its former employees will be considered an affirmative commitment to legitimize and perpetuate past transgressions. Also, as you might imagine, any contact by Special Agent Kristina Gainey or any other individual who overtly or inferentially attempts to intimidate me is not advisable and will certainly result in a set of disproportional countermeasure responses and redoubled tenacity (if that is possible). Clearly, the best (and only feasible) defense from all of this is an unrelenting offense – and enlisting citizen reinforcements and national-level forces.

Finally, I continue to be dogged by the manner in which SC DHEC handled the conflict and split between the agency and Kestrel Horizons, LLC – particularly the inference of fiduciary malfeasance and fraud stemming from statements to staff and to reporters in 2014. To make matters much worse and degrading, SC DHEC staff and others (who are known to me and who I will not name here) continue to berate me to individuals within and outside the agency - and dismiss as “unreliable personal opinions” and “sour grapes” all past and present efforts to carry out my responsibilities as a Trustee and as a Professional Engineer of expert caliber who knows more about both of these sites than any five people alive today put together.

In the 20 months that have passed since October 31, 2014 – the final day of Kestrel Horizons, LLC service as Trustee of the PSCT and the last day of operation of the firm – I have not been able to get a single meeting – or even an oral or written response of any sort - in South Carolina with a prospective client or a prospective employer. That despite spending very strong and sustained efforts. That despite recommendations from three excellent attorneys (see attachments). That result despite a history of 35 years as consulting expert and a senior manager who was consistently responsible for securing and managing from \$500,000 to \$ 2 million per year in professional services for RMT, Inc. and Kestrel Horizons, LLC. In a separate email, I am sending a compendium of experience highlights that are being incorporated into the Sparrow Hawk Engineering and Sparrow Hawk Institute web sites.

Soon, I will be sending an open letter to Governor Nikki Haley. Among other things included in the letter will be the web address for the compendium of relevant and applicable information for public dissemination.

Good Day,

William A. Stephens, P.E.
Sparrow Hawk Engineering, LLC
121 Upcountry Lane
Travelers Rest, SC 29690



(864) 616 9332

From: Bill Stephens
Sent: Monday, June 27, 2016 8:21 PM
To: _____
Cc: _____
Subject: FW: Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

_____ – Here are the documents I sent to _____ a week ago. I would appreciate you making sure the committee leadership sees this email and the one I will send right afterwards, which includes highlights of my CV.

The text of the message I submitted after reading _____'s article is as follows (photographed from my iPhone). Please note that on the seventh line of the third image, "isn't" should be "client", and in the fourteenth line down "formerient" should read "former client". The intended words of a few other typos resulting from "autocorrect" are obvious.

Verizon LTE

7:33 PM

news.wjcl.com

 William A Stephens, P.E.

Your comment is awaiting moderation.

June 15, 2016 at 2:36 pm

I would like very much to present my personal experiences with ethical issues faced and addressed aggressively and professionally in South Carolina. One involves the Pinewood Site - at one time the second largest commercial hazardous waste landfill and treatment facility in the U.S. My firm served as trustee for the site for 11 years after Safety Kleen declared bankruptcy and the facility was left as it was on the last day of operation - raw and wide open. Ethical issues include covert and illegal acts by government officials to conceal very substantial imminent risks. The most vulnerable portion of the landfill contains 1 million cubic yards of untreated hazardous waste - much of it liquid in drums - placed in the early 1980's. The landfill had begun to release hazardous waste constituents and the leachate collection system, liner, and cover system are failing. The landfill is, in essence, 75 feet from Lake Marion, which is at the headwaters of the water supply for 1 million people - including the entire metropolitan population of Charleston. Our firm was terminated when we refused to defraud the citizens of South Carolina by signing a set of certifications regarding containment, monitoring results, and environmental risks. SC DHEC management sought to induce our firm, Kestrel

Horizons, and me, as Trust Manager and PE, to commit felonies under RCRA, the Clean Water Act, the SC Pollution Control Act, SC laws governing Trustees, and regulation governing Professional Engineers and Professional Engineering firms. The manner in which SCDHEC management went about dealing with us included a visit by State Law Enforcement and a thinly veiled threat of charges of fraud. SC DHEC has a new Director, and my disclosures are all widely distributed and a matter of public record. Elected officials and current SC DHEC management are attempting to address this very quietly through new funding to implement exactly what we recommended in 2014 in the packages that included our public disclosures. Our firm and my career viability were destroyed by the acts of government officials. We closed the doors of one of the finest small engineering firms in the nation on October 31, 2014. All that has ever been said about Kestrel Horizons and me by anyone other than the few top SC DHEC officials has been very positive. The stigma of being a "whistleblower" can be personally and professionally devastating. The reality is that I had no ethical, moral, or legal choice.

The second site is one of the largest CERCLA NPL sites involving PCBs in the nation. Facts, consequences, and actions are roughly parallel to the Pinewood Site and occurred in 2011. My

non-PE partners left the firm over my discovery and subsequent disclosure that a successor consulting firm had modified our drawings to indicate bedrock where only 250,000 cubic yards of in consolidated river sediments containing PCBs were. The subsequent consultant, at the direction of our former isn't, defrauded 22 adjoining property owners, eight state and federal regulatory agencies, and a federal judge in doing what they did with our/my professional work. Inconsolidated, very unstable floodplain sediments collapsed and are being transported downstream as a result of removal of two hydroelectric dams by our former client. The sediments - still containing PCBs - are accumulating in a bay at the end of Twelve Mile River as it flows into Lake Hartwell. The bay is proposed as a major recreation area, under the assumption clean sediments are covering previous PCB deposition. State and County officials appear to be ignoring my 2011 Notification of Imminent Threat to Public Safety as well as subsequent warnings made pursuant to SC PE regulations and the NSPE Code of Ethics.

I believe ASCE members will benefit from a review of these cases. I have made many presentations at conferences - to audiences from 15 to 400. Some have been keynote addresses.

William A (Bill) Stephens

William A. (Bill) Stephens, P.E.
Sparrow Hawk Engineering, LLC
121 Upcountry Lane
Travelers Rest, SC 29690



From: Bill Stephens
Sent: Tuesday, June 21, 2016 1:18 PM
To: _____
Subject: Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

_____ – Attached are several documents related to the Pinewood Site and Twelve Mile River. If you read the comment I submitted for _____'s article on the ASCE Convention Ethics Session, you will get the essence of the ethical issues and responses I would present. These cases have not been presented at a conference yet. The case studies involve many ethical and legal issues which are as perilous as any engineer will ever face. In South Carolina the NSPE Code of Ethics is included word-for-word in regulations – so ethical issues are also legal issues. The only other P.E. involved was _____, formerly of _____. Mr. _____ stamped drawings and other documents that altered documents I prepared and stamped. Mr. _____ is a chemical engineer with no civil engineering experience. Mr. _____ left _____ after my Notification of Imminent Threat to Public Safety, which revealed his misuse of the documents I prepared. My presentation would not mention him by name and _____ management did not likely know of or sponsor his misuse and misrepresentations.

William A. (Bill) Stephens, P.E.
Sparrow Hawk Engineering, LLC
121 Upcountry Lane
Travelers Rest, SC 29690

From: Bill Stephens
Sent: Friday, March 07, 2014 7:31 PM
To: templecb@dhec.sc.gov; dieckea@dhec.sc.gov; marshall.taylor@dhec.sc.gov; neeldq@dhec.sc.gov; Prince, Claire (princech@dhec.sc.gov) (princech@dhec.sc.gov); Dickman, Jacquelyn S. (dickmajs@dhec.sc.gov); Bryan Williams; Conner, Phillip L. (PConner@nexsenpruet.com)
Subject: PSCT Meeting and Agenda for Monday, March 10, 2014

All – This is to confirm our meeting to be held in the conference room across the hall from the office of Director Templeton in Columbia from 1:45 PM to 3:15 PM on Monday, March, 10, 2014.

The sole subject of the meeting is **“Potential Environmental Risks and Proposed Actions at the Pinewood Site”**. The subjects of Trust budget



approvals, Trustee scope and fees, regulatory permitting, and opportunities for cost savings and reduction in cash outlays from Trust funds are all very important; the sole subject for Monday afternoon is critical. Because of that, we will have to keep focused on the sole critical topic and get through critical information in the time allotted.

Since the subject is essentially risk analysis (technical, regulatory, legal, economic, financial, socio-political) and action alternatives, we ask that this meeting be conducted as a Board meeting would be conducted in a private sector company. To accomplish that dynamic, here are our proposed operating principles for the meeting:

1. Executive roles as follows:
 - Chairperson of the Board – Catherine Templeton
 - Treasurer / Board Task Manager - Elizabeth Dieck
 - Chief Executive Officer – Bill Stephens
 - Chief Operating Officer – Bryan Williams
2. Marshall Taylor and Phil Conner will provide input on legal questions. This input will not be considered legal advice, but rather guidance on questions and potential paths for the Board.
3. All persons attending are members of the Board without relative ranks with regard to participation in the meeting. To the extent possible, regulatory agency hats and badges will be hung outside the door for the duration of the meeting.
4. All Board members are encouraged to think as if the Trust were a model business enterprise intent on remaining in business indefinitely while also operating with the highest principles of integrity and civic responsibility. The shareholders are the citizens of South Carolina, each with an equal share.
5. Treasurer/Board Task Master Dieck will help Chairperson Templeton manage the focus and flow of the meeting. Board members will abide by the decisions of Treasurer/Board Task Master Dieck regarding time allotted and topics which must be addressed further outside the meeting.
6. Topics which require further investigation or discussion will be identified and captured by Treasurer/Board Task Master Dieck, and Chairperson Templeton will visit at the close of the meeting the plan to address, table, or dismiss these items.

The proposed agenda follows:

1. Opening remarks and instructions by Chairperson Templeton, with procedural questions by Board members (5 to 10 minutes)
2. Briefing by Stephens and Williams (25 to 30 minutes needed without questions and answers)



3. Discussion of the sole topic by the Board, with detailed questions and answers by Stephens, Williams, or others with relevant knowledge (up to 30 minutes)
4. Proposals of Board members for actions and decision paths, with discussion and resolution managed by Chairperson Templeton. (10 minutes)
5. Total time of Board meeting: 1 hour 30 minutes unless extended by Chairperson Templeton.
6. Given the nature and complexity of the topic, we should not expect to reach definitive decisions at the close of the meeting, but rather to leave the meeting with a fundamental awareness of the critical facts and a very basic path forward.

While this set of meeting principles and proposed agenda may seem rigid, we believe this is what will be required to efficiently and effectively address the immediate issues and needs associated with this subject. Immediate and substantial funding will be needed and requested, so we can all expect follow-up meetings and communications.

We hope this meets with your approval. If not, we hope we can arrive at a plan that will enable us to cover this critical topic with highest priority, as we plan, as Trustee, to take several necessary actions virtually immediately.

Have a good weekend.

Bill

P.S.:

We have attached a .pdf copy of Kestrel's Business Results Manager's Guide to Metals in the Environment. It is a prototype guide, and we are working on several others. Much of the content applies to all contaminants and to a wide variety of sites with serious environmental management challenges. We ask that you not print this or forward the digital copy to anyone, as we are only making it available to the public in paper form. You may want to scan pages 33 through 42 before the meeting. It will help with the "Norming" step.



The following figures were all part of the March 10, 2014 package delivered and presented to Director Catherine Templeton, Director Elizabeth Dieck, and six other senior managers of SC DHEC by the Pinewood Site Custodial Trust's Trustee team and the Trust's legal counsel.

These are provided for basic illustration of the depth of the Trustee Team's analysis of historical and contemporary factual information delivered and presented, based on the work of consultants to the Trust and the Trustee's own knowledge and experience.

The foundational technical work and various focused technical analyses were completed by various consultants – some of whom had stronger skills and knowledge than others in particular areas of subject matter.

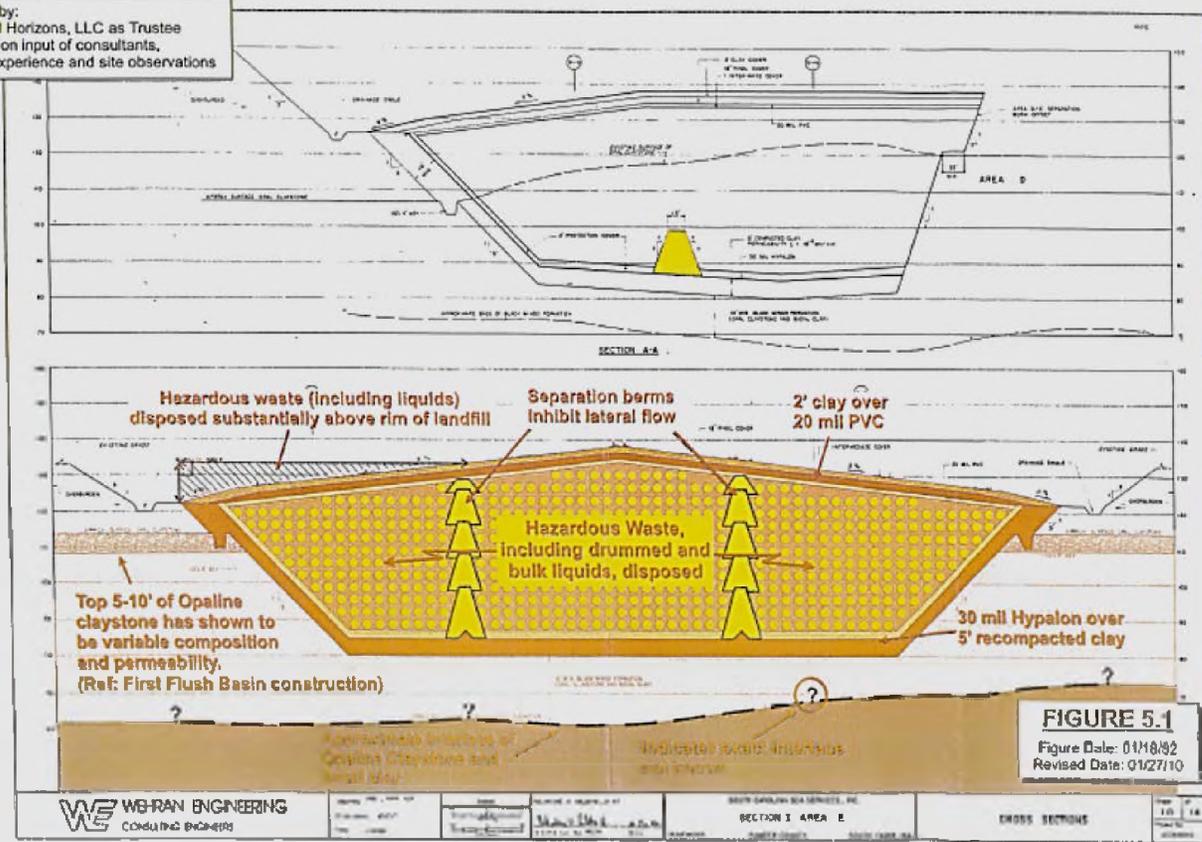
In one case, the expert technical consulting team chosen was partially replaced by individuals substantially less experienced and capable in the particular subject matter. The Trustee was diligent and persistent in managing that Trust consultant and worked during the Trustee transition to require that consultant to correct what the Trustee viewed as major errors and omissions. SC DHEC intervened during the trustee transition in that case and met separately with the Trust's consultant to arrive at conclusions consistent with DHEC's mythology regarding the site.

In fact no Professional Engineer ultimately certified the engineering work of that consultant and the Trustee terminated the relationship with that consultant after concluding that SC DHEC's intervention could not be overcome during the transition period July 25, 2014 through October 31, 2014.

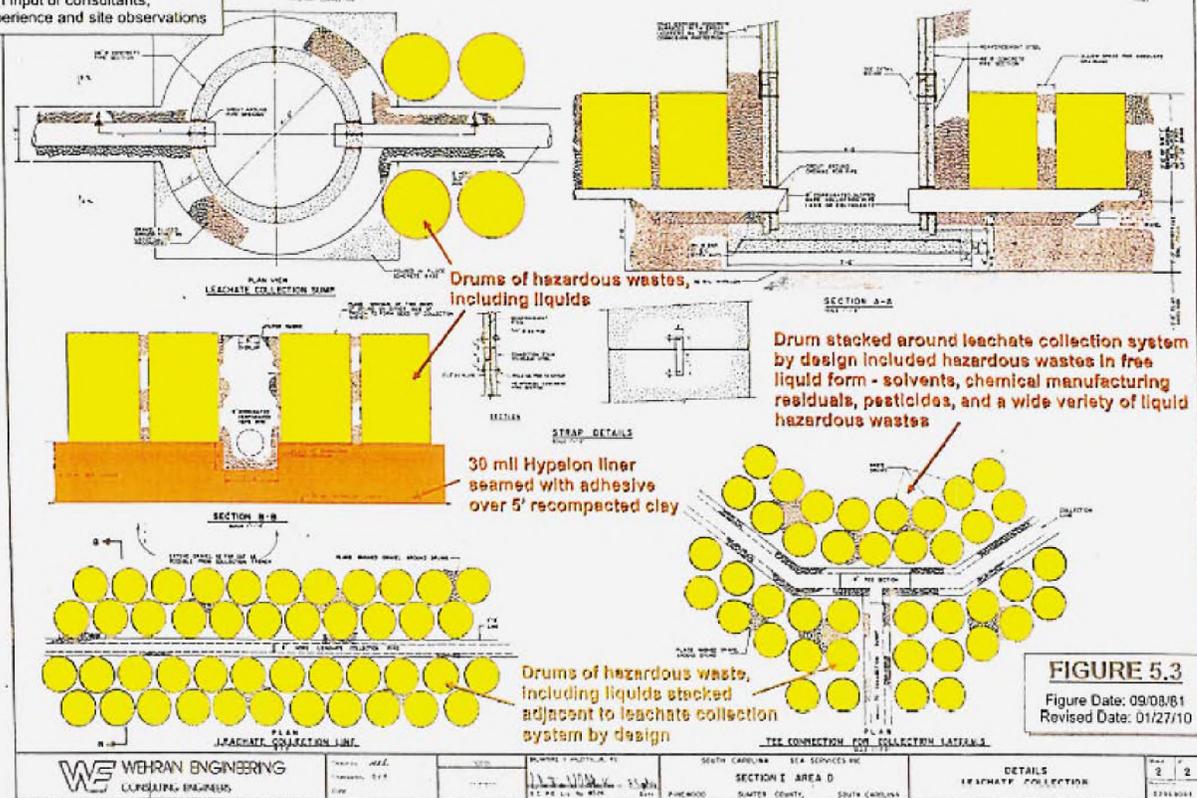
The actual technical field work of that consultant was not in question – only the interpretation of the results and the forensic significance with regard to the facility design, operation, and monitoring.

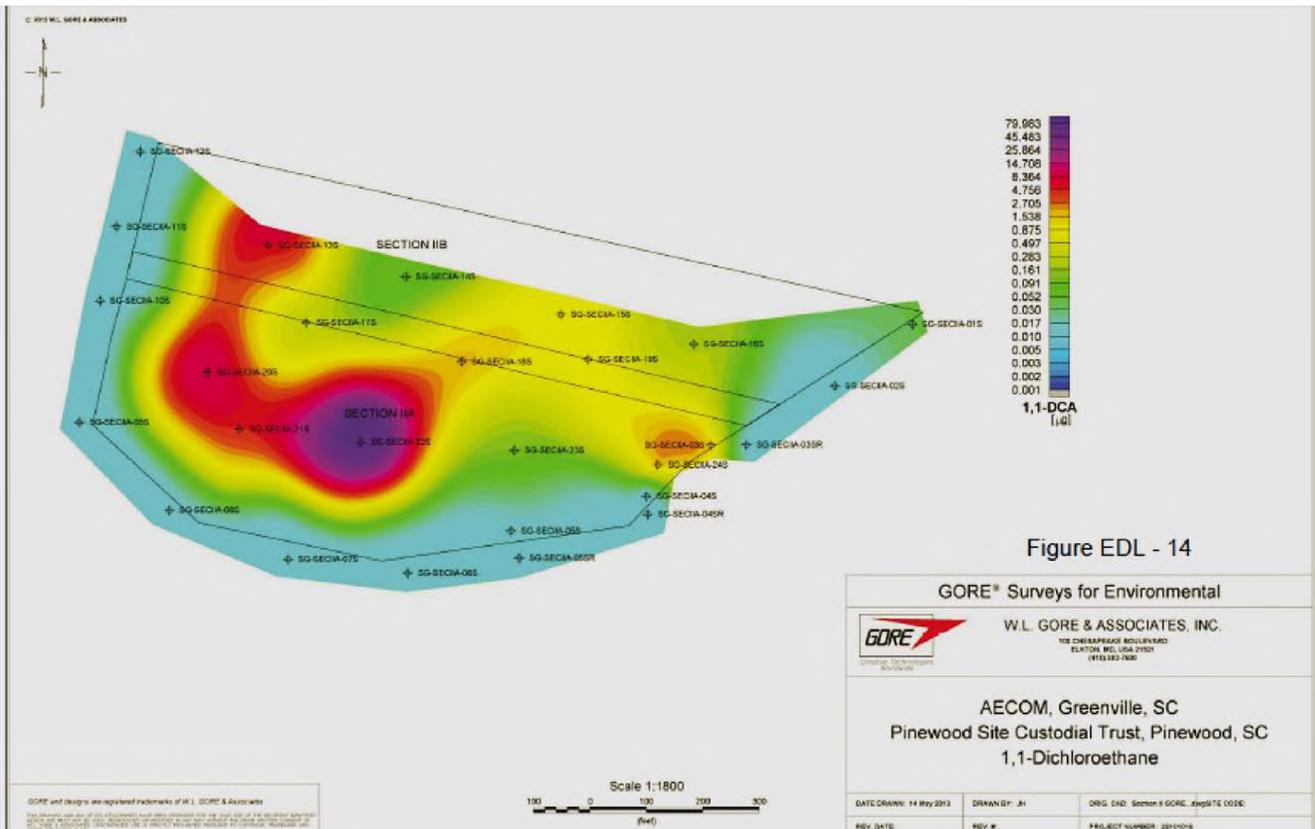
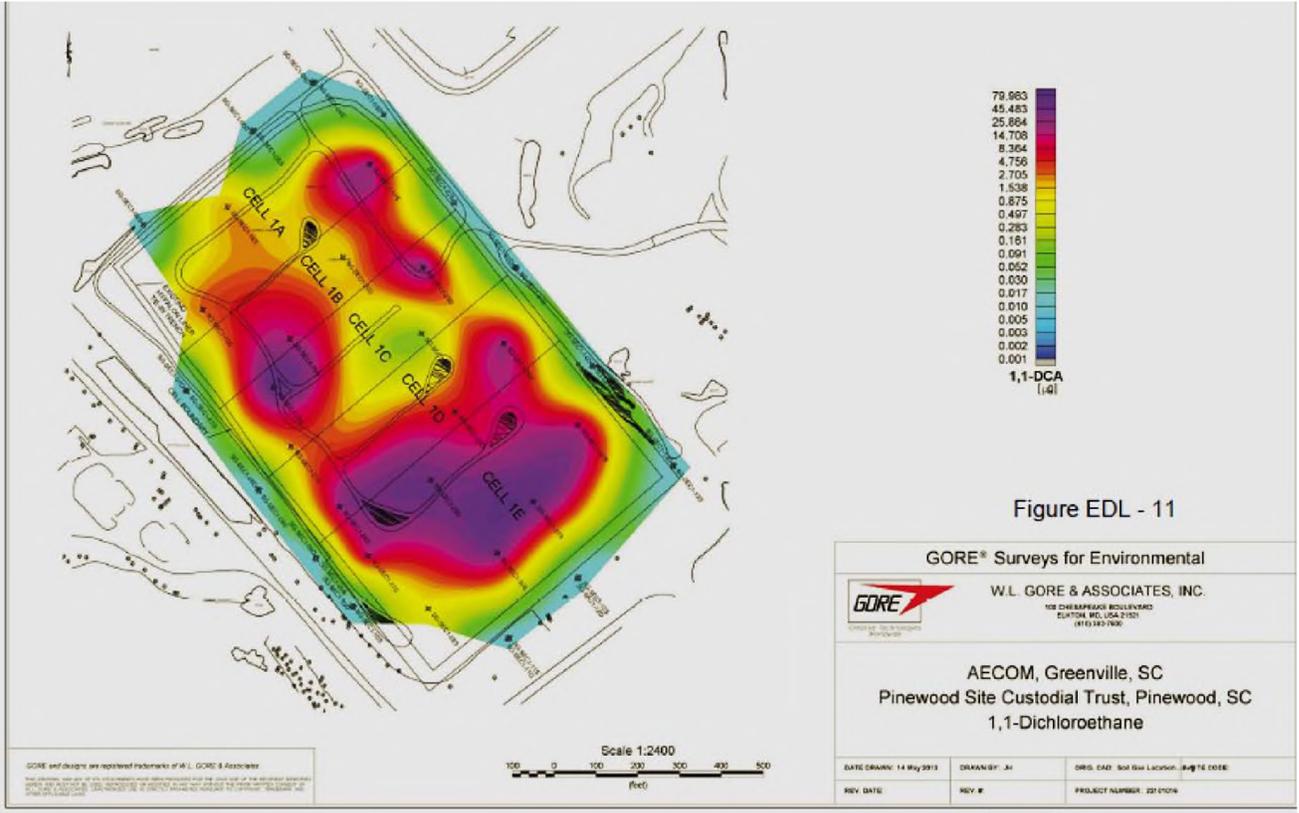
In 2003 SC DHEC management confirmed Kestrel Horizons, LLC as Trustee precisely because we were experts in our own right in most of the elements to be managed, thereby providing the ability to manage consultants independently of SC DHEC management or staff.

Notes by:
Kestrel Horizons, LLC as Trustee
based on input of consultants,
from experience and site observations



Notes by:
Kestrel Horizons, LLC as Trustee
based on input of consultants,
from experience and site observations







Qualitative Environmental Risk Summary of Landfill Section I and Historical SWMUs at the Pinewood Site

Brief Tool For discussion, information is for illustration purposes only. Do Not Cite, Quote, Copy or Distribute
February 25, 2014

Item	Sources and Pathways		Qualitative Risk Analysis Summary				Monitoring, Planning, and Corrective Action				Action Plan Summary	
	Source of Hazardous Waste Constituents / Hazardous Substances	Pathway / Figure Reference	Likelihood of a release	Consequence of a release	Overall risk potential of release	Evidence of release to date?	Routine detection monitoring program in place?	Preventive measures in place?	Corrective Measures Contingency Plan in place?	Can Corrective Measures be implemented in time to insure no significant environmental effect on Lake Mead?	Actions Proposed	Urgency of Actions
1.0 Landfill Leachate and Liquid Waste												
1.1	Liquid waste or leachate in Section I	Bottom release	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> Attempt to clean/flush leachate collection system Design means to install additional leachate extraction Install additional leachate extraction where collector system cannot be maintained to function adequately 	●
1.2	Liquid waste or leachate in Section I	Sidewall release below or within Opaline Claystone geologic unit	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> Same as Item 1.1 	●
1.3	Liquid waste or leachate in Section I	Sidewall release above Opaline Claystone geologic unit	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Same as Item 1.1, plus Design and install water table monitoring survey system Design and install monitoring system or field investigation to determine time of travel from sidewall to surface water discharge Evaluate preventative and remedial measures and select approach based on ability to insure environmental protection and minimize release and transport 	●
1.4	Liquid waste or leachate in Section I	Release at liner/cover interface	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Same as Item 1.3 	●
1.5	Liquid waste or leachate in Section I	Release from cover system	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Same as Item 1.3 	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partially ● Low/Not Very Serious/Yes/Likely ● Very Low/Of Minimal Concern/in-place
PSC Environmental Risk Rating Table 20140225 DRAFT W&S Page 1 of 4

Qualitative Environmental Risk Summary of Landfill Section I and Historical SWMUs at the Pinewood Site

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February 25, 2014

Item	Sources and Pathways		Qualitative Risk Analysis Summary				Monitoring, Planning, and Corrective Action				Action Plan Summary	
	Source of Hazardous Waste Constituents / Hazardous Substances	Pathway / Figure Reference	Likelihood of a release	Consequence of a release	Overall risk potential of release	Evidence of release to date?	Routine detection monitoring program in place?	Preventive measures in place?	Corrective Measures Contingency Plan in place?	Can Corrective Measures be implemented in time to insure no significant environmental effect on Lake Mead?	Actions Proposed	Urgency of Actions
1.6	Liquid waste or leachate in Section I	Historical spills on cover	●	●	●	Yes	NA	●	●	●	<ul style="list-style-type: none"> Assess whether remediation, removal and replacement, or supplemental covering is needed 	●
1.7	Liquid waste or leachate in Section I	Release from primary sumps	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> Continue regular maintenance and monitoring of sumps and sump lids 	●
1.8	Liquid waste or leachate in Section I	Release from leachate piping system	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> Continue regular maintenance and monitoring of piping and valve vaults 	●
2.0 Landfill Gas												
2.1	Gas in Section I	Bottom release	●	●	●	No	●	NA	NA	●	<ul style="list-style-type: none"> Gas release from the wetted bottom of the landfill, well below the water table, is highly unlikely. A release of gas from the bottom would become groundwater contamination, which would be detected in routine groundwater monitoring of geologic layers below the Opaline Claystone. Gas releases likely would be detected above the Opaline Claystone long before effects on deep groundwater would appear 	●
2.2	Gas in Section I	Sidewall release below or within Opaline Claystone geologic unit	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> Same as Item 2.1 	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partially ● Low/Not Very Serious/Yes/Likely ● Very Low/Of Minimal Concern/in-place
PSC Environmental Risk Rating Table 20140225 DRAFT W&S Page 2 of 4



Qualitative Environmental Risk Summary of Landfill Section I and Historical SWMUs at the Pinewood Site

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February 25, 2014

Item	Sources and Pathways		Qualitative Risk Analysis Summary				Monitoring, Planning, and Corrective Action				Action Plan Summary	
	Source of Hazardous Waste Constituents / Hazardous Substances	Pathway / Figure Reference	Likelihood of a release	Consequence of a release	Overall risk potential of release	Evidence of release to date?	Routine detection monitoring program in place?	Preventative measures in place?	Corrective Measures Contingency Plan in place?	Can Corrective Measures be implemented in time to insure no significant environmental effect on Lake Merion?	Actions Proposed	Urgency of Actions
2.3	Gas In Section I	Sidewall release above Opaline Claystone geologic unit	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Design and implement a routine gas monitoring program. Embed the new water table aquifer monitoring program to monitor for potential gas contribution. 	●
2.4	Gas In Section I	Release at liner/cover interface	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Same as item 2.3 	●
2.5	Gas In Section I	Release from cover system	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Same as item 2.3 	●
2.6	Gas In Section I	Release from primary pumps	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> None. Covers installed. Possible releases are from open pump bores before covers installed. 	●
2.7	Gas In Section I	Release from leachate piping system	●	●	●	No	●	●	●	●	<ul style="list-style-type: none"> None. Covers installed. Double-walled piping used for all leachate transport via pipe. Possible releases are from open vaults/basins. 	●
3.0 Historical Solid Waste Management Units (SWMUs)												
3.1	Pre-liner Cell IA Pit Remnants	Migration of potentially unexcavated waste and hazardous waste constituents that may have dissolved in groundwater prior to excavation for re-closure to the current lined Section I	●	●	●	Possibly	●	●	●	●	<ul style="list-style-type: none"> Design and install water table monitoring sensory system. Design and install monitoring system or field investigation to determine time of travel from general to surface water discharge. Evaluate preventative and remedial measures and select approach based on ability to insure environmental protection and minimize release and transport. 	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partially ● Low/Not Very Serious/Yes/Likely ● Very Low/Of Minimal Concern/In-place

PSCT Environmental Risk Rating Table 20140225 DRAFT WAG dx Page 3 of 4

Qualitative Environmental Risk Summary of Landfill Section I and Historical SWMUs at the Pinewood Site

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February 25, 2014

Item	Sources and Pathways		Qualitative Risk Analysis Summary				Monitoring, Planning, and Corrective Action				Action Plan Summary	
	Source of Hazardous Waste Constituents / Hazardous Substances	Pathway / Figure Reference	Likelihood of a release	Consequence of a release	Overall risk potential of release	Evidence of release to date?	Routine detection monitoring program in place?	Preventative measures in place?	Corrective Measures Contingency Plan in place?	Can Corrective Measures be implemented in time to insure no significant environmental effect on Lake Merion?	Actions Proposed	Urgency of Actions
3.2	WT006 Area / WP-1 / Former Maintenance Shop / Drum Storage Area Release Remnants	Migration of possible non-aqueous phase liquids (NAPLs) and groundwater affected by NAPLs and/or affected soils the source area	●	●	●	Yes	●	●	●	●	<ul style="list-style-type: none"> Resume groundwater recovery from French drains #2 and #4 installed along the southeast edge of Section III to prevent further migration of the W006 groundwater plume. Evaluate options for source area remediation and determine if implementation of additional corrective measures are feasible and warranted. Evaluate Section III stormwater runoff effects on plume migration. Enhance water table monitoring system in the east meadow ice area. 	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partially ● Low/Not Very Serious/Yes/Likely ● Very Low/Of Minimal Concern/In-place

PSCT Environmental Risk Rating Table 20140225 DRAFT WAG dx Page 4 of 4



Essential Components of Landfill Construction and Maintenance to Insure Containment of Hazardous Waste and Hazardous Waste Constituents

*Draft Tool For discussion. Information is for illustration purposes only. Do Not Cite, Quote, Copy or Distribute
February 25, 2014*

Item	Essential Component	Design and Function			Prevention and Corrective Action				
		In Original Design for Section 1?	Likely Functional at Section 1 Closure?	Likely Functional Today?	Is In-Situ Maintenance/Repair Feasible for Component?	Are Similar Design Components Reinforcing / Additional Feasible?	Are Additional Preventive Measures Feasible?	Likely Alternative Technical Measures	Is it Feasible to Install Just-in Time as Remedial Measure before Substantial Adverse Effects?
Liner Systems									
LS1	Membrane liner compatible with wastes and with permanent seams	●	●	●	●	●	●	• Perimeter containment barrier system	●
LS2	Recompacted clay liner system below membrane	●	●	●	●	●	●		●
LS3	Drainage blanket over membrane with protective soil over drainage blanket	●	●	●	●	●	●		●
Cover Systems									
CS1	Membrane cover compatible with wastes and with permanent seams	●	●	●	●	●	●	• Supplemental cover system	●
CS2	Recompacted cover compatible with wastes and with permanent seams	●	●	●	●	●	●		●
CS3	Drainage blanket over membrane that discharges water directly to storm water management	●	●	●	●	●	●		●
Leachate/Liquid Waste Management Systems									
LW1	Well-designed drainage blanket and piping systems Deep (3-5') depression at lower points in liner systems	●	●	●	●	●	●	• Additional leachate extraction	●
LW2	Maintenance features built into leachate collection system	●	●	●	●	●	●	• Possible hydraulic flushing from primary sumps	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partial ● Low/Not Very Serious/Yes or Likely ● Very Low/Of Minimal Concern/In-place

Essential Components of Landfill Construction and Maintenance to Insure Containment of Hazardous Waste and Hazardous Waste Constituents

*Draft Tool For discussion. Information is for illustration purposes only. Do Not Cite, Quote, Copy or Distribute
February 25, 2014*

Item	Essential Component	Design and Function			Prevention and Corrective Action				
		In Original Design for Section 1?	Likely Functional at Section 1 Closure?	Likely Functional Today?	Is In-Situ Maintenance/Repair Feasible for Component?	Are Similar Design Components Reinforcing / Additional Feasible?	Are Additional Preventive Measures Feasible?	Likely Alternative Technical Measures	Is it Feasible to Install Just-in Time as Remedial Measure before Substantial Adverse Effects?
Gas Management Systems									
G1	Active Gas venting system if significant potential for gas generator	●	●	●	●	●	●	• Limited active gas venting	●
G2	Extracted Gas Management	●	●	●	●	●	●	• Possible gas scrubbing, carbon adsorption, flaring	●
Monitoring Systems									
M1	Leachate head monitoring capable of detecting leachate head on liner system at sumps		●	●	●	●	●	• None seems to be needed at this time	●
M2	Patched leachate monitoring and extraction system	●	●	●	N/A	N/A	●	• Leachate head monitoring / extraction wells in landfill between primary sumps and near perimeter	●
M3	Groundwater monitoring in all aquifers potentially affected capable of detecting any significant releases before significant harm to environment or human health or safety	●	●	●		●	●	• Groundwater monitoring in water table aquifer - likely blanket or horizontal wells and/or geophysical remote sensing methods	●
M4	Surface water monitoring in all aquifers potentially affected capable of detecting any significant releases before significant harm to environment or human health or safety	●	●	●				• Monitoring internal ditches near sources	●
M5	Gas monitoring in all aquifers potentially affected capable of detecting any significant releases before significant harm to environment or human health or safety	●	●	●				• Gas monitoring above Opaline Claystone	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partial ● Low/Not Very Serious/Yes or Likely ● Very Low/Of Minimal Concern/In-place

**Essential Components of Landfill Construction and Maintenance to Insure
Containment of Hazardous Waste and Hazardous Waste Constituents**

*Draft Tool For Discussion, Information is for Illustration purposes only. Do Not Cite, Quote, Copy or Distribute
February 28, 2014*

Item	Essential Component	Design and Function				Prevention and Corrective Action			
		In Original Design for Section 1?	Likely Functional at Section 1 Closure?	Likely Functional Today?	Is In-Situ Remediation/Repair Feasible for Component?	Are Similar Design Components Deteriorating / Addressed Possible?	Are Additional Preventative Measures Feasible?	Likely Abrasive Technical Measures	Is it Feasible to Install Just-in Time as Remedial Measure before Substantial Adverse Effects?
Contingency Planning									
	Is Contingency Plan for corrective action designed and capable of being implemented in time to minimize adverse effects on:								
CP1	Groundwater	●	●	●	N/A	N/A	●	• Develop Contingency Plan for sudden and non-sudden releases	●
CP2	Surface Water	●	●	●	N/A	N/A	●	• Develop Contingency Plan for sudden and non-sudden releases	●
CP3	Soils	●	●	●	N/A	N/A	●	• Develop Contingency Plan for sudden and non-sudden releases	●
CP4	Sediments	●	●	●	N/A	N/A	●	• Develop Contingency Plan for sudden and non-sudden releases	●
Prevention									
	Preventative measures in place for significant risks which cannot be timely addressed by Contingency Plan for Corrective Action								
PM1	Groundwater	●	●	●	N/A	N/A	●	• Perimeter containment barrier system	●
PM2	Surface Water	●	●	●	N/A	N/A	●	• Separate non-contaminated from potentially contaminated surface water	●
PM3	Soils	●	●	●	N/A	N/A	●	• Limited action to address contaminated soils	●
PM4	Sediments	●	●	●	N/A	N/A	●	• No known need – monitoring primary sumps trend will advise	●
PM5	Air	●	●	●	N/A	N/A	●	• No known need – monitoring trend will advise	●

Legend: ● Very High/Very Serious/No/Needed ● High/Serious ● Moderate/Partial ● Low/Not Very Serious/Yes or Likely ● Very Low/Of Minimal Concern/in place



Closing and Offer to Meet

Governor, I recognize this string of communications and the various attachments, and the thousand pages of documents to be posted publicly on **rubiconpartyofone.us** is very detailed and complicated.

What it all boils down to, Governor Haley, is this:

1. South Carolina's government institutions charged with protecting human health and welfare and our environment and natural resources are constantly subject to tampering and manipulation by South Carolina elected officials.
 - a. Managers and staff of these agencies too often – and once is too often – become pawns of politicians, induced to commit unethical acts – and in some cases illegal acts. These acts do not benefit the citizens of the State of South Carolina, but rather the elected officials and their interests. The ends do not justify the means.
 - b. This dynamic absolutely must change – and a citizen-based watchdog function must be established to insure that. Transparency of governance and fidelity to the citizens of the State must be assured by objective, non-partisan oversight.
2. Existing conditions at the Pinewood Site pose substantial risks to South Carolina's environment and natural resources – risks that are not managed or manageable without construction of additional containment and controls.
 - a. The site's environmental monitoring and "early warning systems" are not capable of detecting the most probable catastrophic types of releases of hazardous waste or hazardous waste constituents before the releases have already caused substantial harm.
 - b. The most probable catastrophic types of releases cannot be prevented or stopped such that major damage to Lake Marion would be controlled in real time.
 - c. This site is a priority location for management of threats to the homeland. It should be protected by means and measures commensurate with that priority. Enough said.
3. The cost of ongoing operations of the Pinewood Site will be very difficult to control without government decisions enabling on-site treatment and disposal of post-closure hazardous waste management residuals.
 - a. These methods will not only save costs but will be more reliable than depending on commercial waste companies and will facilitate substantially greater active control of failing containment and extraction systems of the oldest and most risk-laden parts of the four million cubic yard facility.
 - b. These methods become absolutely logical and justifiable once one comes to grips with the realities of the site and admits the urgent needs.



- c. Capital and operating investment will be required – as will wavier of South Carolina laws and regulations prohibiting and/or artificially constraining on-site management of hazardous waste management residuals.
4. The Twelve Mile River situation requires a thorough technical review by an entity not involved as a Lake Hartwell Natural Resource Trustee group member.
 - a. That excludes the South Carolina Department of Health and Environmental Control and the South Carolina Department of Natural Resources.
 - b. The United States Environmental Protection Agency should also be sidelined, as that agency was complicit in allowing the situation and conditions to develop which requires objective other-party review. Some US EPA staff may be fact witnesses.
 - c. The United States Army Corps of Engineers must be involved because a substantial portion of Twelve Mile River to be evaluated is under the care, custody, and control of the US ACE.
 - d. Risks to be evaluated include public safety, environmental risk, and human health risk remaining after the cessation of the Twelve Mile River Restoration project by Schlumberger Technology Corporation. I use “cessation” rather than “completion” because the project was never completed, despite the agreement of the Lake Hartwell Natural Resource Trustees that it was completed. That agreement by the Trustee group let Schlumberger “off the hook” for latent conditions the group knowingly allowed to remain.
 - e. Responsibility for latent conditions posing unacceptable risks to safety (including safety of 22 property owners who consented to the project with the implicit government promise protection of their safety, health and welfare) lies now with the Lake Hartwell Natural Resource Trustees and the United States Army Corps of Engineers. Since representatives of all of those parties were involved in the decisions to accept Schlumberger’s responsibilities as “complete” and sign off on the federal Consent Decree that bound Schlumberger, the objectivity of those agencies is in serious question.
 - f. Pickens County plans to spend more than two million dollars to create a recreational area that will enable kayakers and swimmers to use the reach of Twelve Mile River essentially unconstrained. A swimming and boating area is planned for the bay area that has accumulated tens of thousands of cubic yards of sediment from collapsed floodplains which were tested and found to contain up to 150 parts per million PCBs. The threshold for concern for swimmers and kayakers is 1 ppm in sediments, meaning that if highly contaminated sediments from the collapsed floodplains re-deposit in areas downstream – including the planned swimming and boating area – significant unmanaged risks might be allowed to exist for many years.

Governor, I will make myself available to discuss these critical issues with you. My suggestion is that we plan for two to three hours – or possibly two meetings, one introductory and the second a discussion of issues and potential actions.



I would suggest your office and the DHEC and DNR agencies use caution in responding to this letter and the documents to be placed on **rubiconpartyofone.us**. A dismissive, patronizing, or contentious response will result in broad distribution and tenacious, unrelenting pursuit of the truth. These issues will either be resolved or sustained and dissected alongside other national issues facing the citizens of the nation in 2016. In short, governor, you and the government managers under your control will either be cast as part of the solution or part of the problem.

Please keep in mind some government employees may face criminal charges or civil actions with regard to the matters discussed here. I urge you, Governor, to use caution so that you will not be judged to be endorsing or protecting criminal, unethical, or illegitimate behavior.

I would be more than happy to discuss with you any aspect of our tenure as Trustee, our analysis of the situations at the Pinewood site and Twelve mile river, and needs for reform in ethics and improvement in knowledge and capabilities of government regulatory staff and management. I will also gladly discuss the results of any reviews, audits, assessments, or criticisms of our service as Trustee of the Pinewood Site Custodial Trust and the laws, regulations, and standards governing trustees, fiduciaries, and Professional Engineers.

I am in the process of constructing timelines to link the many and varied documents with events, as I typically have done for litigators in major litigation matters. I will forward those to you so you might more clearly associate the various pieces with the development and scope of the issues.

Thank you, Governor, to whatever level of attention you can give to these important matters which are so important to protecting the health and welfare of citizens, the protecting and preserving of our environment and natural resources, sustaining and growing our economy, protecting the liability exposures of taxpayers, and conscientiously abiding by the rule of law.

Respectfully,

William A. Stephens, P.E.

	William A. Stephens, P.E.* <i>Principal</i>
SPARROW HAWK™	
Sparrow Hawk, LLC 121 Upcountry Lane Travelers Rest, SC 29690 wstephens@sparrowhawk.org	(864) 616-9332
Engineering* □ Contractor and Construction Management* Expert Litigation Support □ Environmental Strategies *Contact for State Licenses and Registrations	





Attachment A
to
**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**

The Pinewood Site

Today is the second anniversary of a day the welfare of South Carolina citizens and South Carolina's natural resources took precedence over political ambitions and abuse of power by government officials – possibly including you, Governor. Two years ago today Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust submitted a hazardous waste facility post-closure permit application to SC DHEC in direct defiance of the illegitimate directions of former Directors Catherine Templeton and Elizabeth Dieck.

Among other things the former Directors did not want included in the permit application were legally-required disclosures of releases of hazardous waste constituents, estimates for post-closure, an outline for investigation of conditions potentially posing substantial risks to the environment, a discussion of the inadequacy of the environmental monitoring program to reliably and timely detect releases from the landfill, a discussion of Interim Corrective Measures to prevent catastrophic releases, and the issues associated with hazardous waste unit compliance with potentially relevant South Carolina Location Standards.

Kestrel Horizons, as Trustee, was required to hold permits and insure full compliance with all applicable laws and regulations. To have omitted the information listed above, while certifying the permit application as ***“true, accurate, and complete”*** would have constituted major felonies under state and federal hazardous waste laws as well as violations of laws governing Trustees and Professional Engineers.

Despite many months of discussions between Kestrel Horizons, as Trustee, and SC DHEC management, and submittal of documents prepared with the advice and involvement of legal counsel to the Trust (a public trust) describing legal requirements and means of satisfying those requirements, SC DHEC management insisted the permit application not include nearly 1,000 pages of required documents. The difference would have amounted to elimination of three large ring binders and about 50 maps and figures, reducing the application from 17 binders to 14. I say that because, at one point, two SC DHEC managers suggested that omitting the required material would reduce the bulk of the application and make review by citizens easier.

So, on Friday, July 18, 2014 – the mandated deadline for submittal of the permit application, with SC DHEC management unrelenting in their directions – Kestrel Horizons submitted the most complete permit application possible – and outlined further work needed to complete the technical and legal work needed to comply with the law.



On July 22, a SLED agent – Special Agent Christina Gainey – showed up at the gate of the Pinewood Site, yammering to a site worker something about illegitimate contributions to the Village of Pinewood – and leaving her business card. I was subsequently informed that Special Agent Christina Gainey was on your personal security detail at the time, Governor.

On Friday July 25, DHEC General Counsel Marshall Taylor came to Kestrel's office in Greenville, SC to inform us that Director Templeton had decided to request Kestrel's resignation, as Trustee. SC DHEC was and still is both Beneficiary of the Trust and primary regulatory agency – a conflict the agency struggled with since the Trust's inception in 2003.

Mr. Taylor had just arrived, and before we could initiate conversation, reporters began to call requesting to speak with me about Kestrel's termination as Trustee. Media reporting and DHEC management and staff statements are discussed later in this letter and attachments.

The purpose and intent of DHEC management statements, beginning on March 10, 2014 were to first intimidate, then to disparage Kestrel Horizons, as Trustee, and me personally as Kestrel's Managing Principal and spokesperson.

Below is the resignation letter we provided to DHEC General Counsel Marshall Taylor the evening of July 25, 2014. It was accompanied by a box of additional documents we wished to place into the public record. I have no idea where those documents ended up, but I have never seen them references – nor have I seen the documents we provided to satisfy legal requirements for public disclosure of conditions, risks, costs, and legal issues with the July 18, 2014 hazardous waste facility permit application referenced publicly by DHEC.



July 25, 2014

Directors Catherine Templeton, Esq. and Elizabeth Dieck, Esq.
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Resignation of Kestrel Horizons, LLC from Position of Trustee of the Pinewood Site Custodial Trust

Dear Director Templeton and Director Dieck:



Effective today, we are providing notice of our resignation from the position of Trustee of the Pinewood Site Custodial Trust. After months of concentrated effort trying to work with Department managers and staff to fully and finally address what we believe to be serious environmental, technical, legal, regulatory, financial, and economic issues, we have reached an impasse.

We will not provide detail here, but rather refer to the RCRA Post-Closure Part B Permit application amendments submitted to the Department on July 18, 2014 by Kestrel Horizons, as Trustee, and the three volume set of documents submitted to you today.

The purposes of the Pinewood Site Custodial Trust, as stated in Section 3 of the Trust Agreement (effective date December 24, 2003) include the following phrases:

- “. . . maintaining the Pinewood Facility in an environmentally protective manner and in accordance with applicable law.”
- “. . . for the benefit and protection of the people of the State of South Carolina.”

The Trust Agreement requires the Trustee to do the following (among other things):

- “. . . perform such measures as are necessary to comply with the Permit [the Hazardous Waste TSD Facility Permit, dated March 21, 1994]. . . .”
- “. . .to employ and compensate engineers, environmental consultants, project managers, . . . attorneys, . . . and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust, and the achieving of its purposes...”

We have concluded that Kestrel’s orientation towards addressing potential threats to health and the environment rather than waiting for substantial threats to develop, and prevention of adverse environmental effects rather than develop “just-in-time” cures, are incompatible with the Department’s preferred approaches.

Directors Catherine Templeton, Esq. and Elizabeth Dieck, Esq.

July 25, 2014

Page 2 of 2

Kestrel has always been committed to full public disclosure of all aspects of the Trust operations and of Pinewood Site conditions and challenges. *The Pinewood Story*, which is updated and posted on the Pinewood Site web page each January, is one example of this commitment. All correspondence with the Department over the past 10 years and seven months since the inception of the Trust on December 24, 2003 conveys that transparency and clear articulation of issues, concerns, legal



and regulatory frameworks, alternatives, economics and financials, risks and risk management strategies, required decisions, and proposed plans.

Kestrel Horizons, LLC will, of course comply with the terms of the Trust Agreement and will plan to meet with Department managers regarding arrangements for a transition.

Sincerely,

William A. Stephens, P.E. Managing Principal

KESTREL HORIZONS, LLC

84 Villa Road, Suite 300 • Greenville, SC 29615 • Phone: 864.288.6353 • Fax: 864.288.6354
706 Orleans Road • Charleston, SC 29407 • Phone: 843.769.4449 • Fax: 843.573.8721 www.kestrelhorizons.com

In the 95 days that followed the July 25, 2014 event, Kestrel Horizons completed work necessary to transfer the Trust to an Interim Administrator. We also retained – at our own cost – a highly-qualified national expert, Dr. Ronald Falta of Clemson University, to develop an expert opinion we could provide to the citizens of South Carolina along with our final report.

The first page of the September 18, 2014 final report looks like this:



Kestrel Horizons, LLC
As Trustee of the
Pinewood Site Custodial Trust

84 Villa Road, Suite 300
Greenville, SC 29615

864/288-6353
Fax: 864/288-6354
www.kestrelhorizons.com

September 18, 2014

Final Report to the Citizens of South Carolina

from William A. Stephens, PE, Managing Principal,
Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust

Regarding: Urgent Matters Involving the Pinewood Site and the Pinewood Site Custodial Trust



Fellow Citizens of South Carolina:

The conditions, issues, risks, and needs of the Pinewood Site and the Pinewood Site Custodial Trust discussed in this report are serious and immediate. Some are urgent. I have tried to organize and summarize the interrelated information so that it can be understood as well as possible by people not intimately familiar with the subject matter; however, there is no way to make some of the information simple.

Below is my attempt at a summary of the most important points: Please see *The Pinewood Story*, included as Attachment H for an orientation to the Pinewood Site and the Pinewood Site Custodial Trust. The discussions that follow assume you have at least scanned those and have a basic familiarity with the site history, setting, layout, and design as well as the Pinewood Site Custodial Trust fundamentals.

A Perspective on the Scale and Magnitude of the Pinewood Site:

1. **Section I of the Pinewood Site hazardous waste landfill** contains approximately 1 million (1,000,000) cubic yards of hazardous waste.
 - o For visualization, one cubic yard is a cube measuring 3' x 3' x 3'.
 - o One cubic yard contains 202 gallons.
 - o **Therefore, Section I contains approximately 200 million (200,000,000) gallons of hazardous waste.** (1,000,000 cubic yards x 202 gallons per cubic yard)

Let's imagine that each person in the entire United states between the ages of 18 and 65 held a gallon jug of **hazardous** waste and stood in a single file line three (3) feet

*

Most of the issues addressed here and in the body of documents referenced regarding the Pinewood Site were addressed many times during the tenure of Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust. I have continued to periodically address issues related to the Pinewood Site since October 31, 2014, when Kestrel Horizons, LLC ended its role as Trustee; for example I prepared and submitted a detailed set of comments and a presentation in response to a request from a South Carolina Senate committee regarding a so-called "expert report" commissioned and presented by the previous management of SC DHEC. The report was a sham that attempted to legitimize and support the deceptions perpetrated and perpetuated by former SC DHEC management. I refused to testify alongside the sham presenters, but have offered to testify alone. No response on that offer.



Earlier this year SC DHEC attempted to use obsolete, incomplete, and superseded permit application documents to initiate a RCRA hazardous waste facility permit renewal process in a manner that can only be characterized as intentionally deceptive, highly unethical, and patently illegal. This attempt included the illicit use of my signatures and certifications to defraud the citizens of the State. That is the unvarnished truth.

I learned of this attempted deception inadvertently as part of my watchdog vigil. I have learned the hard way that vigilantes can play an essential role in insuring responsible governance in the State of South Carolina – no different than for the nation as a whole.

Regarding a Few Critical Issues of the Pinewood Site

Beginning July 18, 2014, Kestrel Horizons, as Trustee, began addressing these issues publicly as a result of the actions of management of South Carolina Department of Health and Environmental Control (SC DHEC), which are discussed briefly here and in substantial detail in the documents to be published on the two web sites. The Trust Agreement governing Kestrel Horizons' responsibilities clearly established the paramount duty of the Trustee as service to the citizens of South Carolina; as such the duties were (and still are for the successor Trustee) parallel to yours and to those of the management of SC DHEC.

Further, I am a registered Professional Engineer – and Kestrel was a licensed Professional Engineering Firm – in the State of South Carolina. The South Carolina law governing Professional Engineers states:

49-301. Responsibility to the Public.

The Engineer or Land Surveyor shall hold paramount the safety, health, and welfare of the public in the performance of his professional duties.

A. The Engineer or Land Surveyor shall at all times recognize that his primary obligation is to protect the safety, health, property and welfare of the public and shall conduct his practice to fulfill this obligation.

B. If the judgement of the engineer or land surveyor is overruled under circumstances where the safety, health, and welfare of the public are endangered, he shall inform his employer of the possible consequences and notify other proper authority of the situation, as may be appropriate.

Finally, agents of SC DHEC did not disclose to Kestrel Horizons, prior to execution of the Trust Agreement in December, 2003, the scope and depth of the Trustee's responsibilities with regard to environmental permitting and compliance – or the fact that the hazardous waste facility permit had actually expired in 1994 (and remains expired at this time).

The significance of being required to comply with that expired permit – as well as illegitimate air emissions permit and a deficient water discharge permit – was that Kestrel Horizons, LLC, as Trustee, and I, as responsible signatory for Kestrel Horizons, as



Trustee, would be required to certify all permit application renewals applications and compliance documents as ***“true, accurate, and complete”*** – under penalty of felony violations of South Carolina and United States environmental laws and regulations. The penalties for violations of the various relevant federal regulations are specified as ***“up to \$35,000 per day per violation plus imprisonment”*** [paraphrased for brevity]. Penalties for parallel South Carolina regulations are the same or similar.

I have reiterated these three points many times to management of SC DHEC and other South Carolina agencies, elected officials, stakeholders and intervenors in various legal matters involving the Pinewood Site, and media representatives. While the legal provisions seem absolutely unambiguous to me, others seem to respond with a collective shrug. Unfortunately, that’s central to the problem. Citizens, government employees, and elected officials have become accustomed to chronic lack of accountability of civil servants. That is widespread problem in our nation; however, South Carolina seems to be a leader in this “shirking phenomenon”.

Here is a simple technical explanation of the conditions at the Pinewood Site. You and other readers may want to skim the attached Resume´ and Experience Highlights of William A. Stephens, P.E. to satisfy yourselves as to the expert qualifications of the author. SC DHEC management originally confirmed Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust on April 15, 2003 in large measure based on experience, capabilities, eminence, and integrity.

I co-founded Kestrel Horizons, LLC and managed the firm and the Trust during Kestrel’s ten year and ten month tenure as Trustee. SC DHEC management had the benefit of a Trustee team that knew as much or more about most subjects than the many consultants and contractors we hired and managed.

In addition, I led a forensic engineering team more than twenty years ago to evaluate the design, construction, and operation of the Pinewood Site. While the focus of that detailed analysis was the more “modern” landfill containment system design being employed nearly fifteen years after the landfill operations began, we learned enough about the original construction and operations to cause very serious concern. Those concerns were related to our client, Laidlaw Environmental Services, at that time.

While Section I was not the primary subject of the independent expert forensic review in 1993, I never forgot the discussion and comparative analysis of the expert team of technology evolution and application. Several technical observations of inadequacy of the Section I hazardous waste containment system, i.e., liner and cover systems, and the leachate collection system were related verbally to Laidlaw management during the briefing to review the team’s technical report. The written report – in keeping with the scope of the professional engagement – addressed the then-current design and construction of Section II, Cells IIF and IIG, which was proposed to be employed in Section III, as well.

A team member testifying with me in 1993 before a South Carolina Senate Committee confirmed in public testimony that the materials of construction and wastes disposed in Section I of the Pinewood Commercial Hazardous Waste Landfill were cause for serious concern with regard to potential releases.



The focus of the testimony was Section II and the future cells and sections of the landfill. When the team was asked by Senator Leventis whether there was cause for concern regarding the integrity of Section I, the team's most senior materials expert answered, "Oh yes! I should think so!" He was and is a world-renowned expert in landfill containment materials and construction. The other team members, including me, agreed with Dr. Peggs' statement. I believe that statement left a lasting impression on Senator Leventis – as it should have. The management of Laidlaw was not pleased about that statement, but we were there to present our findings and conclusions and to respond to questions truthfully, as is required of registered Professional Engineers.

The background knowledge and technical assessments of experts of Kestrel Horizons were conveyed many times orally and in writing to management and staff of SC DHEC, beginning soon after we assumed the role of Trustee on December 24, 2003. So frequently and persistently were these critical topics addressed that SC DHEC management turned deaf ears our way and became passively combative when the facts below were advanced again and again.

Governor, I can provide no less than twenty detailed documents and summaries that provide these facts and analyses in words, charts, numbers, graphics, and photos.

- a. The five landfill cells of the oldest section of the Pinewood Site contain approximately 1 million cubic yards (200 million gallons) of hazardous waste disposed between 1978 and 1985. Much of that hazardous waste was originally contained in steel drums, and the rest is a mixture of bulk liquid, semi-solid, and solid hazardous wastes – all mixed with soil, hazardous debris, and other materials. This section – Section I – is one of three sections and it contains approximately one fourth of the total volume of hazardous waste disposed at the site.
- b. Section I of the landfill has the worst of the waste, the worst of the containment systems, the worst leachate collection system, and is the closest to Lake Marion. It is also the oldest. From a regulatory standpoint, all of the waste in all sections and cells of the Pinewood Landfill is classified as "hazardous waste". From a technical standpoint, the toxicity, mobility, persistence, potential for production of more substantial hazards and risks from underground reactions, and environmental transport characteristics make Section I wastes far more "hazardous" than wastes disposed after the initiation of federal Land Disposal Restrictions in the late 1980's.
- c. The liner system of Section I consists of a rubberized fabric similar to the material used for life rafts with 1½" glued seams underlain by approximately five feet of re-compacted clay. Facility records and SC DHEC documentation indicate little construction quality assurance management or materials testing was apparently employed in Section I, and documentation of the construction is sparse in comparison to standards applied a decade later.
- d. One former facility manager who left DHEC to join the commercial waste company operating the site is quoted by longtime facility employees as



frequently remarking, "*We don't need no CQA*"; CQA stands for construction quality assurance. While such anecdotal evidence is far from reliable, nothing I have seen in the records or in an forensic review of the design, construction, and operation of the landfill I led in 1993 leads me to question the sparsity of construction management in Section I.

- e. The relatively thin rubberized fabric with glued seams employed in Section I was represented to the public by the commercial waste companies and SC DHEC as "impervious" and "resilient". In fact, the material used for the Section I liner (known as Hypalon[®]) was not at all compatible with many of the hazardous waste constituents of that section, which include chlorinated and non-chlorinated solvents. The method for seaming Hypalon[®] with glue involved applying solvents to "soften" (partially dissolve) the synthetic rubber. The reality is that the Hypalon[®] liner system was seriously compromised before the landfill cells were closed in the early 1980's.
- f. The "membrane" liner and cover system in Section I is shot. The Hypalon[®] (synthetic rubber life raft) liner was no doubt compromised within a few years of its installation in the early 1980's. Solvents, rubber life raft material, and 1½" glued seams don't mix. That's the main reason the US EPA withdrew its endorsement for Hypalon[®] liners in commercial hazardous waste landfills and DuPont (the manufacturer of Hypalon[®]) began cautioning against the use of Hypalon[®] in liner and cover systems in which solvents would be contained that might dissolve the synthetic rubber and the glue used in seams.
- g. A shift to heat-welded high density polyethylene HDPE (a plastic membrane) made Hypalon[®] virtually obsolete for commercial hazardous waste facilities in a matter of months. Section I, which was closed in 1985, employed Hypalon[®] for the liners of all cells, and polyvinyl chloride (PVC) sheets for all cover. Section II liner and cover systems were constructed with heat-welded HDPE membranes – which were all substantially thicker than Section I materials.
- h. The re-compacted clay liner beneath the Hypalon[®] fabric in Section I is also no match for the hazardous waste leachate from that section. Solvents desiccate clay and make it porous and "cracked". Solvents at concentrations found in Section I leachate desiccate the re-compacted liner clay, weakening the structural bonds that provide some integrity and liquid containment. Even small cracks and weaknesses compromise hazardous waste containment.
- i. All the construction of re-compacted clay in the liner and cover system of Section I had less quality control than the construction of a highway. A lot less. The Facility Manager at the time famously and frequently repeated, "*We don't need no CQA!*" CQA is Construction Quality Control. For reference, that's the same guy who cobbled together the Safety-Kleen/Laidlaw Closure and Post-Closure Cost Estimates used in the law suit/bankruptcy settlement with SC DHEC.



- j. The cover system of Section I was overlapped plastic sheets less than twice the thickness of contractor trash bags you buy at the store – and made of plastic that becomes more brittle over time. In other words, it falls apart. Degradation of the cover system lets rainwater in, which produces leachate and hydraulic pressure within the landfill. It also can allow hazardous waste, leachate, and gases containing hazardous waste constituents to be released to the environment. The evidence clearly shows all of these things have been transpiring, and the extent of releases and risk of releases are now increasing.
- k. Corrosion of steel drums in Section I will result in continuing releases of high strength wastes within the landfill; these releases likely began a decade or more ago, as the average life of a steel drum in a landfill is about 20 years. The variation of characteristics and increasing hazardous waste constituent content of the Section I leachate indicate the progressive release is indeed occurring.
- l. The functional hazardous waste containment in Section I is likely more reliant on “trapping” of liquids in pockets and natural voids throughout the mass of the waste than on the original design features. Think of Section I as a giant clogged drain. The hazardous waste solids and soils placed in layers may be a primary (or the primary) feature containing the hazardous waste constituents. Solvents can “unclog the drain” and liquid pressure can flush the contaminants through the containment into the environment. We are relying on a layer of gunk at the bottom to protect Lake Marion and resources downstream. Kind of like depending on scum and hair mat in a drain to contain the contents of the tub. A little “Draino[®]” would result in a very big problem.
- m. When we see water pouring in the Section I leachate collection sumps after a rain from all joints and cracks top-to-bottom, that is not a flaw to be fixed; that is proof positive that *leachate* flows horizontally within the waste and that the cover system is totally inadequate. In 2010 the Trust spent a lot of money to replace 45 primary sump tops and to install “skirts” (think underground umbrellas) around each sump with welded synthetic membranes and re-compacted clay soils.
- n. The huge increase in leachate in some areas of Section I in the past few years is not due to localized flaws in the cover system around the sumps. In fact, we can be thankful the sump joints leak; if they didn’t we would be seeing leachate come out the sidewalls and cover seams. Section I is under hydraulic pressure – at least in some places. Small vapor pressures from chemicals can help dissolve chemical that can penetrate the already-critically-compromised liner system and cover system.
- o. The leachate system cannot be cleaned out like the sewers we have under our streets. A really awful flaw in the design of the entire landfill – especially when combined with the liner and cover system that was never built to last. Several sumps produce little leachate compared to their adjacent sumps,



indicating the drainage system that sits just above the Hypalon® liner and is supposed to route leachate to the sumps for removal are plugging or virtually plugged.

- p. Only small releases – as little as one tank truck load – are needed to cause serious environmental issues and require large expenditures for environmental remediation. Since the facility is at the headwaters of the public drinking water supply for hundreds of thousands of South Carolina citizens, any release caused by knowing and willful negligence or failure to timely implement preventative measures is too much. An ounce of prevention is worth a pound of cure. The ratio for money later versus money now is potentially much higher – not including damage to South Carolina's economy.
- q. The single-lined cells of Section I (all of them) and the single-lined cells of Section II (IIA and IIB) are NOT “at least 1200 feet from Lake Marion”, as advertised for 35 years. They are and always have been 75 to 125 feet from Lake Marion. That's because the unrestricted storm drainage from the site runs next to the single-lined cells and is deep enough to receive releases from sidewalls and the cover systems. Releases of hazardous wastes or hazardous waste constituents to Lake Marion could take minutes to a few hours to reach the lake – not decades or centuries. The fact is, it doesn't take an expert at all to figure this out. Just wash some food in a colander. If anyone tries to repeat the 1200 foot/three century myth to you, you know you are looking at a fool.
- r. The importance of understanding and accepting that all landfills – and especially the Pinewood Hazardous Waste Landfill – can leak out the sides and the top is that the time-of-travel for contamination then becomes months or years, and leaks like those are difficult to detect with standard groundwater monitoring wells.
- s. The “sidewall” leaks are usually narrow “plumes” (maybe 10 to 20 feet wide) that find underground paths, called preferential pathways. Think of these as “underground streams”. These “releases” of hazardous waste contaminants would flow on top of the Opaline claystone and might never be detected in the groundwater monitoring system beneath the Opaline claystone layer. Instead, these types of releases might flow directly to the lake and discharge to the lake much like the water we see flowing down the rocks alongside the highway when we go through the mountains.
- t. A monitoring well system cannot reliably detect the kinds of landfill leaks or releases that are most likely and catastrophic. That's been known for 25 years. Interception trenches, called “French drains” are the surest way to detect and manage sidewall leaks in real time. Monitoring wells would have to be placed very close together (approximately 20 feet apart) over a distance of more than 7,000 feet to insure small, continuous or intermittent sidewall releases could be detected. Even then, monitoring wells alone would not provide real time prevention. At this time, the shallow groundwater



monitoring system has a very low likelihood of detecting a sidewall or cover system release – possibly as low as 2%. That should be 98%.

- u. Leachate management – especially extraction, immobilization, and treatment - is the single most expensive and critical element of post-closure care and operations of the Pinewood Site. This is the element that, inadequately managed, could result in runaway costs, as well as adverse environmental effects and major legal liability exposures for the Trust and the State.

I will not attempt to discuss this complex and critical topic here; I will say that, if the Trust and the State rely on the commercial waste industry, costs and liability exposures (for future abandoned sites) will be very difficult to control. That was a major challenge for Kestrel, as Trustee, after the DuPont facility in New Jersey discontinued commercial waste acceptance in 2011. Costs for off-site leachate disposal rose by a factor of five in just a few years. That's why *in situ* immobilization and on-site treatment and disposal are so critical to the Trust and the State. DHEC stopped Stage II of the treatment system development in 2012; that was a foolish, shortsighted mistake that must be rectified.

Below are important excerpts from Kestrel's final report:

Final Report to the Citizens of South Carolina

from William A. Stephens, PE, Managing Principal,
Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust

M **A Few Words About Costs and Funds**

I have not addressed in this report exactly why the funds provided as a result of the settlement between DHEC and Safety-Kleen didn't last 102 years, as advertised by DHEC in 2003. The Pinewood Story, which is included as Attachment H tells some of the story – the cost part. The rest of the story is much fuzzier – and I don't mean warm and fuzzier.

The plain truth is that the "estimates" prepared by Safety-Kleen and accepted by DHEC managers who managed the settlement negotiations were preposterously low, beginning in 2007 and running through 2105. For example, the "estimates" included only ¼ of one person (500 hours per year) to perform virtually all operations and maintenance tasks. At the time, Safety-Kleen had 12 people doing the same tasks.

We have been able to operate the site since March 2004 with three people doing those tasks – thanks to the amazing skill and dedication of the managers and staff of Sumter



Transport Company. But ¼ of one person? It never passed the red face test, and the faces of the managers of Safety-Kleen got red when we confronted them with this and other questionable entries in the ‘estimates’ in the summer of 2003 several months before the Trust was formed. The 500 hours per year was made to look like a decimal error (being reduced from 5,000 in 2006 to 500 in 2007 and beyond. Other costs, such as maintenance materials, spare parts, and equipment were simply entered as \$0. The answer Safety-Kleen gave to our questions was, (paraphrased) *“It will be highly automated by then, and the second fund – the \$35 million New Environmental impairment Trust fund - is there to cover any shortfalls.”*

When we discussed the glaring deficiencies and errors in the estimates with DHEC managers involved in the settlement negotiations at the time, the answer was that the numbers were set, except for any credits Safety-Kleen might get for work done during the bankruptcy. Kestrel provided the basis for DHEC to deny approximately \$1.35 million in Safety-Kleen offset claims (all claims) and to secure another \$1.3 million for excess leachate management. I know that one very capable DHEC manager had reviewed the Safety-Kleen estimates and told the DHEC managers involved in the settlement negotiations that the Safety-Kleen estimates were *“low by a factor of ten”*. His memorandum should be in the Pinewood files at DHEC.

Hey, it was a bankruptcy and the DHEC folks did pretty well. The mistake was not telling the public it was the best that could be done under bankruptcy conditions. That’s why DHEC people get down under their desks whenever the subject of funding comes up.

And perpetuating that deception only complicates things. For example, last year DHEC instructed Kestrel to cease work on advanced treatment of leachate – to “save money”. Kestrel tried to explain that advanced treatment might be necessary to reduce off-site disposal costs, but DHEC wanted to save the \$250,000 to \$450,000 needed to do treatability testing, engineering design, and installation of a chemical oxidation process.

Now, the site has accumulated a large quantity of leachate treatment residuals with low levels of pesticides and very high concentrations of salts. Because the pesticide concentrations are slightly above Land Disposal Restrictions, the residuals cannot be stabilized and disposed at another hazardous waste landfill – much as the one in Emelle, Alabama. Instead, they must be incinerated at a hazardous waste incinerator, and the very high concentrations of inorganic salts cause big maintenance problems with the incinerator, so the net difference in cost for disposal of these residuals accumulated is now greater than what would have been the cost to design and install the relatively simple chemical oxidation process. That’s hundreds of thousands of potential cost savings lost because current DHEC managers understand only cost cutting – and not economics or return on investment.



6. We saved the *The Most Important Point* for last:

The sky is not falling and the Pinewood Site is not about to break loose from its moorings and float down to the ocean. Hazardous waste constituents being found on site outside landfill containment does not necessarily mean a plume of contamination has moved or is moving beyond the facility boundary or into Lake Marion.

Hazardous waste constituents were detected in 1998 in a storm water study report we found recently on the internet – a report we never found in site records. Hazardous waste constituents found in seeps, French drains, storm water, pore water in landfill cover and adjacent soils, and gas in soils above and adjacent to the landfill liners all point to the need for the actions described as follows.

These monitoring results point to clear trends that warrant risk-based decisions and careful attention to conformance with the National Contingency Plan standards required for successful pursuit of Potentially Responsible Parties under the Comprehensive Environmental Response, Compensation, and Liability act (CERCLA) , also known as “The Superfund Law”.

No landfilled waste needs to be removed and taken off-site to make the Pinewood Site safe. In fact, digging in the single-lined cells (because they have drummed waste of all different chemical compositions) would be dangerous. Characterizing chunks of the stew and getting another commercial waste facility to accept it would be challenging to say the least. Most would need to be incinerated and the costs would be sky high.

The fact is that, with the types of measures proposed by Kestrel Horizons, Dr. Ronald Falta, and several consultants to the Trust over the past ten years, the Pinewood Site can be made safe for the next century.

And it will not be “exorbitantly expensive”. Here’s are the basics needed:

- Shallow vertical barriers such as liquid-tight sheet pile walls to block the shallow release pathways. These will only have to be 20 to 45 feet deep. Sheet piles along the coast of South Carolina are in the same depth range or greater.
- Simple French drains like the ones already used and proven on the site,
- A new and expanded cover system for single-lined cells – especially all of Section I. The new cover system needs to extend beyond the vertical barriers and can be placed over the top of the existing cover.
- Enhancement of the existing leachate extraction system – especially in the single-lined cells. The existing ones are plugging or plugged and were never



designed to be maintained. This is tricky, but there are some good methods to accomplish this economically and safely

- Pumping systems in place to extract - in real time - hazardous waste constituents between the original liner/cover containment and the new landfill barrier/cover containment system. These pumping systems will require some tanks be dedicated to receive this liquid, as it might be highly contaminated or marginally contaminated.
- Treatment capacity and capabilities to stay ahead of changes in leachate. This may require treatment of leachate from different landfill cells using some different processes. We built the new leachate treatment system with plenty of space for expansion and addition of treatment equipment – both basic and advanced. The building was built to RCRA hazardous waste containment building standards and has a thick membrane underneath. Almost everything is stainless steel. That's why it was so expensive.

The main thing is to stay ahead of the changes in leachate composition. That takes treatment testing and some pilot scale work. This is essential for cost management. You have to “skate to where the puck is going to be.” Don't confuse cost cutting with sound management of economics. Any fool can walk in and say, “*Stop doing that. It costs money.*”

- An active gas collection and treatment system (if treatment is actually needed). No passive systems; they don't work.
 - Major storm water management improvements to insure separation from potential contaminants. These will involve piping, membranes, concrete flumes, and some special structures. Some changes in roadways will be needed, but they're easy.
 - And a robust, reliable environmental monitoring system and environmental data mining tools making use of the body of knowledge available – including especially the experts who teach and do research at Clemson and the University of South Carolina.
-



And Some Recent Thoughts:

Actions Needed to Mitigate Risks and Manage Costs at the Pinewood Site

The cover system of Section I is not just failing – it is contaminated. Hazardous solvents have been detected at up to 100 times the drinking water standard (in other words, hazardous waste levels) have been detected in the cover soils above the worn-out plastic layer. That contaminated water runs off into storm water systems that discharge into Lake Marion every day. Dilution is the current solution. Not good. Not good. No time to waste.

The weight of the new cover system is a legitimate and serious concern. We don't need to compress the waste and squeeze our leachate until we can handle it. Compressing will squeeze it out the sides and top. Really not good.

The solution may not be extracting the leachate at all; the solution may be stabilizing it and immobilizing it in place.

So here are some fundamentals: Leachate is in the voids of the waste, which occupy up to 35% of the volume of the waste. One million cubic yards of waste and contaminated soils in Section I may be 35% voids – air (gas) or leachate. That's 350,000 cubic yards. At 202 gallons per cubic yard, that would be about 70 million gallons of space. Let's say, for example, 20% of that is leachate and 80% is air (gas). That's 14 million gallons.

The quantity on leachate from Section I alone has apparently gone from about 350,000 gallons per year several years ago to more than 750,000 gallons per year now.

While installing an excellent cover system (think umbrella) is essential, there is still a lot of leachate in pockets (called "perched leachate") in the fill. Compression due to weight of the new cover will not only put a squeeze on the leachate, it will reduce the voids – and not likely evenly. That means the new cover system could have dips and gaps within years. Not good.

So here is a solution: Inject, under low pressure, through a progressive series (lines, grids?) of direct-push tubes, a powdered suspension of Fuller's earth – the same material that was manufactured at the site in the 1970's before the landfill. This is basically the same method as is used to place Portland cement concrete under water. The tubes, or tremmies, may be a combination pneumatic/hydraulic design. That's for people who are experts in that technology to figure out.

The beauty of Fuller's earth is that it absorbs many times its weight in liquid. Up to 40 times – but easily ten times. Also, the coverage does not need to be perfect. Leachate will find the Fuller's earth. They like each other. And some free leachate we can deal with.

This approach can also be used to temporarily immobilize leachate (or contaminated pore water) in the Section I cover system. I must stress that the soil in the Section I cover system should not be disturbed without being stabilized.



Fuller's earth could certainly be mined on the "South Property" – the 169 acres south of the main fence – owned by the Trust – or possibly at the mine a few miles across the Sumter County/Clarendon County line, just past Rimini. Digging it out and hauling it is easy and cheap, but it needs to be dried to the point of desiccation – usually in a small, semi-portable rotary kiln. Then it would need to be pulverized to a powder – easy to do.

Pressure injection may require addition of some kind of surface tension reduction agent – a surfactant. Somebody smart can figure that out. Lots of products and experts.

Injection would likely start near the bottom and the sidewalls – but a vertical or sloped drainage layer near the sidewalls would be very important to relieve any hydraulic pressure during the injection and for all time. Powdery ("sugar") sand.

Since this is a pin cushion type system, some of it could be done before the new cover system is installed, and some after. The HDPE membrane for the new cover system would be 80 mil thick and welded – like the new primary liners in Section III. Patching and welding the "pin-pricks" for injection points is easy and certain.

This method might accomplish the following:

1. Manage the hydraulic head on the liner and cover system – old and new,
2. Save \$\$\$\$ for leachate treatment,
3. Minimize dependence on off-site disposal at commercial waste facilities, which minimizes costs and off-site CERCLA liabilities,
4. Minimize short-term and long-term containment costs at potentially low costs,
5. Would not rely on boring holes in the waste or excavating waste, which would be exciting (in a bad way) and risky,
6. Would not rely on chemical reactions such as solidifying Portland cement – which would likely be inhibited greatly or completely defeated by the chemistry of the leachate and wastes,
7. Would not cause extreme concern over a release point if the injection accidentally penetrated the old liner system, as Fuller's earth would be injected. (The injections would likely stay five to ten feet from the liner bottom and sidewalls, anyway.)
8. Could facilitate forming underground features such as internal barriers or partitions, internal drainage patterns, stable layers, porous layers,
9. Could be done over time and repeated, if/where necessary,



10. Fine-grained sand could be injected where needed, as well, e.g., near sumps, near sidewalls,
11. May help control gas migration, if properly designed and installed,
12. Could be accomplished with available, proven technology by a range of contractors,
13. Would reduce concern over long-term effects of the weight of the new cover system,
14. Would not rely on thermal technology, thereby minimizing energy demand that would be necessary to form ceramics – especially on a large scale underground. No new dedicated power generating facility needed to accomplish.

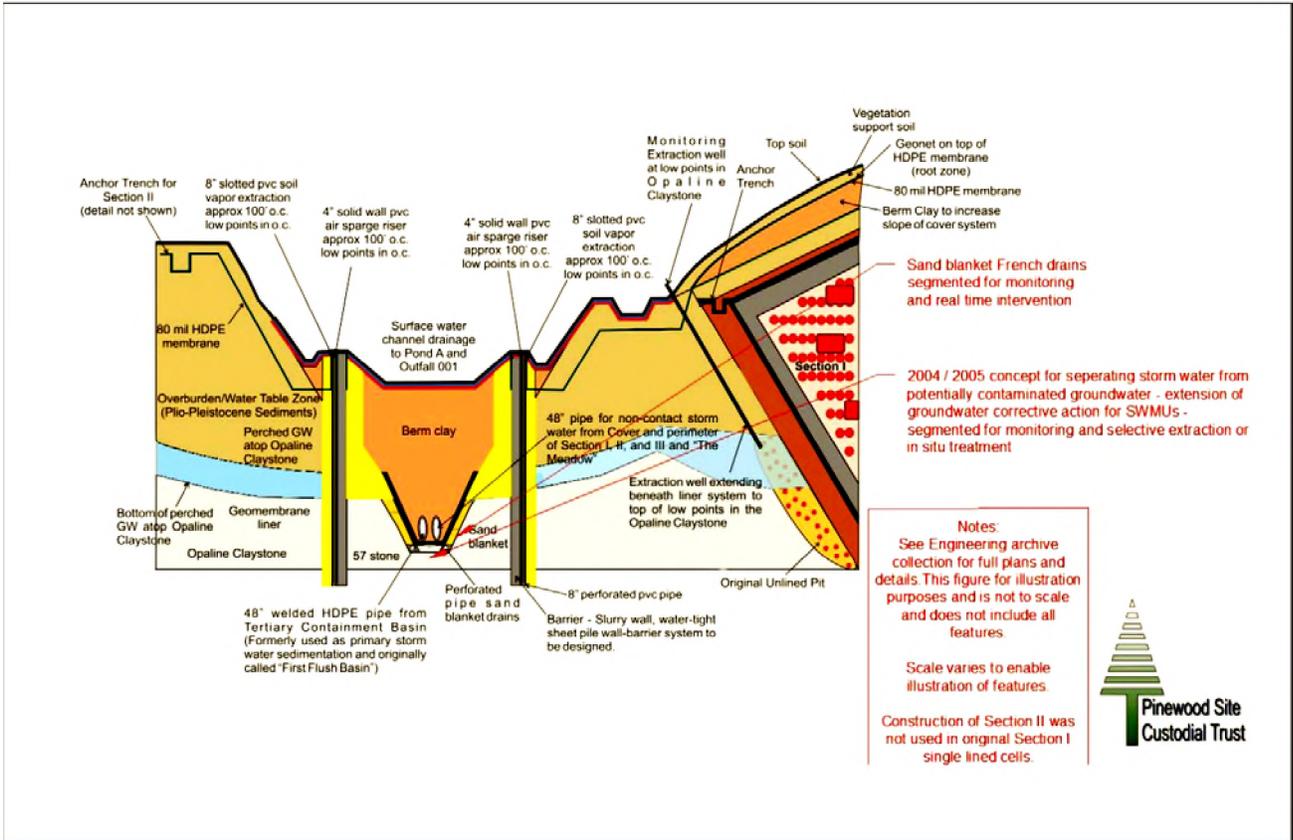
The leachate solids (and possibly stabilized leachate, itself) should be disposed in a dedicated landfill cell to be constructed within the double/double lined Closure Cell the Trust constructed in 2004 and 2005. Some of the 750,000 cubic yards of clean soils placed with the Closure Cell can be removed and used in construction of the new cover system for Section I. A relatively small lined sub-cell within the Section III Final Closure Cell would provide the best possible security of hazardous waste residuals that are generated on-site.

All active commercial hazardous waste landfills are now incorporating secure Post-Closure Disposal Cells based on the experience of the trust and DHEC at the Pinewood Site.

These actions will save tens of millions – and possibly hundreds of millions- of dollars over the next century, while providing strong security and environmental protection.

Trenches and blanket drains are essential. In fact, it was in a trench drain that releases from Section I were first detected a long time ago. Water table monitoring well systems at the Pinewood Site just create a false sense of security. Total reliance on water table monitoring wells around landfills is archaic regulatory folly. If a hydrogeologist or engineer tells you otherwise, you've got the wrong "expert". Kick him or her to the curb just like Kestrel Horizons did. I doubt DHEC staff will be repeating the myth again, but there are still a few remaining who were part of the problem.

**One Conceptual Approach
to Preventative and Remedial Measures
for Single-Lined Landfill Cells**



End of Attachment A to

**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**



Attachment B
to
**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**

Twelve Mile River

Brief Introduction

In much of South Carolina property owners actually own to the approximate center of an adjoining water body. They own the banks and the beds of the creek, river, lake, or whatever. That is the case for Twelve Mile River – except that just below the location of the former Woodside II Dam near the historic village of Catachee, the United States of America took ownership decades ago. The United States Army Corps of Engineers is custodian of that part of Twelve Mile River and all of Lake Hartwell, into which Twelve Mile River empties.

At the mouth of Twelve Mile River as it empties into Lake Hartwell is a very wide spot in the river that forms a delta. It is a favorite spot for boating and swimming. It has been getting a bit shallower of late. The 'dogleg bay' as some refer to it is filling up with sediments from the collapse of floodplain sediments upstream. The floodplain sediments that were formed by and contained by the Woodside I and Woodside II Dams before they were removed by Schlumberger under a Consent Decree signed by Federal Judge G. Ross Anderson in 2006.

The Twelve Mile River Restoration Project undertaken by Schlumberger Technology Corporation pursuant to a federal consent decree between the company and the Lake Hartwell Natural Resource Trustees has left the floodplains that lie on twenty two private properties unrestored – and in some areas dangerous. "Adaptive management" ruse.

Further, legal aspects of the botched and uncompleted restoration project that resulted from the collaboration of Schlumberger and eight state and federal agencies – chief among those SC DHEC and SC DNR – complicate the situation.

SC DHEC, SC DNR, the US EPA, three federal agencies, and Special Receivers for federal Judge G. Ross Anderson, Walter "Billy" Wilkins, Esq. and Leon Harmon, Esq., received a wealth of compelling information from numerous sources clearly describing the existence of more than 200,000 cubic yards of unstable floodplain sediment contained by the Woodside I and Woodside II Dams. Floodplain sediments contained by the dams and containing PCBs at substantially higher concentrations than the sediments in the channel itself that were to be removed by Schlumberger. Floodplain sediments containing up to 50 parts per million (ppm) of PCBs – 50 times the average PCB concentration in sediments that typically concerns regulatory agencies. (One sample by a consultant hired by Pickens County actually showed a PCB concentration of 150 ppm.)



Now the compelling sources of information were aplenty and included none other than a modeling expert for the United States Army Corps of Engineers. He did a \$50,000 model and reported his findings to the Twelve Mile River/Lake Hartwell Natural Resource Trustees and the Special Receivers (Wilkins and associate Leon Harmon). Incredibly, the Remedial Project Manager for the United States Environmental Protection Agency suggested in a meeting I attended (to be discussed later) that no more testing of PCBs be done by Schlumberger. An outspoken representative of one federal agency abruptly “retired early” soon after she suggested at a Natural Resource Trustee meeting in 2008 that the floodplains required investigation and protection. I’ll call her “Diane” – because that’s her name.

To make matters more urgent, funds exceeding \$2 million will reportedly soon be committed to the Pickens County project, and the County reportedly employed eminent domain powers to take property from at least one property owner to facilitate the project.

Immediate action by government authorities to mitigate and manage the risks is needed.

- a. PCB’s embedded in the collapsed floodplains have migrated downstream to a bay at the mouth of Twelve Mile River where it empties into Lake Hartwell.
 - b. That bay is used extensively for recreation and plans being advanced by Pickens County will make the bay a destination for river activities beginning in the reach of Twelve Mile River that is the site of the botched and uncompleted restoration project.
 - c. The current Twelve Mile River conditions continue to pose a substantial risk to public safety and may pose a risk to human health and the environment – as advised in Kestrel Horizons’ written public report of April 2011 warning of then current and impending risks and need for intervention.
 - d. The consent decree between the parties has been terminated by the federal court, and compelling action on the part of responsible parties will require legal action.
-



Memorandum

To: Mr. Paul League, Esq., SC DNR for distribution to Twelve Mile River Natural Resource Trustee Representatives and others, as appropriate
 Ms. Gwendolyn Keyes Fleming, Administrator, US EPA Region IV
 Ms. Daphne Neel, Chief, SC DHEC Bureau of Land and Waste Management
 Mr. John E. Frampton, Director, SC DNR
 Colonel Jeffrey M. Hall, Commander, US Army Corps of Engineers, Savannah District
 Mr. J. Chappell Hurst, Jr., Administrator, Pickens County

From: Kestrel Horizons, LLC - William A. Stephens, P.E., David G. Nichols, P.G. Christopher Suttell, P.G.

Date: April 20, 2011

Subject: Twelve Mile River—**Notification of Imminent Threat to Public Safety** and Urgent Issues Related to Floodplains of Twelve Mile River from State Highway 137 (aka Norris Highway) to Woodside II Dam

Executive Summary

This memorandum summarizes the conditions and issues related to floodplains of the Twelve Mile River for the reach of the river being restored by Schlumberger under an agreement with the Natural Resource Trustees under the authority of the United States District Court for the District of South Carolina, Judge G. Ross Anderson, Jr., presiding. This memorandum notifies the agencies that we believe an **imminent and serious threat to public safety exists due to the undermining of the floodplains by the Schlumberger dredging.** The memorandum also discusses the results of sampling recently completed, discusses potential threats to human health and the environment, and provides recommended actions.

We have prepared this summary as concerned citizens and professionals for the use of the various regulatory agencies and the Natural Resource Trustees in reviewing the progress of the restoration project and serious developments which have come to light in recent months. Judge Anderson suggested that concerns such as the ones expressed in this memorandum should be directed to the Natural Resource Trustees.

Kestrel Horizons, LLC has provided substantial consulting services to Upstate Forever, the Pickens County Soil and Water Conservation District, and the Lake Hartwell Association on issues relating to the Twelve Mile River project. We have, among other things, reviewed the status and scope of the dredging operation being conducted by Schlumberger; collected, analyzed and evaluated samples from both the floodplain above the Woodside I dam and



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April 20, 2011

also from within the channel and floodplain above the Easley-Central Water District dam, and have assessed the physical condition of the floodplain along the river in the project area.

This document describes the imminent and serious threat to public safety which exists due to the undermining of the floodplains by the Schlumberger dredging. This is no longer the “theoretical discussion” it may have been perceived to be when Bill Stephens of Kestrel Horizons and Dr. Larry Dyck met with the Natural Resource Trustees and Judge Anderson’s advisors (the Special Receivers) in January, 2011. The potential imminent threat to public safety is now a reality, as is the threat of environmental damage and a delay or reversal of the natural recovery process of the upper reaches of Lake Hartwell.

Notification of Imminent Threat to Public Safety

We now recognize that some of the serious matters to be addressed may fall outside the purview of either Judge Anderson or the Natural Resource Trustee Representatives; rather they may fall within the authority of the regulatory operations of various government agencies. We have therefore provided this document to appropriate management personnel of Pickens County, the South Carolina Department of Health and Environmental Control, the South Carolina Department of Natural Resources, the US Army Corps of Engineers, (Savannah District), and the US Environmental Protection Agency (Region IV) for the purposes of alerting officials who are in a position of addressing imminent threats to public safety.

In accordance with the ethical standards required of Professional Engineers and Professional Geologists licensed to practice in South Carolina, we hereby notify you of what we believe constitutes an imminent threat to public safety and a potential threat to human health and the environment:

Any person standing on the floodplains along the Woodside I and Woodside II impoundments (Highway 137 bridge to Woodside II Dam) is at imminent risk of injury or death due to the instability of the floodplain terraces caused by the Schlumberger dredging. No security fencing or warning signs have been erected, and the banks are collapsing such that large trees have now tumbled into the river. This situation could quickly transition from nuisance to tragedy. We urge the appropriate agency to step forward to address this threat before an avoidable tragedy occurs.

We believe that the conditions and contents of the floodplains along the Woodside I and Woodside II impoundments also represent a potential threat to human health and the environment.

Further details are provided in this memorandum.



Major Conclusions

The major conclusions of this analysis are as follows:

1. The floodplain sediments of Twelve Mile River from the Highway 137 Bridge to the Woodside II Dam have been undermined for nearly 1.5 miles of river bank – on both sides of the river – such that an imminent threat to public safety now exists.
2. The regulatory approvals for the Schlumberger project were based, in large part, on the Arcadis drawings, which incorrectly represent the floodplain terraces as being composed of bedrock. In fact, the floodplains are composed of an estimated 230,000 to 255,000 cubic yards of sediment which has become unstable due to Schlumberger's dredging. Of that estimated quantity, approximately 185,000 cubic yards lies behind the boundary Arcadis represents as "bedrock".
3. Sampling of fine-grained sediments just above the Woodside I Dam before the floodplain sediments collapsed into the river revealed PCB concentrations from 9 to 54 parts per million (ppm). The typical regulatory threshold for concern in residential and recreational land uses is 1 ppm. Left exposed, these sediments may pose a long-term risk to the health of residents and others. Left to collapse into Twelve Mile River, these sediments may delay the natural recovery process of the lower reach of Twelve Mile River (downstream of Woodside II) and the upper portion of Lake Hartwell.
4. Floodplain soils which have not collapsed likely include 15% to 25% fine-grained sediments in layers. These sediments may total 35,000 to 65,000 cubic yards and may average 10 to 20 ppm PCBs. Only sampling of these sediments can determine the quantities and concentrations involved. These sediments all lie on the private properties of approximately 20 property owners who are not represented in the restoration project, except by the regulatory agencies involved in the various federal, state, and local permitting and approval processes.
5. The Woodside II Dam is creating a large sedimentation basin which is catching much of the floodplain sediments that are collapsing. These sediments are filling the channel voids created by the dredging of the Woodside II Dam impoundment, which means that more extensive dredging of the newly deposited sediments will be required to meet the dredging performance standards of the restoration project.
6. The focus on maintenance releases of sediments from the Easley-Central Water District (ECWD) Dam are inconsequential and divert attention away from errors and deficiencies in the design and conduct of the Schlumberger project. The actual release of sediment from the ECWD pool is negligible compared to the quantities of sediment Schlumberger is now and will be dealing with in the restoration project. ECWD should be allowed to manage its operation in accordance with its standard procedures and without any further interference from Schlumberger and representatives of the federal government.



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Major Recommendations

Our major recommendations are as follows:

1. Residents owning property along the section of Twelve Mile River from Highway 137 to the Woodside II Dam should be notified immediately by the appropriate governmental agency or agencies as to the safety hazards created by the Schlumberger project on their properties. Fencing and warning signs should be erected immediately to notify residents and the general public of the hazards and risks created by defective design and deficient implementation of the restoration project.
2. On the basis of three lines of evidence: our direct observation of the conditions of the Woodside project area, the results of PCB sampling of the Woodside I sediments, and the results of last year's sampling of the lower floodplain sediments above the ECWD dam, work by Schlumberger on the dredging project should be suspended immediately.
3. A modified restoration plan should be established and implemented immediately which will adequately protect public safety and health and the environment, and which will achieve the restoration goals of the Consent Decree and the Record of Decision.

Introduction

The major topics of this memorandum are as follows:

1. Discussion of Sediment Sampling and Results
2. Actual vs. Represented Conditions of the Floodplains
 - Bedrock
 - Soils/Sediments
 - PCB Concentrations
3. Consequential Risks and Potential Natural Resource Damages from Errors, Omissions, and Misrepresentations in the Approved Plans

1. Discussion of Sediment Sampling and Results

The following is a summary of sediment sampling for PCBs from a bank along the exposed floodplain upstream of the former Woodside I dam. In addition, it provides a preliminary estimate of the volume of sediment and the amount of PCB contamination within the reach of the Woodside I and II dams.

Ten sediment samples were collected and analyzed as part of a limited investigation conducted and directed by the Pickens Soil and Water Conservation District, the Lake Hartwell Association, Upstate Forever and Kestrel Horizons, LLC and funded by Upstate Forever. This investigation is not part of study relating to the Easley-Central Water District dam; the results of that study should be available by the end of April.



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Dr. Larry Dyck and William Stephens of Kestrel presented these concerns to members of the Natural Resource Trustee Council for Lake Hartwell and Twelve Mile River (NRTs) at various times including, most recently, at a meeting at Hickory Knob, SC in January, 2011. Regulatory response to these concerns has not prompted action to address these issues and dredging and dam removal procedures have continued uninterrupted. For these reasons the parties identified above decided to proceed with sampling of sediments without involvement by responsible party(ies) or government agencies.

On February 19, 2011, Dr. Larry Dyck, Harry Morris, P.G., and Bill Stephens, P.E. (both of Kestrel Horizons, LLC) collected ten sediment samples on an approximate 150 foot stretch of river upstream of the Woodside I dam on the north side of the river. The work was performed with permission of the property owner, Mrs. Nelle Ball, and was paid for by Upstate Forever. The sampling locations are presented on Figure 1.

Fine-grained materials were targeted for the samples because previous sediment sampling indicated that PCBs tend to accumulate in sediments comprised of fine-grained material as opposed to coarser grained material. Five of the ten sediment samples (BK-1, BK-2, BK-3, BK-4, and BK-5) were collected from a layer of fine grained materials that outcropped on the steep slopes of the floodplain bank that were exposed following dredging of the channel and partial lowering of the water level prior to removal of the Woodside I dam. One sediment sample, BK-4U, was collected from a sedimentary layer atop the layer discussed above and contained more sandy material. The four remaining samples (BK-0S, BK-1S, BK-3S, and BK-5S) were collected from a narrow backwater swale on top of this floodplain bank, which contained some fine-grained organic materials but was comprised predominantly of sandy material.

Samples were analyzed for PCB content using EPA Method 8082A by Shealy Environmental Laboratories, Inc. in Cayce, S.C. The sediment samples were collected in a manner consistent with EPA SW-846, *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*. Documentation of field activities was completed using bound logbooks. Chain of custody records will be provided in the final analytical report after Level IV data validation is completed.

Sample Results and Discussion

PCBs were detected in each of the ten samples. Five of the six samples collected from the bank with the fine-grained materials had PCB concentrations far in excess of one part per million (ppm), which is the sediment cleanup goal for PCBs ordinarily used by DHEC and EPA. **The highest PCB concentration of 54 ppm detected in sediment sample BK-5 is the highest known concentration of total PCBs ever detected upstream of the Woodside II dam and would have been among the highest collected in the 1991-92 Remedial Investigation of the entire Lake Hartwell Watershed (EPA's Operational Unit 2).** The samples collected from the backwater swale above the exposed bank were below one ppm.

The analytical results for the samples are summarized below, in Table 1.

Table 1

Sample Identifier	Sample Location	Sample Date	Total PCBs (mg/kg)
BK-1	Fine grained sediment layer in bank.	02/19/11	10.650
BK-2	Fine grained sediment layer in bank.	02/19/11	9.670
BK-3	Fine grained sediment layer in bank.	02/19/11	17.700
BK-4	Fine grained sediment layer in bank.	02/19/11	28.500
BK-5	Fine grained sediment layer in bank.	02/19/11	54.000
BK-4U	Coarse grained sediments in bank.	02/19/11	<0.450
BK-0S	Sediment in top 6" of floodplain swale.	02/19/11	<0.800
BK-1S	Sediment in top 6" of floodplain swale.	02/19/11	<0.510
BK-3S	Sediment in top 6" of floodplain swale.	02/19/11	<0.690
BK-5S	Sediment in top 6" of floodplain swale.	02/19/11	<0.680

Key:

	Greater than 1 mg/kg
<	= Less than listed concentration

Fate and Estimated Quantity of Contaminated Sediments

Visual observation of the banks above the Woodside I Dam during and after dam removal confirmed that bedrock does not extend to the edge of the river shoreline as depicted in the final plans prepared by Arcadis for the project, which form the basis of approvals by the Natural Resource Trustees as well as by DHEC, the U.S. Army Corps of Engineers, and Pickens County. Instead, significant quantities of floodplain sediment extend along large portions of the river shoreline to unknown depths terminating at bedrock. As shown in the photographic log presented as Attachment A, a dramatic change in the shoreline occurred after the February 19, 2011 PCB sampling event. The photographic log confirms that floodplains are eroding rapidly and collapsing as water levels change in the un-impounded river. These photographs combined with the sampling results clearly indicate that significant quantities of PCB-laden sediments have not been removed from the river and that PCB-laden sediments have mobilized downstream, possibly into Lake Hartwell.

2. Actual vs. Represented Conditions of the Floodplain

- **Bedrock**

The final plans prepared by Arcadis for the project which form the basis of approvals by the Natural Resource Trustees as well as DHEC, the US Army Corps of Engineers, and Pickens County represent that bedrock rises nearly vertically from the bottom of the channel to the top of the banks of the river. (See Figure 2) **Thus, a critical element of the restoration plan is fatally flawed.**

As Kestrel and Dr. Dyck have predicted for nearly a year, the floodplains are not composed of bedrock, but rather of thick sediments. The thickness of the floodplain sediments likely varies from approximately five to twenty feet or more, depending on the location and the actual bedrock configuration. This means that the “boundary conditions” of Arcadis’ restoration design are radically different than those described in the Arcadis drawings and narratives.

- **Soils/Sediments**

Under Arcadis’ plan, the “Adaptive Management” element of the plan (allowing nature to take its course for a year, and then adapting the restoration plan accordingly) would be understood to have resulted in a limited quantity of sediments from the bedrock face near the banks eroding into the channel and being carried downstream.

Accurate estimates of the actual quantity of sediments in the floodplains can only be developed by the use of accurate bedrock mapping and surface topographic mapping. Arcadis has the topographic mapping needed, as can be seen on the Arcadis drawings. Apparently, Arcadis does not have accurate information on the bedrock surfaces under the floodplains; to obtain that information, probes installed through the floodplain (similar to those installed as part of the Feasibility Investigation for the Restoration of the ECWD reach) could be installed at each transect shown on the Arcadis drawings to complete the missing bedrock and sediment information.

We have used the transects shown in Figures 2 and 3 to calculate the range of likely quantities of sediment (in cubic yards) in the floodplains of the Woodside I and Woodside II pools:

Floodplain Section	Estimated Quantity Behind Boundary Designated as “Bedrock”	Likely Quantity of Sediment	Likely Maximum Quantity of Sediment
Woodside I North Side	34,000	61,000	69,000
Woodside I South Side	80,000	80,000	85,000
Woodside II North Side	22,000	24,000	27,000
Woodside II South Side	49,000	68,000	74,000
Totals	185,000	229,000	255,000



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The estimates are based on re-interpretations of two Arcadis cross-sections that were considered representative of typical cross-sections of the river channel within the Woodside I and II pools. The reinterpretations are a more accurate representation of actual site conditions with regard to floodplain sediment thickness and bedrock elevations than the Arcadis drawings.

Our estimates suggest floodplains contain between approximately 185,000 and 255,000 cubic yards of sediment within the reach of the Woodside I and II dams. Assuming fine-grained material comprises approximately 15 to 25% percent of floodplain sediments, and the average total PCB concentration is between 10 to 20 mg/kg, we estimate that unexcavated floodplains contain between 60 and 270 gallons (or approximately 770 to 3400 pounds) of PCB fluid. This means that the remaining floodplain sediments on private property within the Woodside I and Woodside II impoundments may account for 0.2 to 0.85 percent of the 400,000 pounds of PCBs reportedly released by Sangamo Weston to Town Creek. This contamination may affect between 30,000 and 65,000 cubic yards of fine-grained sediments within the floodplains.

Photographs taken on February 19, 2011 and again on March 16 and 17, 2011 demonstrate the reason for serious concern over the critical discrepancy between the structural conditions of the floodplains as represented in the Arcadis plans and reality. This section of the north bank of Twelve Mile River immediately behind the Woodside I Dam is shown in the February 19, 2011 photos shortly after the water level was lowered to facilitate the dam removal. Note that no rock outcroppings are visible and that a sandy upper layer is underlain by a layer of darker sediments like those encountered by Schlumberger's contractor during the dredging of the channel.

Note that in the March 16 and 17, 2011 photos the light colored sandy sediments and the darker colored sediments have disappeared. These materials were not removed by Schlumberger's contractor – they sloughed into the channel and were swept downstream.

In the few weeks since those photos were taken, large portions of the floodplain sediments have continued to collapse into the channel and several large trees have either collapsed, or are about to collapse, into the river. This process will continue until most of the floodplain sediments have either been swept away or have begun to form a new floodplain at a lower elevation. The new floodplain at a lower elevation will contain a much smaller quantity of soils than the current impoundment-induced floodplain, so most of the sediment will have no place to go but down the river. Fortunately, the Woodside II Dam impoundment will capture most of these sediments, so there is still time to dredge and remove them. Once the dam is dismantled, however, it will be too late.

- **PCB Concentrations**

The focus of regulatory discussions regarding PCB concentrations in sediments appears to have been on the sediments to be dredged from the channel beneath the water surface. That makes sense, given that Arcadis' drawings indicated that near-vertical bedrock would be encountered near the banks of the channel. As the Arcadis cross sections are incorrect, there are large quantities of sediment in the floodplains.

The results of last year's PCB analyses of the floodplain sediments upstream of the Easley-Central Dam ranged from less than 0.05 ppm to over 25 ppm. These results are consistent with preliminary laboratory results from samples collected as part of the Feasibility Investigation for Twelve Mile River – ECWD Reach Dam Removal and River Restoration Project. Concentrations of PCBs greater than 1 ppm in the sediments were largely associated with silt and clay-sized particles rather than sand-sized particles, as has been documented in technical literature and at other PCB sites. ECWD borings have shown that most of the channel sediments are comprised of sand sized particles; whereas fine-grained materials occur most often on the adjacent floodplains and in the channel sediments adjacent to the inside of the sweeping curve of the channel.

3. Consequential Risks and Potential Natural Resource Damages from Errors, Omissions, and Misrepresentations in the Approved Plans

Figure 4 is included to provide a composite picture of the serious issues discussed in this memo.

The following conclusions are drawn from observations and recent sediment sampling data:

1. The condition and extent of the floodplain sediments indicate that the floodplain sediments pose an imminent threat to public safety. Property owners and the public should be immediately warned through the posting of signs, and other appropriate measures, about the imminent threat. Fencing should be erected, as necessary.
2. The collapse of major sections of the banks and large trees is sufficient cause alone to require protection for public safety purposes. Permitting the uncontrolled collapse of nearly 1.5 miles of unstable river banks on private property while allowing Schlumberger to represent it as "Adaptive Management" would constitute a total misuse of legitimate Adaptive Management concepts.
3. The sampling results of the Woodside I sediments, together with the condition and extent of the floodplain sediments, indicate that a potential threat to human health and the environment exists.



- a. Samples from the darker fine-grained sediments contained 9.67 to 54 mg/kg (parts per million) total PCBs.
 - b. The average concentration of total PCBs of the fine-grained samples taken is 24.1 mg/kg.
 - c. The fine-grained sediments are a substantial portion of the floodplain sediments, likely comprising 15% to 25% of the total sediment volume.
 - d. The level ordinarily used by DHEC and EPA to identify materials which may cause an unacceptable risk to human health for residential and recreational land uses is 1 mg/kg; the levels of PCB in the Woodside I sediments are up to 54 times that level.
 - e. The fine-grained sediments containing PCBs in the exposed sediments of the Woodside I floodplain are unprotected and subject to erosion, transport, and direct contact.
 - f. Left exposed, these sediments may pose a long-term risk to the health of residents and others. Left to collapse into Twelve Mile River, these sediments may delay the natural recovery process of the lower reach of Twelve Mile River and the upper portion of Lake Hartwell.
4. The condition and extent of the floodplain sediments, together with the results of sampling of the sampling of floodplain sediments above the Woodside I Dam and the lower floodplain sediments of the Easley-Central dam, are sufficient cause for concern to require an immediate suspension of the operations of the Schlumberger project to enable detailed examination and investigation of the conditions of the floodplain sediments and bedrock locations of the Woodside I and Woodside II Dam pools. A modified restoration plan, which requires the characterization and removal of the majority of the floodplain sediments (including especially PCB contaminated sediments), should be established and implemented.
 5. Since the contaminated and potentially contaminated sediments are on private property, appropriate agencies of state and/or federal government should take action to inform property owners and to seek consent as may be required by law, to sample the sediments and to cause the responsible party(ies) to take necessary action to protect human safety, health, and the environment.



**Attachment A
Photographic Log**



Photo 1: North floodplain terrace bank located just upstream of Woodside I Dam; water in the impoundment had been lowered about 10 feet and revealed banks interbedded with strata comprised of sand (tan color) and fine-grained (dark colored) material. Photo made Feb. 1, 2011



Photo 2: Sediment sampling activities on the north floodplain terrace bank, just upstream of the Woodside I Dam. Sampling focused on the dark, fine grained sediment; sampling visible in the lower left. Photo made Feb. 19, 2011



Photo 3: Bank along the north floodplain terrace, located just upstream of Woodside I Dam; note the dark, fine grained sediment layer located within sandy (tan) bank.
Photo taken Feb. 19, 2011.



Photo 4: Bank along the north floodplain terrace, located just upstream of Woodside I Dam; stainless steel sampling-spoon is adjacent to fine grained sediment that was sampled for PCBs. Photo taken Feb. 19, 2011.



Photo 5: Bank of north floodplain terrace, located just upstream of Woodside I Dam. Force of the river following heavy rain has undercut the sandy bank causing the upland plateau to collapse into the river. Strata sampled on Feb. 19, 2011 have washed away. Photo taken on March 16, 2011.



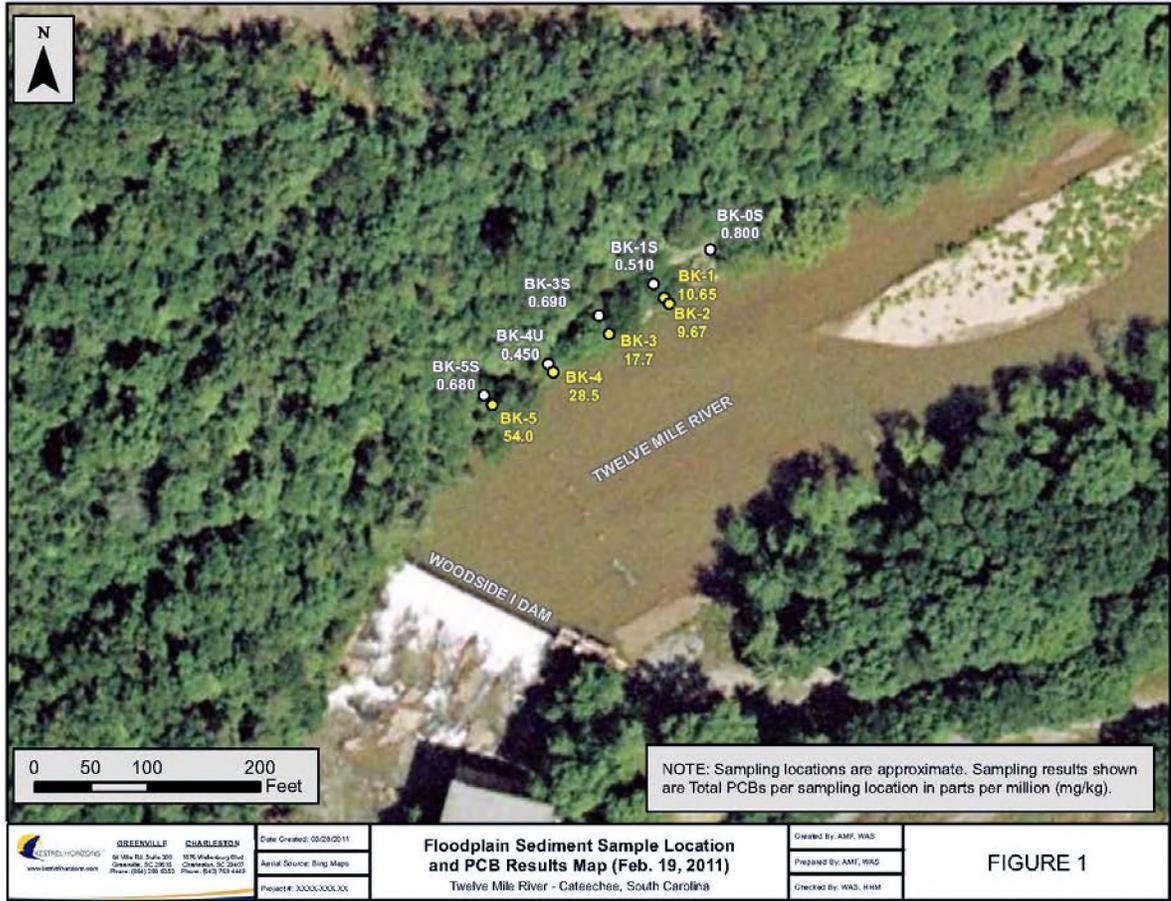
Photo 6: View of the river behind the former Woodside I Dam, after the dam has been removed. South floodplain (on the right) is collapsing during flow that followed a heavy rain (note trees have fallen into the river as banks collapsed). Photo taken March 17, 2011



Photo 7: View of river behind Woodside I Dam, after the dam has been removed. The exposed bank from the large south floodplain reveals dark strata (arrows). Strata are similar in appearance to those sampled for PCBs. Photo taken March 17, 2011



Photo 8: View of water leaving the project boundary, passing over the Woodside II Dam. Water contains an unusually heavy sediment load. Much of the sediment load is from upstream of Woodside I. It represents scour of residual sediment left in the river channel after dredging was terminated and erosion of the floodplain banks exposed after the dam was removed. Photo taken March 17, 2011.



 GREENVILLE 66 Wm. Pitt. Sikes Blvd Greenville, SC 29615 Phone: (854) 288-8333	CHARLESTON 1216 Whiteburg Blvd Charleston, SC 29407 Phone: 843 763-6493	Date Created: 09/29/2011	Created By: AMF, WAS Prepared By: AMF, WAS Checked By: WAS, HMM	FIGURE 1	
		Floodplain Sediment Sample Location and PCB Results Map (Feb. 19, 2011)			
		Twelve Mile River - Cateeches, South Carolina			

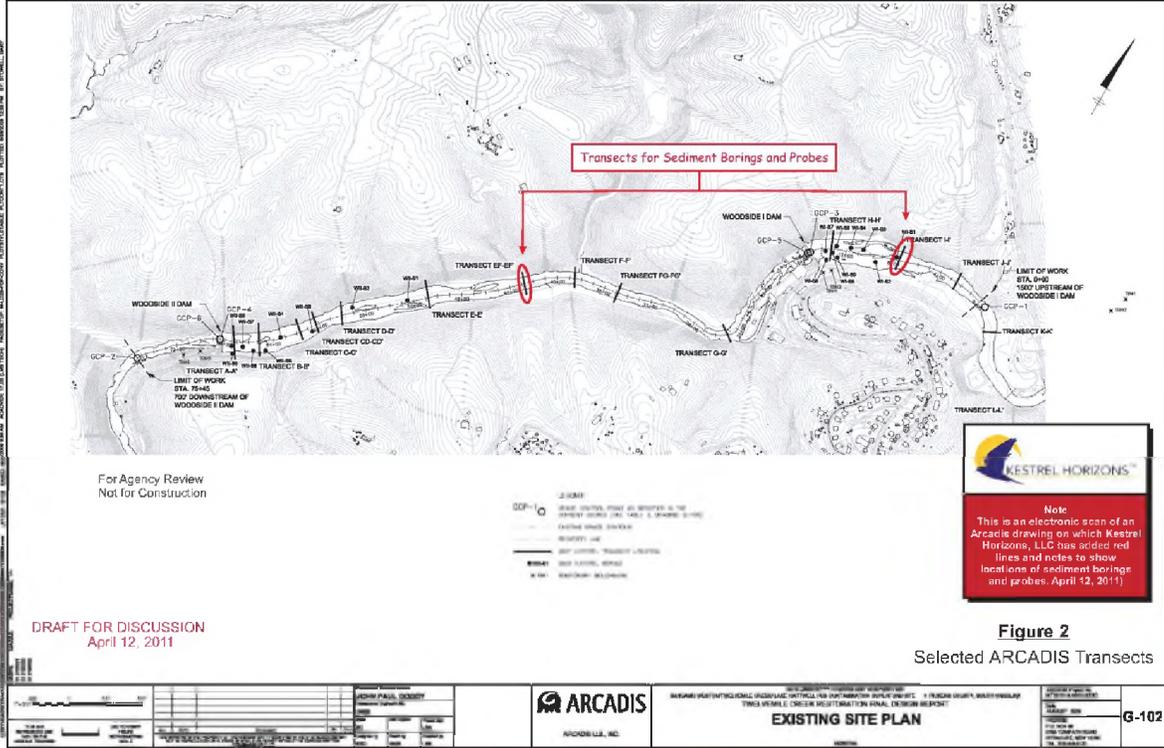


Figure 2
Selected ARCADIS Transects

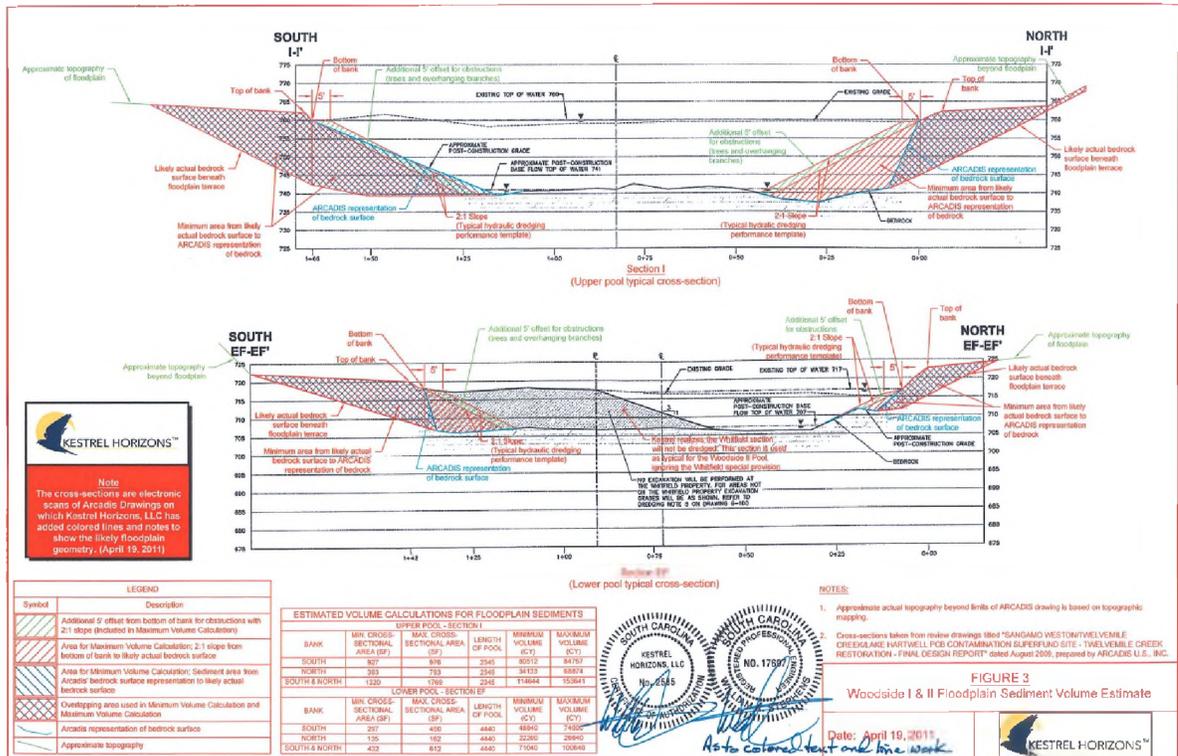
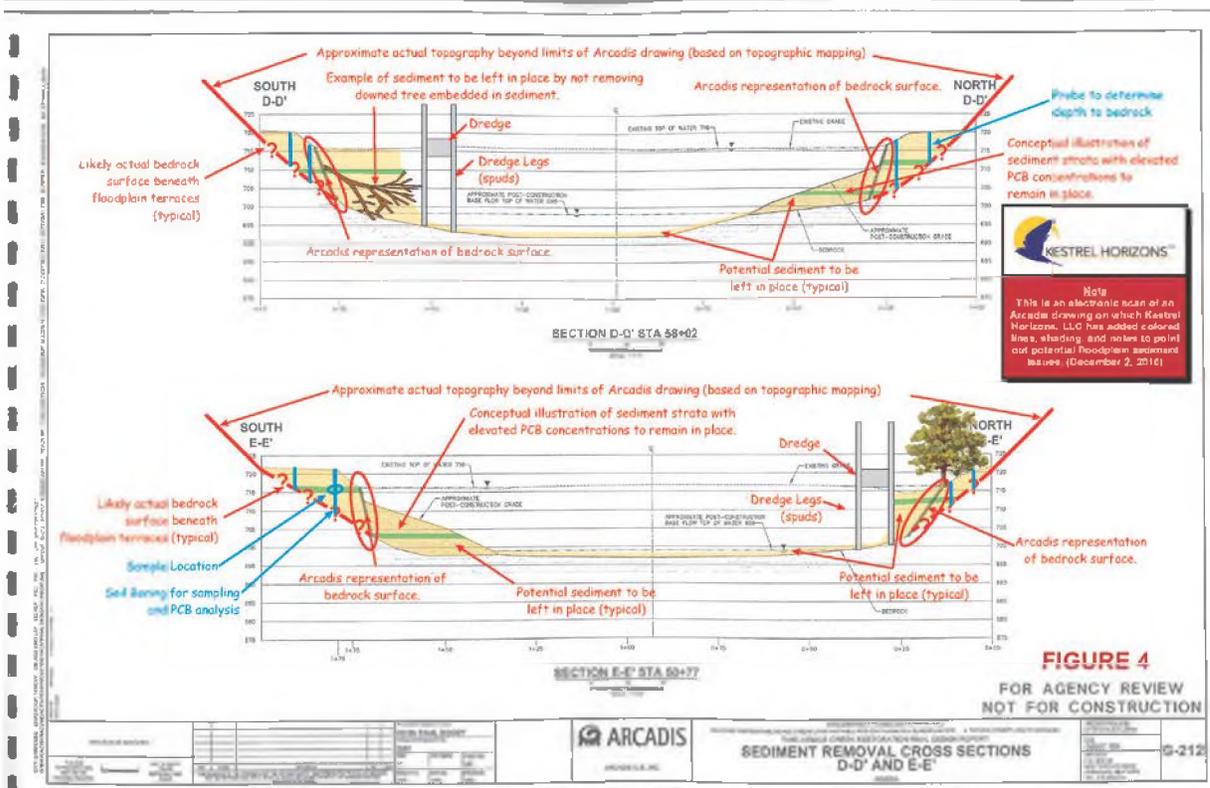


FIGURE 3
Woodside I & II Floodplain Sediment Volume Estimate

Date: April 19, 2011
As to Contents of this and Enc. Work





The following document has been used in several was as a resource document. It provides an excellent summary of relevant facts:



December 21, 2012

[See attached list of recipients]

Re: Twelve Mile River

We are sending this message to bring closure to matters regarding the restoration of Twelve Mile River. As most of you know, Kestrel Horizons has been involved in various aspects of the restoration for nearly seven years. During that time, we have served the Natural Resource Trustee Council, the Easley Central Water District, and Schlumberger in providing scientific, engineering, stream restoration, landscape architecture, project management, public and property owner communications, and regulatory interface services.

In late 2010 we became aware of representations of the conditions between Norris Highway and the former location of the Woodside II Bridge we knew to be inaccurate at the least. Those representations were made by consultants who succeeded us and employed our work, in part, to produce them. Our name was included in the credits for those representations, which were provided to the Natural Resource Trustee Council, the regulatory agencies from which approvals were required, the federal court, property owners, and other entities and individuals.

Three separate occasions, in January, February, and April 2011, we reported to the representatives of all of the Trustee Council, the federal court, and the US EPA that actual conditions of the floodplains unsafe and that the sediments likely contained thin layers of sediments which contained PCB's in significant quantities. We did this in conformance with the requirement to hold paramount the safety, health, and welfare of the public:

49-301. Responsibility to the Public.

The Engineer or Surveyor shall hold paramount the safety, health, and welfare of the public in the performance of his professional duties.

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Kestrel Horizons, LLC
December 21, 2012
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Draft for Discussion

- A. The Engineer or Surveyor shall at all times recognize that his primary obligation is to protect the safety, health, property and welfare of the public and shall conduct his practice to fulfill this obligation.**
- B. If the judgment of the engineer or surveyor is overruled under circumstances where the safety, health, and welfare of the public are endangered, he shall inform his employer of the possible consequences and notify other proper authority of the situation, as may be appropriate.**

Since Kestrel's former client already knew of the inaccuracies, our responsibility was to notify proper authorities. We did that – three times.

You probably recall we made our first such notification at a January, 2011 during a presentation at a joint meeting of the Trustee Council and the Special Receivers for Judge Anderson. Subsequently, in February and April, 2011 Kestrel submitted correspondence with detailed technical discussion and illustrations to representatives of all state and federal government agencies involved – including the US EPA, the Trustee Council members, and the Special Receivers.

Of course, the early 2011 reports to the US EPA and the Natural Resource Trustee council, and the Special Receivers were not the first time representatives of these agencies knew about the likely floodplain conditions. Bill Stephens, P.E. and David Nichols, P.G., Principals of Kestrel Horizons, attended two separate meetings with Craig Zeller, Remedial Project Manager of US EPA's broad and primary lead role in the Sangamo-Weston Superfund Site (encompassing Twelve Mile River and the upper portion of Lake Hartwell), and the Natural Resource Trustee Council in late June, 2008. That would be our last public meeting while in the employment of Schlumberger.

In those meetings, cross sections prepared by Kestrel indicating the floodplains were likely underlain by sediments – and not bedrock – were the subject of substantial discussion. The 2:1 slope referred to in Ms. Celeste Jones May 9, 2011 letter was included to demonstrate the likely dredge cut – and the shape and slope of the floodplain sediments which would be exposed after the rough dredging.

The geometric shapes were also used to calculate quantities of sediment – including the sediment which would remain after dredging. Mr. Paul Doody, P.E., Project Manager and Engineer of Record for Arcadis, Schlumberger's then new consultant, floated the concept of "adaptive management" for the floodplain sediments – in other words, let nature take its course and figure out what to do later. "Adaptive management" is a legitimate and potentially useful approach to stream restoration and stabilization when appropriately applied.

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Since a 2:1 slope will not stand with water up to 14 feet deep (in high flow conditions) cutting away at the bottom of the slope (any junior in Civil Engineering at Clemson or USC knows that), the options to “adaptive management” were for Schlumberger to stabilize the floodplain sediments in place, using boulder revetments or similar stream restoration methods, or to dredge all of the floodplain sediment, as well as the channel sediments.

As federal court records show, neither option was anticipated or contemplated when Schlumberger had agreed to restoring TMR six years before when the natural resource damage penalty settlement was reached. Most likely, there was never a “meeting of the minds” of the settling parties a decade ago. There is no doubt in our minds that a fundamental failure to come to a full meeting of the minds in the settlement agreement has been at the heart of some convoluted decision making and strange dynamics in this project.

The US Army Corps of Engineers (USACE) proved that the floodplain sediments would be eroded and transported downstream when they performed modeling for the TMR project. Every model the USACE did show that any sediment which found its way into the stream channel would be transported downstream. Since the channel configuration is basically the same all the way to “the dogleg”, a bay typically used for swimming and waterskiing in the summer just upstream of the Madden Bridge, there was little doubt where a relatively sudden release of sediment would end up.

And since the USACE is responsible for all of the Hartwell Lake and all tributaries up to the elevation of the 100 year floodplain, the USACE, by its participation in the Natural Resource Trustee Council, was clearly accepting the inevitable outcome of the “adaptive management” approach to dealing with floodplain sediments.

The subject of the floodplains was discussed before the Special Receivers and Judge Anderson, and the “adaptive management” approach was ratified by the Court and the various agencies – particularly the US EPA, which has primary responsibility and ultimate authority over any action in this National Priorities List (NPL) “Superfund” site.

In early 2011, Kestrel received a summons to surrender all of its files on Twelve Mile River to plaintiff’s attorneys for Weston Solutions, Schlumberger’s initial dredging contractor. At issue between Weston Solutions, as plaintiff, and Schlumberger and Arcadis, as defendants, was the representation, in construction bidding and contract documents for the TMR work, of the sediments – including the conditions of the floodplains.

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The attorneys and technical staff for Weston Solutions were provided all of the 14 transects (cross sections) of TMR prepared by Kestrel, as well as text and other graphics which depicted the channel sediment survey Kestrel completed in the fall of 2007, as well as previous surveys and sampling by Kestrel and others. The transects which Weston Solutions were provided were the full set from which a subset was selected to show the various government agencies in June 2008. Kestrel was never tasked with a survey of the floodplains between Norris Highway and the Woodside II Dam of the sort performed for ECWD and the Natural Resource Trustee Council upstream of the ECWD Dam. Kestrel was never called as a fact witness in the case and never learned the outcome of the case

Please note that we made the three notifications in early 2011 and performed the limited technical work necessary to clearly communicate the nature and importance of the matter with no compensation or consideration from any party. In fact, we made such notifications knowing we would likely pay a heavy price for acting with integrity and in full conformance with legal, ethical, and moral standards we hold true.

The price we paid was heavier than we anticipated. Attorneys for the McNair Law Firm, which served Kestrel in various capacities since our founding in 1998 until March 2012, took a vicious adversarial position against us publicly, attempting to bolster indefensible technical positions with ridiculous statements and effectively choosing Schlumberger as a client over Kestrel as a client in doing so. We believe Ms. Celeste Jones of the McNair firm made her statements in her May 9, 2011 letter to intimidate Kestrel's Principals, knowing full well as litigation counsel for Schlumberger the potential impact of Kestrel's documents describing the sediment survey and river transects. If that was not her intent, then her letter was destined to produce unintended consequences. Someone else can be the judge of that.

The US EPA and the SC DNR, on behalf of the Twelve Mile River Natural Resource Trustee Council, responded to Kestrel's April 18 notification on _____, 2011 and _____, 2011 (letters included as exhibits to previous submissions to the ODC). The gist of those responses was:

- that Schlumberger, not the EPA or the Natural Resource Trustees or their representatives, is responsible for all aspects of the project, including safety;
- that Schlumberger had assured the Trustee Council, EPA, and Judge Anderson the banks were stable and presented no safety or environmental concern;
- that a limited walking tour of readily accessible banks by non-engineer members of the Trustee Council resulted in no observations which caused concern over potential bank stability;

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- that “public safety” concerns were not evident, apparently because the lay observers saw no bank stability concerns - and property owners, residents, and their guests are not considered by the agency representatives to be members of “the public”, in any case; and
- that people walking on the banks should “use caution”.

Kestrel did not respond to the letter from the US EPA or the Natural Resource Trustee Council. We judged the responses of the Region IV Administrator of US EPA and the spokesperson for the Natural Resource Trustee Council to be curiously out-of-character for environmental and natural resources regulatory agency staff. The conclusions of agency managers regarding the very serious issues raised in Kestrel's April 18 notification were neither supported technically nor were they appropriately considerate of protection of citizens or natural resources. Frankly, we were at a loss for words.

The US EPA Region VI Administrator and the spokesperson for the Trustee Council dismissed Kestrel's warnings on the basis of admittedly limited observations of lay persons, taking comfort in reiterating Schlumberger's responsibilities. While the Catechee community likely does not meet the definition of an “overburdened community” to qualify for the so called “Environmental Justice” regulatory activism and funding program of the US EPA, as the primary responsible agency, the response of the US EPA Region IV Administrator to Kestrel's April 18, 2011 report was curiously trite. Like Ms. Jones May 9, 2011 letter, US EPA's letter was devoid of sound technical support.

Kestrel's Predictions versus Happenings and Current Conditions

In our April 18, 2011 notification, we warned of the following:

- Substantial portions of the floodplains of Twelve Mile River between the Norris Highway Bridge and the Woodside II Dam were underlain by sediment – not bedrock as indicated or inferred in the cross sections of the river included by Arcadis in the drawings submitted for approvals and permitting by state and federal government agencies – including the Natural Resource Trustees, the US EPA, and several state and local government regulatory agencies.
- The deep sediments along major stretches of the river banks would be unstable and subject to erosion and sudden collapse, especially in rainfall events which would result in saturated sediments being carried downstream by the high, fast-flowing water of Twelve Mile River typically produced by significant rainfall.
- The fine-grained layers of sediments likely contained significant concentrations of PCB's, which were exposed to the ground surface and which would be transported

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downstream with erosion and collapse of the floodplain sediments that formed the river banks.

Since April, 2011 the following has occurred:

- Sections of the river banks containing thick sediments have collapsed and have been carried downstream. (See Photographs at end.)
- The bay at the mouth of the Twelve Mile River as it empties into Lake Hartwell appears to have received fresh sediment. The level of Lake Hartwell is low, as it generally is in winter months. In conversations with longtime nearby residents on the day photographs were taken (November 25, 2012), people familiar with the look of the bay through many seasons indicated that water normally covered the bay most of the year and that "the bottom" looked different than other years the lake level was low.

Note that the "mud flats", as one person called them, take on the classic appearance of a river floodplain, complete with the lower areas (sometimes called "backwater swales") beyond the higher terrain adjacent to the river winding through the "flats". Only a topographic survey (called a "bathymetric survey" when the ground is under water) could determine how much sediment has accumulated since that time.

- A consultant for Schlumberger, CH2MHill, completed boring and sampling the floodplain terraces of Twelve Mile River between Norris Highway and the former location of the Woodside II Dam. CH2MHill completed the work under contract to Schlumberger. The sampling and analysis plan was approved by US EPA Region IV.

CH2MHill indicated, during the planning stage, that they were concerned about the stability of the floodplain terraces and placing boring equipment on the terraces might be too dangerous in some locations and that sampling of the slopes of the floodplain terraces would be limited to areas that could be reached with a pole from a boat. Given these constraints, review of the exact locations of the borings and samples is required to determine whether the sampling was representative.

- With the sampling results, CH2MHill provided a summary of the human health risk assessment for the Norris Highway to the former location of the Woodside II Dam.

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The scope of the risk assessment included only incidental exposure of a swimmer and a kayaker along that portion of Twelve Mile River.

- So far risk calculations we've seen show that a kayaker or swimmer is at no substantial health risk for exposure to PCB's in the floodplain sediments, and the fact that the sediments can readily collapse to "meet" the kayaker's or swimmer's skull is dismissed by limited inspection of embankments, the stability of which CH2MHill, Schlumberger's current consultant, properly expressed serious concerns.

What has struck us is that all of this is happening on lands owned by twenty two individual citizen taxpayers – yet neither they nor their visitors seem to qualify as members of "the public" in the responses of government agencies. Recall that twenty two property owners own the floodplains of Twelve Mile River between Norris Highway and the former location of the Woodside II Dam. A number have children or grandchildren.

The requirements of virtually any CERCLA NPL Site risk assessment involving the US EPA includes a risk assessments for residents, if potential for such exposure is present. Residents have potentially much greater exposure over a much longer time frame than would an occasional swimmer or kayaker. We have not yet come across a full health or safety risk assessment for the residents, though we're certain it must exist or is in development by the US EPA.

Also, please note when comparing the February 2011 photos to the November 2012 photos (attached) that the man taking the samples of the floodplain terrace next to the Woodside I Dam before it was removed would have dropped 30 feet to the river bottom in the failure of the floodplain bank illustrated by the "before and after" photos. That location was directly across from the reviewing stand used for the dam removal ceremony attended by representatives of all the principal players in the project. The tree at the right of the photo fell into the river within a few weeks after the photo of the sampling activity was taken. Safe for the public?"

In the past two years, I learned a lot about ethics and standards for ethical action incorporated in the regulations governing the practice of engineering and law. I prefer the standards and regulations governing Professional Engineers. I have known those for more than 35 years. I also like the first precept of for medical professionals, "*primum non nocere - first do no harm.*" That's a good one, too. I'm not sure I will ever understand the ethics governing the practice of law.

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Kestrel Horizons, LLC
December 21, 2012
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Draft for Discussion

Also, you may have gathered I'm not fond of intimidation as a tool for conflict resolution. It has no place in civilized society or professional interaction. It always makes me disgusted and angry.

We have no interest in participating in third party actions, natural resource damage matters, shareholder actions, or *qui tam* actions, as have been suggested by others. We just want the truth – as we know it – to be known by stakeholders who may wonder what our role in this tangled web has been. Now we could be mistaken in some areas, but not for lack of trying to be accurate. If we experience any more communication or actions we perceive as intimidation inspired by the French – or recriminations for acting with honor and integrity – we'll most certainly revisit our thinking.

As many of you know, the price of responsible and ethical actions for Kestrel and for me personally has been high. To put this matter behind us and move on in peace, we are including a few photographs taken before and after the dam removals. We have included a DVD of a documentary made by the staff of Jackson County, Oregon. It details the work and results of a major project to stabilize banks of the Hoh River. It is 56 minutes long. Some food for thought as the TMR restoration is completed.

We are not interested in being involved further in the tangled web of dialogue and decisions on this project. There is no need for anyone to try to intimidate or silence us; we have said our piece and that's all we have to say. We have offered some ideas along the way we hope will be useful to those who remain involved.

We look at our past contributions to our Clients and fellow citizens with pride, and we look forward to the future with optimism and commitment to serve. May you always find peace and honor in your decisions and in your interaction with others.

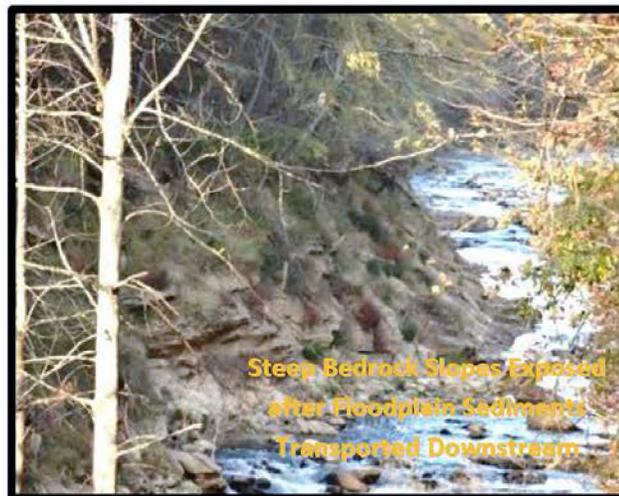
Best Regards,

William A. Stephens, P.E.
Managing Principal and Co-Owner - for the Kestrel Horizons Team

attachments and distribution list



Floodplain Sediments near Woodside I Dam Partially Exposed - February 2011



Steep Bedrock Slopes Exposed after Erosion/Collapse of Floodplains above Former Location of Woodside II Dam – November 2012



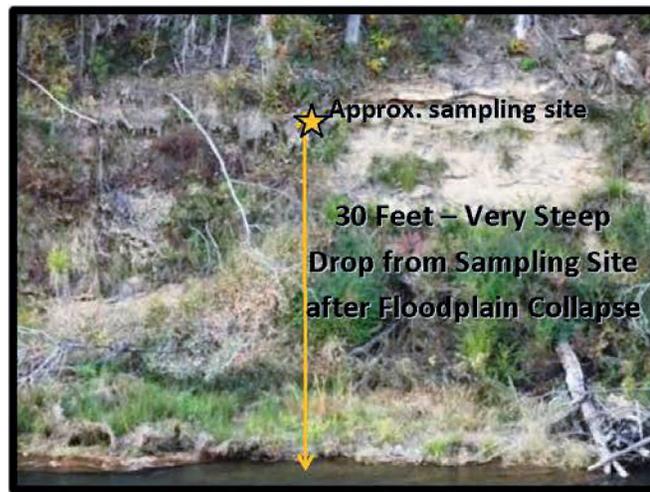
**Sampling Crew on Floodplain Terrace and on Face of Sediments
with Water Level behind Woodside I Dam
Halfway Down to Bedrock Bottom – February 2011**



**Site of Floodplain Sampling after Removal of Woodside I Dam
and Subsequent Floodplain Erosion and Collapse – November 2012**



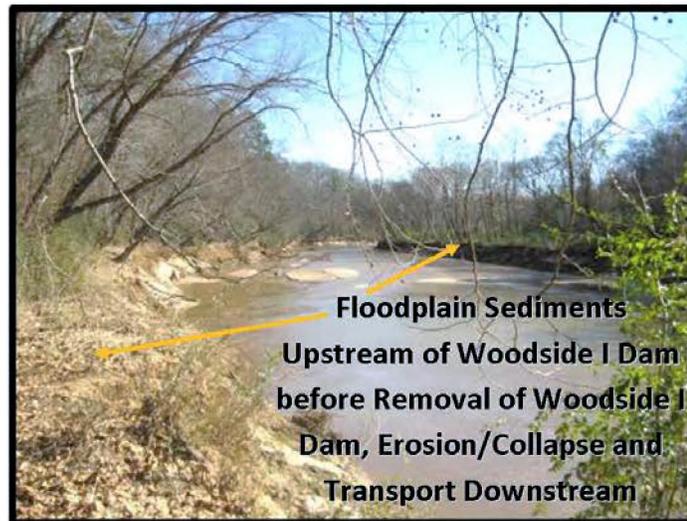
Taking Sample of Surface Sediment across TMR from Ceremonial Stage before Removal of Woodside I Dam and Subsequent Collapse of Floodplain Sediments – February 2011



Site of Floodplain Sampling after Removal of Woodside I Dam and Subsequent Floodplain Erosion and Collapse – November 2012

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**View Upstream of Woodside I Dam with Partial Exposure of Floodplain Sediments –
February 2011 before Woodside II Dam Removal**



**View from Near Madden Bridge of “Dogleg” Area of TMR in November 2012 –
Favorite Waterskiing Area in Summer**

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March 20, 2012

Mr. David Tigges, Esq., Managing Shareholder
The McNair Law Firm
1221 Main Street, Suite 1800
Columbia, SC 29201

Re: Termination of Representation

Dear Mr. Tigges:

The purpose of this letter is to notify the McNair Law Firm that its representation, both on behalf of Kestrel Horizons, LLC individually and as the Trustee for the Pinewood Site Custodial Trust, is being immediately terminated.

Regrettably, the conduct of Celeste Jones, R.N., and the McNair Law Firm with regard to the May 9, 2011 letter written on behalf of your client, Schlumberger Technology Company, had a direct negative impact on Kestrel Horizons, LLC, also a client of your firm. In the ten months which have passed since this unconscionable, malicious, and public attack I have never understood how "our" law firm could attack our company, my partner, and me, asserting that this action was in keeping with regulations and ethical standards governing the practice of law. This letter, combined with the McNair Law Firm's conduct following the May 9, 2011 letter places Kestrel Horizons, LLC, individually and as Trustee of the Pinewood Site Custodial Trust in an untenable position.

After more than ten months of efforts to amicably address the firm's adversarial actions with regard to the serious business, professional, and personal impact on Kestrel Horizons, LLC, David Nichols, and me, it seems that no such resolution will be reached. Kestrel Horizons, LLC is left with no choice but to consider other avenues for redress.

A copy of Kestrel's letter to Mr. Richard Haynes, P.E., of the Bureau of Land and Waste Management of SC DHEC conveying Kestrel's decision to terminate the McNair Law Firm's representation of Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust is attached.

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PSCT 03.01 McNair Termination of PSCT Representation 032012



Mr. David Tigges
March 20, 2012
Page 2 of 2

We are confident that the attorneys who have represented Kestrel Horizons, LLC individually and as Trustee of the Pinewood Site Custodial Trust will cooperate in an orderly transfer of case files to legal counsel selected to continue the services. We are in the process of finalizing selections and retention of those attorneys, and will contact the McNair attorneys who have provided services with arrangements to make the needed transfers.

Any and all engagement arrangements involving the McNair Law Firm's representation of Kestrel Horizons, LLC, Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust, and the Pinewood Site Custodial Trust itself are hereby terminated.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Stephens", is written over a horizontal line.

William A. Stephens, P.E., Managing Principal

cc: Phillip Conner
Ethan Ware
Erik Doerring

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PSCT 03.01 McNair Termination of PSCT Representation 032012



Response to Allegations Contained in May 9, 2011 Letter to Kim A. Jones of US EPA
from Celeste T. Jones of the McNair Law Firm
 June 7, 2011

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
Page1, Paragraph 1	<i>"...there is no imminent threat to public safety..."</i>	The response of Schlumberger is based on semantics. If "public" includes residents, visitors, trespassers, and citizens using the waterway as "waters of the state" or "waters of the United States", and if "imminent" means "liable to happen soon, impending", then I stand by my statement.
Page1, Paragraph 1	<i>"...the sample results reported by Kestrel are both admittedly "biased" samples..."</i>	Biased sampling is routinely used in environmental sampling programs and is the subject of considerable technical guidance in US EPA Publication SW 846 – the definitive guidance provided by the US EPA for compliance with its CERCLA and RCRA regulations. The results were identified as "biased" and interpreted in that context. The other option is some version of random sampling. Both can be appropriate, however, as US EPA and SC DHEC staff will confirm, when there is a known pattern of constituents of concern, the sampling program should address those known patterns. "Biased" sampling is not an inferior approach – it is a simple scientific choice.
Page1, Paragraph 1	<i>"...the sample results reported by Kestrel ...are consistent with the EPA and other findings which date back to the mid-1980 time frame..."</i>	See comment on next point.
Page 1, Paragraph 2	<i>"Kestrel's samples do <u>not</u> contain any new information or higher levels of PCBs....but there may be no specific sample from the limited area described by Kestrel as "above Woodside II"</i>	I am not aware of data regarding the concentrations of PCBs in the floodplains of the Woodside I and II impoundments – except the data on samples collected in March by Kestrel and Dr. Larry Dyck above the Woodside I dam after the dam was removed. The significance of the PCB concentrations in these floodplains is that they have been or will be exposed by the dredging and dam removal and lie on private property, as noted by Ms. Jones in her May 9, 2011 letter. A short distance downstream of the Woodside II Dam, the Twelve Mile River, including a major portion of the floodplain are owned and controlled by the US Army Corps of Engineers. The Army Corps of

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
		Engineers is free to manage the floodplains on their property as they see fit, subject to citizen overview.
Page 1, Paragraph 2	<i>“...Kestrel, either negligently or purposefully, based its opinion as to the creek banks on preliminary drawings stamped as and submitted solely for agency review and Kestrel ignored the final drawings for construction which reflect the unknown nature of the creek banks.”</i>	Kestrel has recently obtained the November 2009 Arcadis drawings and compared them to the August 2009 Arcadis drawings. Further, we reviewed in more detail the Arcadis representation of Kestrel's 2007 work referenced in Ms. Jones 2007 letter. I find Ms. Celeste Jones' comment without merit or significance in this matter. In fact, all of the drawings prepared and submitted to the Trustees, the various regulatory agencies, and the federal court by Arcadis for Schlumberger appear to misrepresent Kestrel's work in a material way. We became aware of the issue of the Woodside I and II floodplain representations approximately a year ago over after performing sediment probing and sampling for the Easley Central Water District – and learning that Arcadis was representing the floodplains in the Woodside I and II impoundments as being underlain by bedrock, while citing Kestrel's sediment and bedrock survey.
Page 1, Paragraph 3	<i>“The certification by Kestrel in affixing their registered seal(s) is incorrect because the information reported was incorrect and is rooted in an impermissible conflict of interest.”</i>	The information reported was correct. I will address the “conflict of interest” matters in another manner directly with the McNair Law Firm and Schlumberger. The facts are the facts.
Page 1, Paragraph 3	<i>“...it contradicts Kestrel's prior engineering work performed in 2006-2009 for Schlumberger...”</i>	Kestrel's opinion in the April 20, 2011 report absolutely does not contradict Kestrel's work for Schlumberger in 2006-2009. I cannot fully address this allegation at this time; however, my understanding is that Kestrel's response to a subpoena by attorneys for Schlumberger's former contractor, Weston Solutions, will likely make public the documents I need to fully address this allegation. Legal counsel advises me that, Ms. Jones reference to Kestrel's work alone may be sufficient cause for release of the needed documents. Attached are transects (cross sections) prepared by Kestrel Horizons, LLC in 2008 and shown to Craig Zeller of the US EPA and to the Natural Resource Trustees at separate meetings in May and June, 2008. Note the number and location of probes from the Kestrel

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
		<p>survey and the interpretation of the floodplain composition. Compare that to the Arcadis representations (left/right orientation reversed) of August 2009 and November 2009. Kestrel expressed concern about the stability of the floodplains – and included separate volume calculations for the floodplain sediments – beginning in the fall of 2007. We also expressed concern about exposure of PCB-containing sediments since early 2008 – to principal representatives of Schlumberger and Arcadis.</p>
Page 1, Paragraph 3	<p><i>“...violates South Carolina law regulating the practice of engineering as set forth in:</i></p>	See specifics below.
Page 1, Paragraph 3	<p><i>“...S.C. Reg. 49-207(C)(1)...”</i></p> <p>Repeated here for convenience: <i>“The seal and signature of a licensee on a document constitutes certification that the document was prepared by the licensee or under direct supervision of the licensee, and in the case of prototypical documents, that the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for the application of the plans.”</i></p>	<p>I personally wrote all of the portions of the April 20, 2011 report dealing with engineering subject matter and reviewed and commented on all portions of the report which dealt with sampling and analysis of sediments for PCBs.</p> <p>To allege this violation in a letter to a public agency with no knowledge of the facts is unconscionable and unethical.</p>
Page 1, Paragraph 3	<p><i>“...S.C. Reg. 49-304(B)...”</i></p> <p>Repeated here for convenience: <i>“The Engineer or Surveyor shall not accept compensation, financial or otherwise, from more than one party on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to, by all interested parties.”</i></p>	<p>Neither I, nor Kestrel Horizons, LLC nor any employee of Kestrel Horizons, has accepted any compensation for efforts related to Schlumberger’s project – other than from Schlumberger and the McNair Law Firm. Upstate Forever reimbursed Kestrel for the cost of the PCB analyses. That’s it. All assistance has been provided pro bono, with no consideration of any type.</p> <p>Again, to allege this violation in a letter to a public agency with no knowledge of the facts is unconscionable and unethical.</p>
Page 1, Paragraph 3	<p><i>“...S.C. Reg. 49-303...”</i></p> <p>Repeated here for convenience: <i>“The Engineer or Surveyor shall issue public statements only in an objective and truthful manner.”</i></p>	<p>I have absolutely complied with this regulation and standard. I assume that Ms. Jones was simply ignorant of the facts and will withdraw this allegation, as well as the others. An internal audit against this standard for all members of the Schlumberger team may be in order.</p>
Page 2, Paragraph 1	<p><i>“...violated S.C. Reg. 49-2907 by their lack of review of the final drawings</i></p>	See comment on previous page regarding the November 2009 drawings.

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
	<i>submitted November 2009.</i>	
Page 2, Paragraph 2	<i>"The Twelve Mile Creek project is a matter of the negotiated settlement between the parties to the action and not subject to modification or intervention by any third party."</i>	Twelve Mile Creek is, by definition, "waters of the State" and "waters of the United States". Citizens are fully entitled to a seat at the table regarding this matter. To block such citizen access is to deny a fundamental right. South Carolina has not been annexed by the former Soviet Union.
Page 2, Paragraph 2	<i>"...the banks along the creek are the property of the adjacent private landowners. There is no public property along the affected reach of the project."</i>	See comment above.
Page 2, Paragraph 2	<i>"The Consent Decree does not include the rights of landowners nor permit the parties to initiate any condemnation proceedings to remove the banks"</i>	The Consent Decree does not include the rights of landowners? Ms. Jones may want to reread the provisions regarding regulatory approvals. That's where protection of private citizens is vested. Regarding condemnation proceedings, I have no knowledge of the legal aspects of this matter. I have heard mention of the term "constructive taking", but I don't fully understand it, nor does it have any relevance to my technical opinion.
Page 2, Paragraphs 4 and 5	<i>"Kestrel claims that the design prepared by Arcadis is "flawed" due to representation by Arcadis that the banks are composed of bedrock....The revised set of drawings modified the representation of the creek cross sections to reflect the unknown nature of the creek banks between the exposed bank location and the nearest probing location."</i>	Drawing dotted lines instead of solid lines on the final drawings does not address this matter – it simply avoids it. In my opinion, the drawing modifications were a nominal response to a potentially serious issue. My statement stands.
Page 2, Paragraph 6	<i>"The cross sections developed in the design were based on probing performed by Kestrel in 2007 at 13 transects within the project reach, where refusal was interpreted as bedrock. Since probing was not performed at the bank location, the site conditions between the bank location and the nearest probing location were unknown, and the drawings were revised in November with a dashed line to indicate such."</i>	See comment above. Geotechnical engineers and geologists are trained in interpreting soils, rock, topography, and water course morphology. To treat the floodplains as an "unknown" in a project of this magnitude on private property and involving a public water course is not consistent with the practice of professional engineering and professional geology in South Carolina.
Page 3, Paragraph 1	<i>"In addition, the design included a requirement for additional probing to be performed by the contractor prior to dredging to better define the depth to bedrock...."</i>	I have not seen such probing data. That requirement is responsible. Whether the work done was adequate cannot be evaluated without detailed review of the probing data.

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
Page 3, Paragraph 2	<i>“Kestrel has also claimed that the dredging has created an unstable condition in the creek banks. In areas where the edge of the water bank material was not bedrock (as determined through ore detailed probing), a 2:1 horizontal:vertical slope was used as a removal limit to provide a geotechnically stable slope at those bank locations.....As such, Schlumberger removed sediment to the extent practicable...leaving a geotechnically stable slope at the banks after removal.”</i>	Kestrel’s cross sections included a 2:1 slope from a point 5 feet off the current low water line for the dredging feasibility analysis. A 2:1 slope in a river setting where the toe (bottom) of the slope will be subject to super-saturation and flowing water cannot be stable without substantial reinforcement, e.g., thick rip rap revetment above the bankfull elevation. That would mean placing rip rap or incorporating some other type of stabilization measure for an approximate 15 foot elevation from the bedrock bottom of the creek. If that is not done, the banks can be expected to collapse and wash downstream. Anyone who has ever built a sand castle near the edge of the surf knows that. If Schlumberger believes these banks are geotechnically stable, it’s time for a serious review by a capable, <u>practicing</u> team of professional civil/geotechnical engineers and geologists.
Page 3, Paragraph 4	<i>“The statement that 1.5 miles of river bank exhibit these characteristics overstates the extent of the extent of this type of erosion condition</i>	See specific comments below
Page 3, Paragraph 4	<i>“First, there are no known “undermined” conditions in Woodside II impoundment since the dam has not been removed.”</i>	Just because you can’t see below the water level doesn’t mean the conditions don’t exist. With the Woodside II Dam scheduled for removal soon, the conditions will become apparent – as they did after Woodside I was removed.
Page 3, Paragraph 4	<i>Second, in the Woodside I impoundment there might be 1100 feet in total length exhibiting some level of erosion, significantly less than 1.5 miles (7920 feet).”</i>	See comment above. I’m betting I am much closer to reality than “the banks are geotechnically stable”. I suggest Ms. Jones, the Schlumberger principals, and the Arcadis engineers go walk the banks during storms for the next two months if Ms. Jones is so confident in her statements as to impugn my reputation.
Page 3, Paragraph 6	<i>In 2007, Kestrel, while working under contract to Schlumberger, advised and reported that the amount of sediment that could be feasibly dredged from the creek was controlled by the natural terrain of the creek. Additionally, Kestrel advised that “Dredging should be limited to a slope no greater than the angle of repose of the creek sediments. The volume calculations presented in this report were prepared assuming an angle of repose of 2:1 or 27°. This approach was virtually</i>	And now for the rest of the story...The Schlumberger project is a restoration project – not a dredging project. Dredging is just a part of the work. From the Arcadis plans, I am not clear how the “adaptive management” approach will work. While adaptive management has a “wait and see” element, that is not the whole concept – any more than dredging is the whole restoration project. Maybe Schlumberger and Arcadis will be clarifying the restoration plan – or maybe

Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
	<i>what was implemented in the field...."</i>	I'm the only one who doesn't understand. I'm willing to wait and see if the regulatory agencies responsible for maintaining public safety and protection of human health and the environment are. That's their job.
Page 3, Paragraph 5, last sentence	<i>"Schlumberger has removed an average of a little over one foot of sediment above the creek bottom, whereas Kestrel's engineers recommended leaving 5 feet of sediment behind."</i>	As you can see on the attached cross sections, four separate volumes were calculated: the minimum dredging template, 5 feet on the bottom, the wedge between the 2:1 dredging template and a vertical plane at the normal water level, and the likely floodplain sediments. These were used in conceptual discussions within the Schlumberger team (including Arcadis), and with representatives of US EPA and the TMR Natural Resource Trustees – which makes them public documents. The 5 feet of sediment left on the bottom came from the hydraulic dredging contractors who provided bids in 2007. According to at least two of the four dredging companies who submitted bids, the remaining sediment to be managed (whatever the additional depth) could not be addressed without undue risk to the hydraulic dredging equipment unless a detailed mapping of bedrock was developed; even then, they were concerned about hitting "boulders the size of Buicks". That meant that additional sediment would either be managed by conventional mechanical excavating equipment or released.
Page 4, Paragraph 1	<i>"Kestrel states several unreliable and misleading conclusions related to the PCB content of sediments..." to the end of page 6.</i>	The rest of Ms. Jones' letter is such a pathetic technical response to our April 20, 2011 report that it is easy to see why Schlumberger resorted to defamation and libel in their May 9, 2011 response.
General Comment	<i>Regarding Use of Confidential Information</i>	We used no confidential information in our efforts after we left the employment of Schlumberger and McNair as counsel for Schlumberger in 2009. Look at the results of our work on floodplain probing and sampling for Easley Central Water District. Look at the results of work on the Easley Central Water District Reach Feasibility Investigation for the TMR Natural Resource Trustees under contract to Upstate Forever as fiduciary trustee. Look at the publicly available information from the Schlumberger



Reference	Allegation from May 9, 2011 Letter	Response of William A. Stephens, P.E.
		project. Ask Brad Wyche of Upstate Forever, Dr, Larry Dyck, PhD, Dr. Larry Hudson of the Easley Central Water District, or Rita Barker of the Wyche Law Firm. You will find no breach of confidentiality because there wasn't any.

End of Attachment B to

**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**



Attachment C

to

**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**

Ethical and Legal Issues

This Attachment consists of a collection of documents relevant to ethical and legal issues.

Excerpt from:

January 25, 2015

**Urgent Message to South Carolina Legislature and Governor
Regarding Environmental, Legal, Governance, and Economic Issues
Associated with the Pinewood Site**

This message addresses very serious and urgent environmental, legal, governance, and economic issues associated with the Pinewood Site. A separate message, also dated January 25, 2015, addresses legal, ethical, and governmental fidelity issues involving DHEC's actions regarding both the Pinewood Site and Twelve Mile River. These two messages reference a set of documents which can be found, read, and downloaded at www.kestrelhorizons.com.

Kestrel Horizons and its former Principals and Team Members will absolutely not be party to criminal fraud, abuse of power, or willful, deliberate negligence or malfeasance – regardless of past, present and future choices of elected and non-elected parties to do so.

The Pinewood Story will become infamous in time. Possibly among the worst frauds perpetrated and perpetuated by a government agency in the United States on citizens and taxpayers. In short, a web of lies and half-truths designed to place millions of tons of hazardous waste (real hazardous waste – not mining, minerals processing, smelting, or coal combustion residuals) within a stone's throw of the water body that supplies potable water for nearly one million South Carolinians.



Though substantial releases of hazardous wastes and/or hazardous waste constituents from many areas of the landfill cell closest to the lake have occurred, the situation is still manageable. But not without tens of millions of dollars to be spent.

The primary cold, hard fact is that the South Carolina Department of Health and Environmental Control has and always had the responsibility to insure that no releases from the Pinewood Site of hazardous waste or hazardous waste constituents to surface water, groundwater, soils, or the lake occur.

The second cold, hard fact is that the South Carolina Department of Health and Environmental Control has systematically failed the citizens and taxpayers of South Carolina in fulfilling that responsibility – even when the agency had direct control over the funding and regulatory activities to insure protection of human health and the environment.

The third cold, hard fact is that DHEC management chose to request that Kestrel resign as Trustee of the Pinewood Site Custodial Trust rather than publicly disclose the conditions of the site. DHEC management chose to instruct Kestrel to omit critical information from public documents, rather than face the legal and ethical obligation to inform the South Carolina legislature and other state agencies, such as the South Carolina Department of Natural Resources and Santee Cooper.

DHEC managers attempted to coerce Kestrel Horizons and its senior members into submitting, signing and certifying the major hazardous waste permit application (known as the RCRA Part B Post-Closure Permit Application) as “true, accurate, and complete”.

When, instead, we submitted (on July 18, 2014) documents to the contrary, publicly reporting extensive releases of hazardous waste and/or hazardous waste constituents and taking the position that the proposed environmental monitoring program was woefully inadequate, wasteful, and almost certainly misleading, we were essentially fired. That occurred on July 25, 2014 – just seven days after Kestrel’s act of defiance of Director Templeton’s plan – and three days after a South Carolina State Law Enforcement Division (SC SLED) **Special Agent Kristina Gainey** appeared at the front gate of the Pinewood Site wryly announcing to site workers she was conducting a SLED investigation regarding inappropriate contributions to local officials – or some such nonsense. Clearly intended as an intimidating “shot over the bow” to Director Templeton’s action three days later. **[Read the paragraphs at the end to learn about my surprise phone call from Special Agent Kristina Gainey on January 25, 2016 – exactly one year after I provided two major documents (from which this text is taken) regarding ethics and compliance with the law to South Carolina Governor Nikki Haley and the South Carolina Legislature.]**



I can sum up my experience with SC DHEC managers as follows:

- I/we did what was required by all ethical and legal standards in the Pinewood Trust and Twelve Mile River professional engagements.
- Certain of DHEC's management employed ethical and legal standards leaders of third world countries would consider unacceptable.
- When I/we would not commit a matched set of felonies at the behest of certain DHEC managers - we were, in effect, immediately fired by Director Templeton. The felony violations were primarily related to requirements of the federal Resource Conservation and Recovery Act (RCRA), including the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the South Carolina laws adopting those federal statutes, related to public disclosure, completeness, accuracy, and truthfulness in environmental permit applications. However, multiple other ancillary violations were (would have been) involved. I would have been eligible to spend the rest of my life in prison for those felonies, had I exceeded to Director Templeton's will.
- During the 90 day termination transition period requested by DHEC, certain DHEC managers attempted to induce/persuade Kestrel's most senior employee to commit the same set of felony violations, DHEC having required that I step aside as part of the July 25, 2014 "Transition Agreement."
- Kestrel's owners and other team members were united to the end (October 31, 2014), insisting that the hard truths be told to the other responsible elected politicians and government officials.
- To date, I have received absolutely no contact from any of twenty plus such elected politicians or government officials – other than former State Senator Phil Leventis.
- I have received several calls from government employees who wished to remain anonymous for fear of retaliation by managers and politicians. The theme was that the situation at DHEC is a result of intellectual arrogance, subject matter ignorance, and poor management by Director Templeton and the DHEC Board.
- I realize none of this will be found in the press releases written by DHEC publicists. Now the only question is will they deny all of this "vigorously", "vehemently", vociferously" – or "viciously" and "vindictively" – in keeping with Director Templeton's approach on July 25, 2014?

Now you might wonder if I am at all concerned that Director Templeton and some current or former DHEC folks might take offense to this missive and pursue me legally – or illegally. I recognize that may indeed happen; it already has - in spades. But you see, those folks know now they are looking at the potential of dismissal for cause and loss of state retirement benefits – for starters. Some are looking at the very real possibility of prison time – for primary acts or for conspiracy. All I have said is the truth and is backed by extensive written



documentation – some of it available at www.kestrelhorizons.com. And real investigative journalists would not be particularly kind to the main characters of these stories.

If we are to be a civilized society of laws, the laws must apply equally to government officials and politicians. Unless and until that happens, citizens and taxpayers are simply the pawns of two political franchises of privileged abusers.

.....

I realized this morning [January 25, 2015], based on an article yesterday in ***The State*** newspaper, that Catherine Templeton may simply have been doing Governor Haley’s bidding and following orders. If that is the case, Catherine Templeton would really be as much a victim as her staff – and I would be truly sorry about that. Maybe she just “took one for the team.” Now some events of 2014 – the big election year – are beginning to make more sense. That would explain why I have gotten no response from the Governor’s office from my September 18 and September 25 [2014] “bombshell” reports on the Pinewood Site and the Pinewood Site Custodial Trust.

My sincere hope is that Governor Haley read this far – and reads the companion piece also dated January 25, 2015. I guess if SLED shows up at my front doorstep to rattle my cage, I’ll know for sure. That would be more than a coincidence. Disappointing when our chosen leaders have feet of clay. Hope that is not the case.

End of January 25, 2015 Excerpts



**Excerpt from February 26, 2016 message
to SC DHEC Director Catherine Heigel**

As has often been the case with DHEC management, it's not what is said so much as what is not said. Half truths. Not "the whole truth and nothing but the truth." Director Heigel, I believe you are a person of integrity. You have a really tough problem in that predecessors have repeatedly made pragmatic politically-expedient decisions rather than principled decisions. The political pressure put on government officials in South Carolina is as unrelenting as it is unconscionable. Recall that the whole Pinewood Site travesty began with a "deal with the devil" that was designed and intended to attract industry by insuring relatively inexpensive and plentiful hazardous waste disposal capacity.

Pinewood was certainly not the only facility that was part of that plan and strategy.

The Pinewood Site in a nutshell: Four million cubic yards (800 million gallons) of hazardous waste placed (in effect) as close as 75 feet from the headwaters of Lake Marion (source of drinking water for more than 1 million people), with a rubber raft liner and some packed-down clay containing the most toxic 1 million cubic yards next to the lake – all monitored by a strategically misdirected monitoring system, based on a fatally-flawed Conceptual Site Model perpetuated by "experts" and regulators who are not experts, at all – with an inadequate and unmaintainable leachate extraction now entering or in full failure mode. And virtually no remaining public funds. And a regulatory steward that has been in all-out denial and managed as a political concubine since 1980.

Now I know full well that Catherine Templeton and our Governor and Legislature did not want all of this to come out last year [2014] – in an election year. And when the Governor was working so hard to attract key industrial companies. Ironic – or maybe poetic - that this bloody mess all began with good intentions and the typical political approach of **"kicking the can down the road"** – or more appropriately **"kicking the drum down the hole"**.

Director Heigel, I don't envy you on this one. My firm, my career, and my family's financial security and that of Kestrel's employees was flushed down the toilet that is South Carolina politics. To comply with Director Templeton's direction and desires would have resulted in willful and gross negligence and misconduct – not to mention serious felonies, malfeasance with regard to fiduciary obligations, and unethical conduct by the standards and regulations governing Professional Engineers. Only my sheer determination, expenditure of more than \$30,000 in our life savings, and very public exposure of the reality and wrongs of the Pinewood



situation have rescued some fragment of my reputation and legacy. Am I bitter? I sure as Hell was.

I am not interested in a pissing tournament or a re-visitation of history *ad nauseum* on all of this. Do the right things from here on out and we are good. However, any derogatory crap or intimidation from politicians and I am full-on honey badger on South Carolina's elected officials – starting with the Governor. I say that because I am sure I will not experience abusive treatment again unless the recipients of this message are put up to no good by elected officials. You may have figured out that I am willing to fight for right – no matter the personal cost or the odds. Some call it an unfortunate personal flaw. Not my family, friends, or valued colleagues and best former employees.

My hope is that South Carolina's elected officials "get religion" on these matters of principle. The Obama Administration is not alone in abusing power and "weaponizing government" against the interests of law-abiding citizens. That stuff absolutely needs to be trampled out in South Carolina.

Good luck to all of you. I mean that. You will need all the luck you can get.

Bill Stephens

P.S. Remember that government employees can be charged and convicted of felony conspiracy and inducement for crimes associated with environmental statutes - especially under federal law. All the politicians will disavow any knowledge of your actions. Sounds like Mission Impossible. Right now, in South Carolina, it pretty much is. Your family, integrity, and values must come first.

Director Heigel, you are being called to be an agent of change. If you find that is not possible – or not worth the personal cost – you should get out before having to make decisions you will regret.

Focus on integrity, compliance with the law, ethical action, and purpose-driven results. The rest will fall into place with constancy of purpose.

And, just for fun – one day ask Governor Haley who Special Agent Kristina Gainey is and whether Special Agent Gainey was assigned to her personal security detail in late July and August 2014. I know the answer. Bet you get a blank stare.

See [January 25, 2016 Update](#).



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January 25, 2016 Update

This is predictably incredible.

I am writing this for the record on January 25, 2016. Once again, you just can't make this stuff up.

On Monday, January 25, 2016 I met with Bill Fox, News Editor, and Ron Barnett, Reporter, of the Greenville News at their main office in Greenville, South Carolina. I had set up the meeting las week to offer my expert input on issues of the proposed disposal of coal ash disposal at a permitted construction and demolition debris landfill site in Pickens County, just west of Greenville. I offered to discuss issues of Twelve Mile River, a PCB-contaminated river in Pickens County, and the Pinewood Site – the former commercial hazardous waste landfill facility near Pinewood, South Carolina (in the center of the state.)

We met from just after 11:00 AM until about 12:30 PM. I will not recount the discussions here, as the topics were many and far-ranging. I provided to Mr. Fox and Mr. Barnett technical reference documents I had authored relating to coal ash issues as well as several public documents I had authored regarding Twelve Mile River and the Pinewood Site. The discussion covered a lot of ground in a short time. Among the topics covered were the basics of the ethical, legal, and political issues of the Pinewood Site and the behavior of South Carolina elected officials and regulatory agency managers.

I got home about 1:10PM and took a nap. Shortly after 2:30 I awoke to the ring tone of my iPhone. When I answered, the voice said, "Hello, this is Kristina Gainey." - "Is this Bill Stephens?" or "May I speak with Mr. Bill Stephens?" – something along those lines. I was just waking up, so I didn't get the exact words.

I said, "This is Bill Stephens."

I began to realize this was Special Agent Kristina Gainey of the South Carolina State Law Enforcement Division (SLED) – the very same Special Agent Kristina Gainey who had visited the Pinewood Site a few days before Kestrel Horizons was asked by then-SC DHEC Director Catherine Templeton to resign the role of Trustee of the Pinewood Site Custodial Trust on July 25, 2014. Her voice and phone conversation manner resemble Penny of The Big Bang Theory.



Recall that Special Agent Kristina Gainey had appeared at the front gate of the Pinewood Site wryly announcing to site workers she was conducting a SLED investigation regarding inappropriate contributions to local officials – or some such nonsense. Clearly intended as an intimidating “shot over the bow” as a prelude to Director Templeton’s action to terminate and sully the reputation of Kestrel Horizons, LLC and its members three days later, on July 25, 2014.

Also recall that, when I reached Special Agent Gainey by her mobile telephone two weeks later, she had the same phone conversation manner as she did on Monday. It reminded me of one of my daughters in her early teens making a prank call with her friends listening in. According to what little I could find on the Internet, Special Agent Gainey has distinguished herself posing as a woman of malleable virtue in SLED sting operations.

In that call about 1½ years ago, Special Agent Gainey said she was inquiring about inappropriate donations to officials of the Village of Pinewood – which would have been a pre-2000 (15 year-old) matter, involving Laidlaw Environmental Services or Safety-Kleen – or both. I explained that I owned and managed Kestrel Horizons, LLC which, at that time, was the Trustee of the Pinewood Site Custodial Trust – a public trust. She asked how much the trust or I had given to officials of the Village of Pinewood. I was disgusted and answered rather curtly, “*Nothing. We are a public trustee.*” She then giggled audibly and said she needed to hang up because the jury was returning with the verdict in a murder trial she was involved in. Now, anyone who knows me knows I am slow to anger, but when the fuse is lit.....

In my estimation, this was clearly an attempt to intimidate me. Kestrel Horizons, as Trustee, had on July 18, 2014 – just a few days earlier - submitted a set of hazardous waste facility permit application documents in head-on defiance of the instructions of then-Director Catherine Templeton’s staff. A set of documents consisting of about 1,000 pages and numerous maps and figures that complied with the applicable laws and ethical standards which require the application to be signed by me, as the Trustee’s operating officer, to be “true, accurate, and complete” under penalty of felony prosecution under federal and state laws. The permit application Kestrel Horizons submitted was as “true, accurate, and complete” as we could make it by SC DHEC’s imposed deadline and refusal to approve funds enabling Kestrel, as Trustee, to contract for the necessary technical work to make it absolutely complete and accurate. The July 18, 2014 permit application documents contained a great deal of information DHEC management wanted omitted or withheld – information that revealed many very serious environmental, legal, and financial issues that had been kept from the public by SC DHEC for many years.



Now, the “matter” Special Agent Kristina Gainey said she was “investigating” was at least 15 years old and the statute of limitations on crimes by officials of Laidlaw or Safety-Kleen would have run long ago. Laidlaw Environmental Services merged with Safety-Kleen in 1998 and Safety-Kleen declared bankruptcy in 2000. Safety-Kleen was in bankruptcy until December 24, 2003, when the Pinewood Site Custodial Trust – a public trust - was formed as part of the bankruptcy resolution. Kestrel Horizons, LLC assumed the role of trustee of the PSCT on December 24, 2003 at approximately 7:00 PM and served that role until midnight, October 31, 2014.

Back to the conversation Monday afternoon, January 25, 2016:

We left off at “*This is Bill Stephens,*”

Now, I don’t know how much of the muddled conversation was due to my coming out of a nap and how much was due to Special Agent Kristina Gainey’s special way of sounding ditzzy and incoherent, but she said she was “*just checking her notes*” from a year and a half ago when we spoke and “*wanted to make sure she knew who I was.*” She said she recalled that she “*was working on a murder investigation or something*” when we spoke then. (Note that several of my previous emails and documents had mentioned Special Agent Gainey’s statement that she was at a murder trial and that the jury was just re-entering the courtroom – so those emails and documents were available to refresh her memory.) I told her again that, at the time, I owned and managed Kestrel Horizons and that Kestrel Horizons was Trustee for the Pinewood Site Custodial Trust. She said nothing in response.

I asked why she was calling now, and she said, “*The administration just wants to know who you are.*”

Still a little confused, I said, “*Oh. What administration?*”

She answered “*Uh, The administration of the town. They didn’t know Laidlaw [Safety-Kleen] went bankrupt.*”

I was at a loss for words – which doesn’t happen often. I thanked her for calling – a habit from being a consultant for 35 years. Conversation ended. “*Goodbye.*”

After I hung up, I began to think about what had just transpired. Why, after 18 months, did Special Agent Kristina Gainey call me to make sure her notes were complete regarding my identity? What kind of “Special Agent” doesn’t write that down in the first place? What kind calls someone to ask who they are? Why does she still sound like my teenage daughters perpetrating a prank call with their friends listening with anticipation? WTF?



Now, you need to know that everyone with any knowledge of the events at the site since 2003 in and around Pinewood knows who Kestrel Horizons is (or was) and who I am (or was). So that dog don't hunt. (I have attached a recent article from *The Sumter Item*, which is one of many covering the Pinewood Site in the *Sumter Item*, *The State*, and the *Post and Courier* over the past 18 months. Pinewood is in the distribution area for those three newspapers – and *The Sumter Item* is the primary newspaper for the Sumter area – including the crossroads town of Pinewood. Still believe any "administration official" in Pinewood wouldn't know who Kestrel Horizons or I were? Anyone believe anyone in Pinewood didn't know Safety-Kleen/Laidlaw Environmental Services went bankrupt in 2000?

WTF?

So, there are only two realistic explanations why Special Agent Kristina Gainey would call me just two hours after I left a meeting with the news editor and a reporter from *The Greenville News*:

1. She was trying to "cover her tracks" and discredit any assertion I might have that her motives 18 months ago were not as she portrayed them to be, or
2. She was trying to tweak me again, in effect saying, "*I'm (or we're) still jerking your chain.*"

Or maybe both.

Now what or who might have prompted an "out of the blue" call from Special Agent Kristina Gainey just two hours after a meeting with *The Greenville News* where the unethical and illegal actions of government officials was discussed?

Let's try process of elimination:

1. Too "coincidental" to be a coincidence. *The Greenville News* folks made a call.
2. Who might they have called that would have responded so quickly?

Door Number 1: Catherine Templeton, former Director of SC DHEC? Probably not. She's been gone for over a year and would have no reason to insert herself back in this mess. The more I think about the events of 18 months ago, the more I believe she was a pawn. A good soldier.



Door Number 2: How about new SC DHEC Director Catherine Heigel? Not at all likely. She started on the job in June 2015 – a year after all the hoo-ha with SC DHEC, and she knows all about the happenings back then. My impression is she is far too intelligent and ethical to insert herself into this.

Door Number 3: That leaves us with a cluster of major stakeholders: Governor Nikki Haley, her executive staff, and/or her GOP VP campaign staff.

3. When I consider who might have been in and might still be in a position to induce Special Agent Kristina Gainey into making such calls and the reasons to do so, the clear choice for me is Door Number 3.

So here are my takeaways:

- A. Politics surely does make strange bedfellows – especially in South Carolina.
- B. The rules of ethics and compliance with the law are more malleable in South Carolina than in most areas of the country. More similar to some of the Northeast states, Washington, D.C., and large cities of the US. Also similar to some third world countries.
- C. If the intent was to “cover tracks” and create a plausible alibi for actions 18 months ago, Special Agent Gainey fell short in my eyes. Maybe not in the eyes of others. One quarter of adults in the US seem to have no trouble dismissing the illegal and unethical acts of Hillary Clinton as commonplace and inconsequential.
- D. If the intent was to somehow create the slightest hint of continued intimidation by government authorities, the intent has backfired.

And as of this moment – 18 months after resigning and submitting and broadly distributing and posting on the Kestrel Horizons web site a very detailed, informative package for South Carolina government officials (including Governor Haley) and citizens, 15 months after submitting and distributing our final report as Trustee to the citizens of South Carolina on the Pinewood Site, 12 months after broadly distributing (including to Governor Haley) two detailed documents from which the excerpts above were taken, 8 months after submitting very detailed testimony regarding the Pinewood Site to the South Carolina Senate (with broad distribution including Governor Haley), and 4 months after submitting the September 23, 2015 message from which excerpts above were taken – **I have still not been contacted by a single state, county, or municipal government official to follow-up on a single issue or detail.**

Except Special Agent Kristina Gainey.



You may want to read the most recent article in *The Sumter Item* (officially now *The Item*), below – then draw your own conclusions. As for me, I'm concentrating on finishing my book titled, *Dirty Stories*.

By the way, *Dirty Stories* is not a collection of obscene jokes. I take that back. In a way it really is. But none of them are at all funny.

Bill Stephens

P.S. A special thanks to Jim Hilley of The Item and Sammy Fretwell of The State for their unbiased coverage over the past 18 months. The citizens of South Carolina owe a debt of gratitude to them and their publications. Without them, the issues and needs of the Pinewood Site would have been buried. I understand The Post and Courier has also covered the issues, and have seen a few of their articles. Also commendable. Very awkward position for a reporter or publication to be in right now. Political favors no doubt accrue in great measure to those who suppress or discount factual information that undermines political aspirations and public perceptions. Just how it is today.

Just in case anyone wonders about my politics – I am a conservative with old-fashioned values and total disdain for unethical and illegal behavior – especially by elected government officials and government employees. No matter their political affiliations – and especially if they are Republicans – who I hold to a higher standard.



From: Bill Stephens
Sent: Friday, August 28, 2015 10:23 AM
To: 'sfretwell@thestate.com'; 'Jim Hilley'; 'leventis@FTC-I.NET'; 'Luke Lukens'
Cc: 'Heigel, Catherine E.'; 'Marshall Taylor'; 'W. Marshall Taylor'; 'Bryan J. <bryanj.williams@gel.com> Williams'; 'Haliena, Brian'; 'CSuttell@synterracorp.com'; 'Samantha Wilkinson (wilkinson2k@aol.com)'; 'Conner, Phillip L. (PConner@nexsenpruet.com)'; 'justin rogers'; 'Andy Stephens'
Subject: Message from Bill Stephens

Message from Bill Stephens:

I have decided to end my active involvement with the Pinewood Site, South Carolina government, and environmental consulting. The well-documented actions of former DHEC Director Catherine Templeton and other DHEC managers, past and present, ended the viability of my firm, Kestrel Horizons, LLC and my own career.

With one more concise document regarding the Pinewood Site to be submitted soon, I will have brought to closure my ethical and moral responsibilities and those of Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust.

On July 14, 2015 I sent a letter to Director Catherine Heigel offering potential assistance with various aspects of the Pinewood Site and DHEC performance. On August 6, I met with Director Heigel to brief her on the Pinewood Site and the operation of DHEC from my experience and perspective. I was impressed by Director Heigel's fundamental grasp of the Pinewood issues and her attitude. Yesterday, I withdrew my offer of assistance in a message to Director Heigel after making the decision to end my consulting career. I wish Director Heigel all the best and encourage all interested parties to allow her some time to get her arms around the issues of the Pinewood Site and the performance of DHEC.

I will continue to serve as an expert in litigation for some time to come. I will also be writing books and will serve as a writer and adviser on a documentary series. My testimony regarding the Pinewood Site was provided in May in writing to the South Carolina Senate Committee, just before Director Heigel was nominated and confirmed. I will not be granting any more interviews, unless the Senate committee wants me to testify in person.

By the end of the year, many pertinent documents regarding the Pinewood Site, the Twelve Mile River site, and the AquaTech/Groce Labs Site will be placed on the kestrelhorizons.com site. That site is currently inactive.

This year is the 25th anniversary of South Carolina's Lost Trust scandal. Times have changed and so have the actors, but the behavior



that brought about the Lost Trust sting has metastasized into something larger and more toxic to society. No political franchise has a monopoly on the reprehensible behavior. I urge the citizens of South Carolina to insist on ethical, law-abiding, responsible behavior from elected officials and government employees.

On behalf of the dedicated former employees of Kestrel Horizons, I thank the citizens of South Carolina for the honor of serving as your steward for more than eleven years. I regret we couldn't achieve, in that time, all the measures needed to protect Lake Marion. I can assure you that shortcoming was not for lack of effort, skill, dedication, or sacrifice."

Bill Stephens

On Aug 29, 2015, at 10:32 AM, Jim Hilley <jim@theitem.com> wrote:

Former Pinewood landfill trustee steps away

Posted Saturday, August 29, 2015 6:00 am

By Jim Hilley
jim@theitem.com

Bill Stephens, former principal managing partner of Kestrel Horizons LLC, the company which was the trustee of the Pinewood Site industrial waste facility for more than a decade, has announced his intention to cease working as a consultant in connection with the site.

"The well-documented actions of former Department of Health and Environmental Control Director Catherine Templeton and other DHEC managers, past and present, ended the viability of my firm, Kestrel Horizons LLC and my own career," Stephens said in an email received by The Sumter Item.

Stephens promised to release more documentation regarding the Pinewood Site, but he said he thinks he has brought his ethical and moral responsibilities



and those of Kestrel Horizons LLC as trustee of the Pinewood Site Custodial Trust to "a closure."

Stephen's company, Kestrel Horizons, acted as trustee for the site from 2003 to 2014, when he resigned from being trustee amid ongoing disputes with DHEC about the safety of the site and funding issues.

Stephens has been critical of operations at the site, and has maintained the waste dump contains inadequate protection from potential spills into nearby Lake Marion, South Carolina's largest lake and a critical resource for water and recreation.

Stephens has also been critical of Templeton but urged interested parties to "allow her some time to get her arms around the issues of the Pinewood Site and the performance of DHEC." [Note: Jim got Catherine Templeton and Catherine Heigel confused. I have been critical of former DHEC Director Templeton but urged interested citizens to give new DHEC Director Heigel some time.... I believe Jim will correct this. Former Director Catherine Templeton needs some time, too – but a different kind of time altogether.]

Jim Beasley, a spokesman for DHEC Media Relations, said the agency is aware of Stephens' plans.

"We respect his decision," Beasley said. "We appreciate his past service at the Pinewood Site and wish him well in the future."

Stephens said he will continue to serve as an expert in litigation and will work as a writer and advisee in the production of a documentary.

In his letter, he said he would not be granting any more interviews unless the Senate committee investigating the Pinewood Site asks him to testify in person.

Stephens said he would place "pertinent documents" regarding the Pinewood Site, the Twelve Mile River site and the AquaTech/Groce Labs Site on the kestrelhorizons.com site, which he said is "currently inactive."

In his letter, Stephens references the "Lost Trust Scandal" of 1990, when more than two dozen South Carolina legislators were caught in a corruption scandal.



"Times have changed and so have the actors, but the behavior that brought about the Lost Trust sting has metastasized into something larger and more toxic to society," Stephens wrote. "No political franchise has a monopoly on the reprehensible behavior."

Stephens urged South Carolinians "to insist on ethical, law-abiding, responsible behavior from elected officials and government employees."

Stephens said he and his employees are grateful for the opportunity to serve the people of South Carolina.

"I regret we couldn't achieve, in that time, all the measures needed to protect Lake Marion," he said. "I can assure you that shortcoming was not for lack of effort, skill, dedication or sacrifice."



From: Bill Stephens

Sent: Thursday, March 17, 2016 11:31 AM

To: _____

Subject: A Definitive, Comprehensive Summary Document on the Pinewood Site Issues You Will Not Likely Find in SC DHEC Files

Note: For the New York Times and others who don't open attachments: Figure out a way to deal with that. I will provide information, but I will not spoon feed. If you only read one document, the letter attached and this email would be good ones to read.

All – Attached is a definitive, comprehensive summary document on the Pinewood Site issues you will not likely find in SC DHEC files. This is the letter that accompanied three bound volumes of critical information we handed DHEC General Counsel Marshall Taylor at about midnight in the parking lot of our Greenville office on July 25, 2014 after signing a “Trustee Transition Agreement” (a structured resignation agreement) pursuant to then-Director Catherine Templeton’s request for Kestrel Horizons’ resignation from the role of Trustee of the Pinewood Site Custodial Trust. You can surmise by the scope and detail of the letter and the three-volume set of exhibits that the split with SC DHEC was inevitable, given the acts of DHEC management leading up to that point. The quality of the digital .pdf copy is not very good because I had to compress it to be able to email the document. The total size of the three volume set is 200 MB, but some portions can be compressed to 10-to-15 MB.

In an email to follow, I will explain a little more about the fundamentals of the several *qui tam* matters and upcoming litigation involving the Pinewood Site and Twelve Mile River. I am limited to a certain extent in what I can or should say publicly while the United States Justice Department considers the several legal document packages being readied for submittal. I said a number of state and federal statutes have “whistleblower” provisions that may involve *qui tam* actions like the False Claims Act. Some federal laws allow direct suits by citizens with or without involvement of the government.

For those who seem mystified by my constant reference to felonies, you need to know that, beginning in in 1976 with the federal Resource Conservation and Recovery Act (RCRA), the federal government began the process of “criminalizing” violations of environmental statutes and the regulations promulgated pursuant to those environmental statutes. Managers of industrial companies have been sent to the federal penitentiaries for “paperwork violations” of federal environmental laws and regulations – even when no real potential harm or threat to the environment was involved. Many of the people I now have in my sights are ones who would have pointed the finger at me and



prosecuted me in a heartbeat for doing the very things they tried to induce Kestrel Horizons, as Trustee, and me to do. The tables have now been turned – not as is referenced in chess or backgammon, but as referenced in the account of Jesus cleansing the temple.

For those in South Carolina, consider the following excerpt from the state's over-arching environmental statute as you read the accounts of that felony actions and deceptions that SC DHEC Director Catherine Templeton and her management team members attempted to coerce Kestrel Horizons and me, individually, to commit. Also consider the final passage of one of my last communications with Catherine Templeton (9/29/14), which I have included after the excerpt from the South Carolina Pollution Control Act.

The fact that I have had to take recent action to blow the whistle again on deception by DHEC management is my proof positive that Ms. Haley is behind all that is going on. A very big disappointment for me – who supported and voted for her.

By the way: Schlumberger and the Lake Hartwell Natural Resource Trustees, with the assistance of Special Receivers William “Billy” Wilkins and Leon Harmon, and Craig Zeller of the US EPA, just quietly succeeded in closing out the 2006 Consent Decree issued by federal Judge G. Ross Anderson. That agreement was to be closed out when the restoration of Twelve Mile River was completed. To my knowledge, SC DHEC never objected to closing out the Consent Decree, and Director Catherine Heigel signed off as one of the representatives of SC DHEC as Trustee and as Permitting Agency. The banks of Twelve Mile River along the Village of Catachee remain unstable and out-croppings of PCB-containing sediments are apparent.

At the end of Twelve Mile River, adjacent to Madden Bridge, is a delta containing a huge volume of PCB-contaminated sediment from the floodplains behind Woodside I and Woodside II Dams. Despite my written warnings, appearance in January 2011 with Dr. Larry Dyck before the Natural Resource Trustees and Special Receivers, and signed reports in February and April 2011, the floodplains containing an estimated 230,000 cubic yards of unstable, PCB-containing sediment were allowed to collapse and be carried downriver to a bay just upstream of Lake Hartwell that was used for swimming and boating in the past.

Now what? It can be used as a wading pool and a canoe skills training facility for non-swimmers. Might want to wear some boots in the muddy parts.

More on that to come.



Bill Stephens

Title 48 - Environmental Protection and Conservation

CHAPTER 1

Pollution Control Act

SECTION 48-1-10. Short title; definitions.

This chapter may be cited as the "Pollution Control Act" and, when used herein, unless the context otherwise requires:

SECTION 48-1-270. Availability of records, reports, and information to the public; confidentiality of trade secrets.

Any records, reports or information obtained under any provision of this chapter shall be available to the public. Upon a showing satisfactory to the Department by any person that records, reports or information, or particular parts thereof, other than effluent or emission data, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Department shall consider such record, report or information or particular portion thereof confidential in the administration of this chapter.

HISTORY: 1962 Code Section 63-195.30; 1965 (54) 687; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241.

SECTION 48-1-320. Penalties for violation of Pollution Control Act.

A person who willfully or with gross negligence or recklessness violates a provision of this chapter or a regulation, permit, permit condition, or final determination or order of the department is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than twenty-five thousand dollars for each day's violation or be imprisoned for not more than two years, or both.

HISTORY: 1962 Code Section 63-195.35; 1952 Code Section 70-133; 1950 (46) 2153; 1964 (53) 2393; 1969 (56) 764; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241; 2001 Act No. 95, Section 1.



SECTION 48-1-330. Civil penalties.

Any person violating any of the provisions of this chapter, or any rule or regulation, permit or permit condition, final determination or order of the Department, shall be subject to a civil penalty not to exceed ten thousand dollars per day of such violation.

HISTORY: 1962 Code Section 63-195.35:1; 1973 (58) 788; 1975 (59) 241.

SECTION 48-1-340. False statements, representations or certifications; falsifying, tampering with, or rendering inaccurate monitoring devices or methods.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall be subject to the civil or criminal provisions contained in this chapter. For the purposes of this section the term "person" shall mean, in addition to the definition contained in Section 48-1-10, any responsible corporate officer.

HISTORY: 1975 (59) 241.

SECTION 48-1-350. Penalties constitute debts to State; liens; disposition of moneys collected.

All penalties assessed under this chapter are held as a debt payable to the State by the person against whom they have been charged and constitute a lien against the property of the person. One-half of the civil penalties collected inure to the benefit of the county. The criminal penalties collected pursuant to Section 48-1-320 must be collected and distributed pursuant to Section 14-1-205.

HISTORY: 1962 Code Section 63-195.36; 1970 (56) 2512; 1994 Act No. 497, Part II, Section 360.

Please note that I have enlarged the words **"Any person"** above. When it says **"Any person"** it means **"Any person"**. That includes government employees, elected officials, attorneys for private enterprises and their legal counsel and contractors, Trustees, Interim Administrators, public agency spokespersons, special receivers for judges, etc. **Any person.**



The following is a letter to Director Templeton dated September 18, 2014 – the same day Kestrel's final report, as Trustee, was issued to the citizens of the state of South Carolina.



Kestrel Horizons, LLC
As Trustee of the
Pinewood Site Custodial Trust

84 Villa Road, Suite 300
Greenville, SC 29615

864/288-6353
Fax: 864/288-6354
www.kestrrelhorizons.com

September 18, 2014

In accordance with the July 25, 2014 Agreement for Transition of Pinewood Site Custodial Trust Trustee Duties to Interim Administrator between Kestrel Horizons, LLC and the South Carolina Department of Health and Environmental Control, I hereby state that I deem necessary the direct participation of William Stephens, Managing Principal of Kestrel Horizons, in communications with the agency regarding matters related to the Pinewood Site Custodial Trust discussed in the following correspondence. The following are the words of Mr. Stephens.

A handwritten signature in blue ink that reads "Bryan J. Williams".

Bryan J. Williams, PE, Manager of Engineering, Construction, and Remediation

Director Catherine Templeton
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Technical, Legal and Ethical Aspects of Actions of SC DHEC Management with Regard to the Pinewood Site and the Pinewood Site Custodial Trust

Director Templeton:

Today we have responded in separate correspondence to the September 2, 2014 Notice of Deficiency (NOD) signed by David Scaturo, P.E and P.G., Director, Waste Division, SC DHEC Bureau of Land and Waste Management. The Notice of Deficiency addresses the RCRA Part B Hazardous Waste Post-Closure Permit Application for the Pinewood Site. We all know Mr. Scaturo's letter represents your official position with regard to demands upon



Kestrel Horizons, as Trustee, and me, personally to certify and sign the RCRA Part B Permit Application exactly as you have directed.

What you are ordering Kestrel Horizons and me to do is to commit acts which are patently illegal. You either know that or most certainly should know that. We have provided detailed references of RCRA regulations which demonstrate what you are requiring us to do would be illegal.

This issue is not new. We have stated many times in meetings and in writing to you, to DHEC legal staff, and to Bureau of Land and Waste managers and staff our commitment to legal, ethical, and moral acts regardless of "The Department's" pragmatic strategies, creative interpretations and pathological parsing of clear and unambiguous statutes and regulations, and (in our judgment) illegal and unethical directives.

Kestrel Horizons and its team members are fiduciaries who act in accordance with the Trust Agreement, fiduciary law, and all applicable and relevant laws, regulations, and standards governing the Trust as well as the conduct of all operations, maintenance, monitoring, reporting, treatment, storage, transportation, disposal, engineering, scientific, contracting, compliance, permitting, and property and liability management.

Our ability to perform all of these duties and responsibilities absolutely depends on DHEC managers living up to the same standards and faithfully executing responsibilities of the Beneficiary as well as those of the regulators in charge of permitting and compliance assurance. Just as Kestrel's duties and responsibilities as Trustee and permit holder are solely for the benefit of the citizens of South Carolina (as plainly stated in the Trust Agreement), so are DHEC's duties and responsibilities.

As we have stated many times to you in writing and verbally – much to your displeasure and frustration – Kestrel Horizons and any future Trustee of the Pinewood Site Custodial Trust are not a contractors to DHEC nor is a Trustee an agent or staff extension of DHEC. The Trustee is fiduciary of a completely separate legally constituted entity.

We understand that DHEC's role as Beneficiary of the Trust as well as regulatory agency makes things more than a little convoluted at times, but we all managed that conundrum quite well for the first 9½ years of the Trust. We were very encouraged by the early months of your involvement last year; then came January and the need to reckon in the political arena with the stark financial realities of the Trust and the immediate needs for very large increases in the costs of leachate treatment and off-site disposal as well as preventative and remedial measures to protect Lake Marion.

You joked to the media about your staff "*getting down under their desks*" when you told them you would go to the State Legislature and the Governor in January and address these things head-on. Despite Kestrel, as Trustee, providing everything you needed to take on the daunting task, it seems to me you got down under the desk with them.



Then you declined to authorize payment to Kestrel for the work required. We had to fight to get what we had earned. And on the day you requested Kestrel's resignation - you cited that interaction to the media as an example of your diligent fiduciary prowess. And now it seems you are directing your staff to do just exactly what you promised you would not do.

You may want to review and be familiar with the information from our July 18, 2015 RCRA Part B Post-Closure Permit Application supplement, the July 25, 2014 resignation package (letter and three ring binders), today's response to David Scaturo's September 2, 2014 "Notice of Deficiency" demand, and today's *Final Report to the Citizens of South Carolina*.

Director Templeton, you were certainly consistent over several months in your management approach to resolving differences. You began with opening remarks inferring possible fraud and profiteering at the March 10, 2014 meeting with all of the DHEC team members and Kestrel's key team members. You certainly finished strong with remarks of similar theme to the press on July 25, 2014 when you made sure I would be on my back when Marshall Taylor arrived to deliver your decision to request Kestrel's resignation. Those foolish and self-serving actions have insured that Kestrel Horizons would have a tenuous future, given the damage you have caused to our reputation.

Having said that, I would have had to do everything I am doing today, regardless of your treatment of Kestrel Horizons. Techniques DHEC has used over the past months to attempt to compel Kestrel and me to take actions we believe to be unethical as well as illegal require that we stand firm. Since you have attempted to muzzle us, we have decided we must go directly to other governmental agencies, the Parties to the DHEC-Safety-Kleen Settlement Agreement, and the citizens of South Carolina.

To attempt to compel us by your regulatory (police) authority to take actions that would knowingly, willingly, and flagrantly violate RCRA hazardous waste regulations as well as our obligations as Trust fiduciary is incomprehensible to me. The permit application is just a set of inanimate documents that speak for themselves. The more you try to force acquiesce to your will, the more I suspect your motives.

If DHEC management is satisfied with a RCRA Part B Post-Closure Permit Application that omits legally-required information, maybe you should sign the certification. If you will sign the certification, we will prepare the documents exactly as David Scaturo has directed. Give us the word and we can have that package ready for your signature within 72 hours. Just know that I will be at the permit hearing asking a lot of hard questions.

Regarding the Transition to the Interim Administrator

We are committed to faithfully fulfilling all of our responsibilities and duties as Trustee of the Pinewood Site Custodial Trust through midnight, October 31, 2014. We look forward to



working with the Interim Administrator you select. As we told Marshall Taylor on the evening of July 25, we want to finish just as strong as we have performed over the entire ten years and ten months since Christmas Eve, 2003.

Bryan Williams has submitted his resignation and his tentative final day at Kestrel is October 7. I have agreed with Bryan that the subject matter I have taken up today's documents require my direct involvement at this time.

We are actually ahead of schedule with most of our transition tasks, and have nearly completing the organization, inventory and boxing of Trust paper files which will be turned over to DHEC or an Interim Administrator. They will be ready for pickup at our Greenville office any time September 26.

We are organizing all emails from the entire 10 years and ten months of Trust operations, and the electronic document filing system is highly structured and intuitive.

We will need to work with the Interim Administrator very soon, as Kestrel will not be signing contracts for any services or purchases to be provided after October 31. All contracts and authorizations will terminate at midnight October 31 so that the successor will have a clean slate and the opportunity to employ whatever forms of contract may be desired. I believe we provided electronic copies of all contracts to DHEC on or before August 1, in case the Interim Administrator chooses to use those. We will certainly facilitate introductions to all consultants, contractors, and suppliers who currently serve the Trust.

We look forward to setting aside the foolishness and getting back to doing what is right for the people we both serve.

Regards,

A handwritten signature in black ink, appearing to read "William A. Stephens", written over a horizontal line.

William A. Stephens, PE
Managing Principal and Founder
Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust

cc:

Receiving entire September 18, 2014 *Final Report to the Citizens of South Carolina* :

Primary Governmental Agencies and Parties to the Settlement Agreement between SC DHEC and Safety-Kleen:



- The Honorable Nikki R. Haley, Governor of the State of South Carolina
- Perry K. Simpson, Director, South Carolina Legislative Audit Counsel
- Ms. Elizabeth Warner, Esq., Vice President, Santee Cooper (South Carolina Public Service Authority)
- Alvin A. Taylor, Director, South Carolina Department of Natural Resources
- Senator Phillip Leventis, former State Senator, the State of South Carolina
- Ms. Janet Lynam, Chair, Citizens Asking for a Safe Environment (CASE)
- Sierra Club, South Carolina Chapter
- Mr. Gary Mixon, Administrator of Sumter County
- Heather McTeer Toney, Regional Administrator, Region IV, United States Environmental Protection Agency
-

Receiving *Final Report to the Citizens of South Carolina* not including July 18, 2015 RCRA Part B Post-Closure Permit Application supplement or July 25, 2014 resignation package:

- Senator Thomas McElveen State Senator, the State of South Carolina
- Representative Murrell Smith, State Representative, the State of South Carolina
- Senator Tim Scott, United States Senator from South Carolina
- Senator Lindsey Graham, United States Senator from South Carolina
- Representative Mick Mulvaney, South Carolina Representative to the United States House of Representatives
- Representative James Clyburn, South Carolina Representative to the United States House of Representatives
- Representative Mark Sanford, South Carolina Representative to the United States House of Representatives
- Representative Trey Gowdy, South Carolina Representative to the United States House of Representatives



Kestrel Horizons, LLC
As Trustee of the
Pinewood Site Custodial Trust

84 Villa Road, Suite 300
Greenville, SC 29615

864/288-6353
Fax: 864/288-6354
www.kestrrelhorizons.com

Now, here is my final communication (9/25/2014) with then-Director Catherine Heigel:

September 25, 2014

In accordance with the July 25, 2014 Agreement for Transition of Pinewood Site Custodial Trust Trustee Duties to Interim Administrator between Kestrel Horizons, LLC and the South Carolina Department of Health and Environmental Control, I hereby state that I deem necessary the direct participation of William Stephens, Managing Principal of Kestrel Horizons, in communications with the agency regarding matters related to the Pinewood Site Custodial Trust discussed in the following correspondence. The following are the words of Mr. Stephens.

A handwritten signature in blue ink that reads "Bryan J. Williams".

Bryan J. Williams, PE, Manager of Engineering, Construction, and Remediation

Director Catherine Templeton
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Technical, Legal and Ethical Aspects of Actions of SC DHEC Management with Regard to the Pinewood Site and the Pinewood Site Custodial Trust – Follow Up Message to September 19 letters from M. Taylor and E Dieck

Director Templeton:

This letter provides a succinct response to letters we received on Friday evening, September 19, 2014 from General Counsel Marshall Taylor and Director Elizabeth regarding the Pinewood Site Custodial Trust. Their letters were in response to a large collection of documents we prepared and distributed, in whole or in part, to the individuals and organizations on the distribution list at the end of this letter.

My hope is that be the last exchange of such correspondence and that we now focus entirely on the transition to an Interim Administrator of the Trust. We have only 35 days to complete that task and, as far as we know, no Interim administrator has been identified. By comparison, in 2003 Kestrel Horizons had nearly 75 days from the point we are now to complete preparations and commence the position as Trustee. Whomever you select as

Interim administrator will certainly have a hot start, but the job is much bigger than anyone outside the Trust operations can possibly realize.

As most people now know, and I will reiterate here, Kestrel Horizons will close its doors on October 31. All employees will be gone by then. In January, I will open a new consulting practice called Sparrow Hawk, LLC. (A kestrel is also known as a "sparrow hawk", so the theme will continue.) I anticipate most of my practice will be in other states, since the way the Pinewood situation was handled has effectively contaminated my name and the name of Kestrel Horizons in South Carolina and environs. I will be focused for a while on completing our Manager's Guide series and writing non-fiction. As a friend of mine used to say, "You show Bill a big pile of horse manure and he'll say, *"There's got to be a pony in there somewhere."* And there will be.

At the end of this letter, I provide some unsupported, unsolicited predictions about possible future events. Sort of a combination of *It's a Wonderful Life* and *Back to the Future*. I sincerely hope you and others can come to grips with the hard realities and difficult choices of the Pinewood Site and the Pinewood Site Custodial Trust. I fully realize the last things you or anyone else will want to encounter for a long time to come are my thoughts on those subjects. So I plan this to be my final chapter.

Below are the two September 19 letters and the Trustee's responses.



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

September 19, 2014

William A. Stephens, Jr.
Kestrel Horizons, LLC, Trustee
Pinewood Site Custodial Trust
84 Villa Rd. Suite 300
Greenville, SC 29615

Dear Mr. Stephens:

We are in receipt of the information hand-delivered to the agency today concerning the Pinewood Site. The Department is reviewing the information

diligently and will consider any opinions supported by the objective studies Kestrel and the third party environmental engineers and consultants have provided for the Pinewood Site.

Trustee Response:

- Good. There is a lot of information in the Trustee's September 18, 2014 document package and – even though DHEC managers and staff have seen virtually all of it many times – the Trustee appreciates DHEC managers taking another close look.
- DHEC makes repeated use of the term “objective information” in this correspondence, signed by Marshall Taylor, as DHEC's General Counsel, and Elizabeth Dieck, as DHEC's Director of Environmental Affairs. The Trustee's response on the use of that term is included below in responses to Director Dieck's correspondence with Bryan J. Williams, P.E., of Kestrel Horizons, LLC.

As you are aware, numerous environmental consultants have studied the Pinewood Site extensively over the past decade. The objective data and information provided by these consultants and Kestrel indicate the site is safe. DHEC continues to evaluate all reasonable scenarios to maintain the safety of the site and protect the health of the citizens of South Carolina.

Trustee Response:

- As DHEC managers and staff should be aware (and as anyone who reviewed the Trustee's full September 18, 2014 – one Bankers Box of documents – would recognize) Kestrel Horizons' position has remained the same for the entire ten years and ten months of Kestrel's service as Trustee.
- The Trustee could summarize the response to the second and third sentence of the above paragraph in a single word, “**Horseapples**”.
- First, declaring **anything** “safe” requires comparison to clear, authoritative, accepted, objective standards. Generally, making a “conclusory statement” that something is “safe” requires an analytical process. Information, experience, and reasoned judgment are required.

- The fault the Trustee sees with DHEC's conclusory statement the Pinewood site is "safe" is that DHEC has ignored objective information as well as critical needs for information and analysis, and based its judgments on incomplete and inaccurate information derived from inadequate and erroneous technical analysis.
- Today, the Trustee is willing to give DHEC management and staff the benefit of the doubt – a departure from the approach we took in the September 18, 2014 documents. If DHEC is willing to consider that possibility, we have a basis for dialogue; if not we have the basis for something else.
- The Trustee has no doubts regarding the Department's commitment to maintain the safety of the site and protect the health of the citizens of South Carolina. We simply don't agree on the foundation to establish needs or how to accomplish the tasks.

DHEC vigorously disputes your accusations and conclusory opinions about the Department's actions related to the trustee's recent permit application. The agency has never asked Kestrel to commit unethical or illegal acts nor would it ever con- done such actions. To the contrary, all the agency has asked Kestrel to do is follow the law, monitor the Site, and take all necessary action to ensure the Site is operated in a safe manner.

Trustee Response:

- Vigorous is good. The Trustee is vigorous, too.
- The Trustee did not (at least intentionally) make accusations; the Trustee provided observations, findings, conclusions, and recommendations. That's among the many things Trustees do.
- If DHEC management sincerely does not believe that unethical and illegal acts would be required for Kestrel to comply with DHEC's requirements that is cause for great concern. We really don't know what to say to that, except "That's why they build courthouses."

- To the final sentence “... *all the agency has asked Kestrel to do is...*”, the Trustee’s response is “Horseapples.”
- The Trustee wants anyone reading this to understand that we recognize Marshall Taylor, as General Counsel of DHEC, is occasionally tasked with signing letters like this one. The Trustee has seen many letters authored by Marshall Taylor over the past 15 years, and recognizes this letter as one that is likely a merger of a press release, crafted for public relations purposes, and a customary initial response to a government agency being confronted with a mountain of information. Nothing personal, either way. Marshall Taylor is an ethical and honorable man.

END of Trustee Responses to this letter.

Yours truly,

A handwritten signature in blue ink, appearing to read "W. Marshall Taylor, Jr.", with a stylized flourish at the end.

W. Marshall Taylor, Jr. General Counsel

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL**

Mills/Jarrett Complex • Box 101106, Columbia, SC 29211HH06 • 1751 Calhoun Street,
Columbia, SC 29201 • www.scdhec.gov



Catherine B. Templeron, Director

Promoting and protecting the health of the public and the environment

September 19, 2014

Bryan J. Williams, Project Manager
Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust
706 Orleans Road
Charleston, SC 29407

Dear Bryan:

We understand from Mr. Stephens' letter that you have tendered your resignation from Kestrel effective in the next few weeks. As you are our point of contact with Kestrel until that time, please let us know if you require any response from DHEC to Mr. Stephens' opinions.

Trustee Response:

- Kestrel Horizons, LLC is Trustee of the Pinewood Site Custodial Trust – not Bryan J. Williams, P.E. or William A. Stephens, P.E.
- Bryan J. Williams, P.E. was made the primary contact with DHEC in the Agreement for Transition of Pinewood Site Custodial Trust Trustee Duties to Interim Administrator – an Agreement between DHEC and Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust.
- That agreement provides, *“Upon execution of this agreement, Bryan Williams will, so long as he remains an employee of Kestrel, will be the contact with DHEC for all matters related to the PSCT.”*
- The agreement further provides, *“Between now and October 31 (“Transition Period”), Bill Stephens may continue to participate in management of the PSCT, but will have no contact with*

DHEC staff or management unless specifically requested by DHEC or deemed necessary by Bryan Williams.”

- As indicated in the boxed note at the top of this correspondence as well as the correspondence of September 18, 2014, Bryan Williams has deemed my direct contact with DHEC staff and management necessary.
- Bryan Williams has resigned from Kestrel Horizons, and his last day with Kestrel will be October 2, 2014. The citizens of South Carolina will never realize what a debt of gratitude they owe Bryan. I certainly do. Thank you for your dedication and extraordinary efforts over the past six years, Bryan.
- And, no. No response is necessary from DHEC to any of the documents submitted on September 18, 2014. DHEC has already seen virtually all of the documents submitted on September 18 – some many times – and has made the Department’s positions clear to the Trustee.

We note that your statement makes clear that the correspondence from Mr. Stephens contains “the words of Mr. Stephens,” and is not from you as acting Trustee of the Pinewood Site Trust. As such, please let us know if you have any objective information that supports any of Mr. Stephens’ concerns so we can jointly address any issues immediately.

Trustee Response:

- If DHEC reviews its Pinewood files and especially the documents submitted on September 18 and today, DHEC will find a great deal of “objective information”. The fact that DHEC is requesting such either means DHEC staff and management have not reviewed and analyzed the wealth of objective information or DHEC chooses to ignore it.
- DHEC management now requesting Bryan Williams to “... *let us know if you have any objective information that supports any of Mr. Stephens’ concerns so we can jointly address any issues immediately...*” This is a transparent attempt to create the public impression that “Mr. Stephens” is not objective, to discredit “Mr.

Stephens”, and to infer that no “objective information” exists to support “Mr. Stephens” statements.

- This sort of approach is employed by litigators when the facts are really ugly. Ignore the facts and discredit the witness.
- If DHEC can’t identify the objective information submitted over the past ten years, maybe DHEC needs outside help.
- Of course, this approach explains DHEC’s purpose in attempting - in the Transition Agreement - to isolate “Mr. Stephens”.

While you are no doubt aware that the Notice of Deficiency Kestrel received from David Scaturo is standard operating procedure, we want to clarify that the purpose of the Notice of Deficiency is to succinctly lay out the deficiencies in the RCRA Part B application as required by federal and state regulation. Mr. Scaturo’s letter is neither an order nor mandate, but a standard document pointing out the application’s deficiencies.

Trustee Response:

- This statement is either disingenuous or genuinely uninformed.
- A Notice of Deficiency (NOD) in a RCRA Part B Permit Application is the regulatory agency’s way of counting “strikes”. After three Notices of Deficiency on a RCRA Part B Permit Application and - according to US EPA’s long-standing policy - the State agency authorized to implement the federal RCRA program is supposed to initiate an enforcement action against the permit applicant.
- That is why the Trustee suggested in the September 18, 2014 documents that DHEC promptly issue two more NOD’s for the July 18, 2014 RCRA Part B Post Closure Permit Application Supplement, the Trustee would quickly issue two more “No’s.”, DHEC could email an enforcement letter, the Trustee would send an email back waiving the enforcement settlement conference, and DHEC and the Trustee would go visit an Administrative Law Judge.

- The Administrative Law Judge would determine whether he or she agrees with DHEC that “omitting all that extra stuff” would meet the applicant’s standard of submitting an application which is true, accurate and complete – considering the legal requirement to include all relevant information on newly-discovered releases of hazardous waste or hazardous waste constituents, as well as post-closure estimates and proof of financial responsibility in one of five specific forms. We could accomplish all of that in less than one week.
- The Administrative Law Judge can also refer matters to the State Attorney General and the US Justice Department.
- Now if DHEC wants to characterize the NOD as a suggestion to eliminate “a thousand pages of extra stuff”, as one DHEC manager characterized the legally-required “objective information”, the discussion regarding the July 18, 2014 documents is over.

END of Trustee Responses to this letter.

Sincerely,



Elizabeth A. Dieck
Director of Environmental Affairs

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

2600 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3432 • www.scdhec.gov

Director Templeton, you may also want to think about whether any of the following legal terms may apply to any of the actions of managers of the South Carolina Department of Health and Environmental Control. I will have some time to think about the past ten years and ten months of service to the Pinewood Site Custodial Trust, since Kestrel Horizons, LLC will be closing its doors after 16½ years on October 31 – our last day as Trustee.

- Willful negligence
- Malfeasance
- Tortious interference with a contract
- Conspiracy to commit felony violations of the federal Resource Conservation and Recovery Act (RCRA)
- Gross negligence
- Dereliction of duty
- Tortious interference with business
- Violation of fiduciary responsibilities to the Citizens of South Carolina
- Willful misconduct
- Fraud/concealment
- Inducement to commit a felony
- Abuse of power

I'm not sure which of these terms, if any, may apply to whom. I know and you know not a single one applies to Kestrel Horizons, to Kestrel Horizons team members, or to me. Never has. Never will. Period. That is why I insisted on a comprehensive close-out audit as a condition of the Agreement for Transition of the Pinewood Site Custodial Trust Trustee Duties to the Interim Administrator.

I am quite sure that – and this is just an opinion supported only by 35 years of heavy-duty experience – if DHEC continues on its current course of management and regulation of the Pinewood Site the following will happen:

- The Pinewood Site will release hazardous waste constituents and/or hazardous wastes – undetected and undeterred – to the environment and substantial quantities will contaminate uncontaminated parts of the site as well as the swamp in Lake Marion adjacent to the Site.
- Those releases won't actually threaten the water supply managed by Santee Cooper, but people will, nevertheless, be unnecessarily frightened for a time and serious economic damage to the State could result.
- The taxpayers of South Carolina will end up footing the bill for the Pinewood Site for decades to come because most of the PRP's will try to find and exploit legal loopholes – based on DHEC's upcoming choices - to escape responsibility.
- If I served as an expert consultant to Pinewood's PRP's (which I absolutely will not) I would aim to craft strategies to escape liability based on the future Trustee and/or DHEC, as Beneficiary, not operating the site consistent with the National Contingency Plan. That will be the Achilles heel.

Protecting the interests of the citizens of South Carolina will require substantial expenditures of time and money that will seem very inefficient and unnecessary. That will be absolutely true from a lay perspective. Be very careful and listen to your attorney. Politicians may claim some

expenditures to be exorbitant and wasteful. So what? Politicians come and go. Citizens are forever. A screw up by you and your managers could cost all of us together \$100 million or more. Please don't screw up.

- Citizens will lose faith in the process. The Rule of Law, as administered by the government of South Carolina. *"Do as I say, not as I do."* is a poor motto for a government.
- Some of the legal terms listed above will apply to some DHEC managers. Dismissal and/or time in prison are distinct possibilities. Line dancing in prison is probably not much fun as in Myrtle Beach.

Catherine, you really need to sort out the Trustee/Beneficiary relationship versus the Permit Holder/Regulatory Agency relationship. This has been the root cause of the demise of the DHEC/Kestrel Horizons working relationship over the past six months. I recommend you put the Beneficiary role in the hands of a steering committee or task group and don't ask the Bureau staff to deal with it at all. They have a hard enough challenge administering US EPA's regulations.

And I believe you have only two choices for establishing the next Trustee:

1. Ask the legislature to pass a provision protecting the Trustee from liability for pre-existing conditions and defects in design and construction (at a minimum). Then pick a small core team as similar in skill mix and experience to the team you ended up with at Kestrel Horizons, or
2. Choose a Trustee who is already in prison making license plates or someone with a terminal illness.

And just in case you encounter any politicians who want to frame me, please give them the retouched photo on the right – not the original on the left:



No matter what else happens, I will not lose my sense of humor. Or my commitment to the citizens of South Carolina. We didn't move the ball this far to give up now.

The attachments may be of use to you and others. I included some marketing literature that will no longer be needed so people might know who their Trustee was.

Good luck.

William A. Stephens, PE
Managing Principal and Co-Founder
Kestrel Horizons, LLC as Trustee of the Pinewood Site Custodial Trust

Attachments

cc:

- The Honorable Nikki R. Haley, Governor of the State of South Carolina
- Perry K. Simpson, Director, South Carolina Legislative Audit Counsel
- Ms. Elizabeth Warner, Esq., Vice President, Santee Cooper (South Carolina Public Service Authority)
- Alvin A. Taylor, Director, South Carolina Department of Natural Resources
- Senator Phillip Leventis, former State Senator, the State of South Carolina
- Ms. Janet Lynam, Chair, Citizens Asking for a Safe Environment (CASE)
- Sierra Club, South Carolina Chapter
- Mr. Gary Mixon, Administrator of Sumter County
- Heather McTeer Toney, Regional Administrator, Region IV, United States Environmental Protection Agency
- The Honorable Senator Thomas McElveen State Senator, the State of South Carolina
- The Honorable Representative Murrell Smith, State Representative, the State of South Carolina
- The Honorable Senator Tim Scott, United States Senator from South Carolina
- The Honorable Senator Lindsey Graham, United States Senator from South Carolina
- The Honorable Representative Mick Mulvaney, South Carolina Representative to the United States House of Representatives
- The Honorable Representative James Clyburn, South Carolina Representative to the United States House of Representatives
- The Honorable Representative Mark Sanford, South Carolina Representative to the United States House of Representatives

- The Honorable Representative Trey Gowdy, South Carolina Representative to the United States House of Representatives
- Phil Conner, Nexsen Pruet
- Bryan Williams, Kestrel Horizons

From: Bill Stephens [<mailto:wstephens@sparrowhawk.org>]

Sent: Monday, March 14, 2016 10:32 AM

To: _____

Subject: Why has Bill Stephens sent all these confrontational, provocative - and often rude and crude - emails regarding the Pinewood Site and Twelve Mile River?

If you have been paying attention, you might be asking yourself: “Why has Bill Stephens sent all these confrontational, provocative - and often rude and crude - emails over the past 20 months regarding the Pinewood Site and Twelve Mile River? Is he obsessed or just crazy?”

Here’s the simple answer: “While he is certainly obsessed – and may in fact be crazy – there is a method to his madness.”

You see, now a constant and detailed string of documents exists in the public record: a well-organized set of public documents detailing violations of state and federal laws by government officials, employees, and agents as well as companies and their agents and contractors that constitute “knowing”, “willful”, “continuing” – and in some cases “gross” – violations, misconduct, and negligence. Many or most of the violations are felonies under various state and federal laws. While state and federal law enforcement officials and prosecutors may be reluctant to or constrained from pursuing legal action against such behavior, the legal concept *qui tam* may come into play as a powerful tool to pursue justice and remedies for the citizens of South Carolina and the United States.

“*Qui tam*” is an abbreviation of the Latin phrase “*qui tam pro domino rege quam pro se ipso in hac parte sequitur*”, meaning “[he] who sues in this matter for the king as well as for himself.”

The False Claims Act (31 U.S.C. §§ 3729–3733, also called the “Lincoln Law”) is an American federal law which allows people who are not affiliated with the government to file legal actions against parties (individual persons or entities), claiming fraud against the government (in other words, “the citizens”). The act of filing such actions is informally called “whistleblowing.” Claims under the law have been filed by persons with insider knowledge. Other federal laws also have “whistleblowing” provisions.

The whistleblowing provisions allow a private person, known as a “relator,” to bring a lawsuit on behalf of the United States, where the private detective or other person has information that the named defendant has knowingly submitted or caused the submission of false or fraudulent claims to the United States. The

relator need not have been personally harmed by the defendant's conduct; instead, the relator is recognized as receiving legal standing to sue by way of a "partial assignment" to the relator of the injury to the government caused by the alleged fraud. The information must not be public knowledge, unless the relator qualifies as an "original source." Bill Stephens is an "original source".

Once a relator brings suit on behalf of the government, the Department of Justice, in conjunction with a U.S. Attorney for the district in which the suit was filed, have the option to intervene in the suit. If the government does intervene, it will notify the company or person being sued that a claim has been filed. *Qui tam* actions are filed under seal, which has to be partially lifted by the court to allow this type of disclosure. The government may subsequently, without disclosing the identity of the plaintiff or any of the facts, begin taking discovery from the defendant.

If the government does not decide to participate in a *qui tam* action, the relator may proceed alone without the Department of Justice. The government generally picks and chooses legal matters it will prosecute because the government only wants to get involved in what it believes are winning cases – and generally not cases against government officials, employees, or agents.

So, there you have it.

Look for the following folks to “weigh in” in the future:

Regarding the Pinewood Site:

- Current and former Directors of the South Carolina Department of Health and Environmental Control, Catherine Heigel, Catherine Templeton, and Elizabeth Dieck
- South Carolina Governor Nikki Haley
- South Carolina Department of Natural Resources
- Santee Cooper
- Safety-Kleen

Regarding Twelve Mile River:

- Current and former Directors of the South Carolina Department of Health and Environmental Control: Catherine Heigel, Catherine Templeton, and Elizabeth Dieck
- South Carolina Governor Nikki Haley
- South Carolina Department of Natural Resources

From: Bill Stephens

Sent: Friday, March 18, 2016 11:29 AM

To: 'Heigel, Catherine E.'; 'Taylor, W. Marshall'; 'ecampaign@gop.com'; 'ck@charleskrauthammer.com'; 'sadcox@ap.org'; 'Phil Leventis (leventis@ftc-i.net)'; 'news-tips@nytimes.com'; 'nytnews@nytimes.com'; 'dyckl@bellsouth.net' (dyckl@bellsouth.net); 'hudsonlw@bellsouth.net' (hudsonlw@bellsouth.net); 'PerryB@dnr.sc.gov'; 'Barnett, Ron'; 'Jim Hilley'; 'graham@theitem.com'; 'sfretwell@thestate.com'; 'rnelson@postandcourier.com'; 'Bryan Williams'; 'brian.haliena@GEL.com'; 'robertkerr@mvalaw.com'; 'CSuttell@synterracorp.com'; 'Ronald Falta'; 'hudsonlw@bellsouth.net' (hudsonlw@bellsouth.net); 'Andy Stephens'; 'Conner, Phillip L. (PConner@nexsenpruet.com)'; 'Walt Tollison (walt.tollison@thetollisonlawfirm.com)'; 'L. Gray Geddie'; 'rml54974@hotmail.com'; 'Tommy Bayne (wbayne@bbandt.com)'; 'Tom Kunes'; 'msmith@kestrelmanagement.com'; 'Luke Lukens'; 'Henry Stephens'; 'robertkerr@mvalaw.com'; 'Bayne, Tommy'; 'mmikota@slcog.org'; 'Pat Sears'; 'Phil Leventis (leventis@ftc-i.net)'; 'ehwarner@santeecooper.com'; 'John N. Hanson (JHanson@bdlaw.com)'; 'amy@scelp.org'

Subject: Holding SC DHEC management and staff accountable

All – Included below is an attempt by Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust, to hold the staff and management of SC DHEC accountable for their unethical and sometimes illegal actions over the previous ten years. The relationship between Kestrel Horizons, LLC, as Trustee and Permit Holder (as Trustee), and SC DHEC, as Trust Beneficiary and Regulatory Agency, had already deteriorated substantially by that point. SC DHEC management was visibly upset and shaken at the prospect of being held individually accountable. As you might expect, the relationship deteriorated more quickly from this point.

The plan of SC DHEC management to coerce Kestrel Horizons, LLC, and me, into signing false, misleading, incomplete, inaccurate, and illegal permit documents – clearly SC DHEC’s goal before terminating Kestrel Horizons, LLC as Trustee – began in earnest at that point. By March 10, then-Director Catherine Templeton opened a meeting with eight of her staff members by saying, *“Bill, some people might accuse you of fraud, but we are not going to look back. We will only look forward.”* Half of the DHEC staff smirked at Templeton’s remark.

My response was, *“I think we must always look at past, present, and future.”* Also present were Bryan Williams and Chris Suttell of Kestrel Horizons, and Trust legal counsel, Phil Conner. They were not at all impressed by DHEC management’s approach, either. They all recognized Templeton’s statement as a very thinly-veiled threat (though hollow) and an attempt at character assassination in front of SC DHEC management and staff – as well as Kestrel Horizons staff and counsel. I was tempered and galvanized at that moment.

As DHEC management, Ms. Haley, and others have learned, I’m not real receptive to intimidation or character assassination as a means of securing compliance with unethical and illegal orders. That’s clearly a Donald Trump thing, though. I guess maybe the DHEC staff and management of 2014 – and Ms. Haley – were budding Trumpettes – or Trumpette wanabes. Donald Trump would probably use an ironic term of endearment like *“Faithful Strumpets”*. Apparently millions of such raw moral fiber (or *“Trumpitude”*) are amassing for a rumble in Cleveland. Just a passing thought.

From: Bill Stephens
Sent: Sunday, July 03, 2016 8:47 AM
To: 'Heigel, Catherine E.'; 'Taylor, W. Marshall'; 'Robert Kerr'
Subject: RE: Follow up: Ethical Standards for SC DHEC and South Carolina Government in General, as potentially influenced by submittals to ASCE - incl Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

The attached [Letter to the Earth 021116](#) is an important piece of the compendium which will support all presentations, articles, and papers, as well. The proposed agenda for the now-infamous March 10, 2014 meeting is included in my March 7, 2014 email at the very bottom of this message. And Director Templeton's opening to the attendees was a broad, very pointed, and vague inference I had somehow committed fraud, but that SC DHEC was willing to overlook that – and then say, in effect, *“Now what was that you were going to tell us, Bill?”*

I have a pretty long fuse (or used to, anyway). We were there to attend to the sole critical topic, so I let that pass without reacting or engaging in any way. I learned tactical control from boxing, racing, expert witness, and negotiating experience. I also learned to attack strategically, relentlessly, and mercilessly to that sort of behavior. Asymmetrically, disproportionately, and unexpectedly – like the original patriots of the original American Revolution.

Happy Independence Day!

Bill Stephens

@@

From: Bill Stephens
Sent: Thursday, June 30, 2016 1:59 PM
To: 'Heigel, Catherine E.'; 'Taylor, W. Marshall'
Subject: Ethical Standards for SC DHEC and South Carolina Government in General, as potentially influenced by submittals to ASCE - including Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

Catherine and Marshall – I am sending you the [Code of Ethics for Professional Engineers](#) of the National Society of Professional Engineers (NSPE) and the State of South Carolina Rules of governing Professional Engineers and Professional Engineering Firms. Note especially [Article 3: Rules of Professional Conduct](#) in the South Carolina rules and how most of the cannons and

provisions of the Code of Ethics for Professional Engineers of the NSPE are incorporated as legal requirements.

The American Society of Civil Engineers (which includes Civil and Environmental Engineering) maintains a very active Ethics Committee, and the national organization gets involved in pursuing situations where Professional Engineers and Professional Engineering Firms encounter serious ethics issues resulting from the acts of others, including clients, other Professional Engineers, non-engineers, government employees, and elected officials. For example, the organization became involved when the registered Professional Engineer in the Flint, Michigan drinking water case became a “whistleblower.”

Clearly, I have transitioned from Trustee/PE/Permit Holder as Trustee through the “Whistleblower” stage to the “Watchdog” stage.

Given SC DHEC’s choice earlier this year to resume deceiving the public by posting a void/withdrawn RCRA Part B Post-Closure Permit Application with my certification and the certification of Kestrel Horizons, LLC, as Trustee – as well as continue to post incomplete, inaccurate, and deceptive pieces regarding the Pinewood Site represented as “authoritative” documents – I have decided that I need help to sustain the “Watchdog” role. The “Whistleblower” role is reserved for instances where new information or new transgressions come to light. That includes both the Pinewood Site and Twelve Mile River.

Having met with many individuals and entities over the past 20 months – and having received another call from Special Agent Kristina Gainey of SLED - I have concluded that no justice – civil or criminal – will be available at the State of South Carolina level.

The fact is, the role of SC DHEC management, SC DNR management, the Governor of South Carolina, and some SC legislators in the past five years regarding these two sites makes Chris Christie’s “Bridgewater” scandal, the Duke Power/ North Carolina Department of Environmental Quality (alleged) collusion scandal, and the Flint drinking water scandal pale by comparison.

My suggestion is that you commit SC DHEC to strict conformance with all applicable laws and regulations – and the NSPE Code of Ethics (or at least the SC Professional Engineering Rules of Professional Conduct). Further, I suggest that SC DHEC come clean with the public very soon regarding these two sites. You are not

responsible for the past acts of others – but you will certainly be responsible for perpetuating them and continuing to conceal or attempt to legitimize them.

Frankly, I see some rather pathetic efforts to get arms around some of the most fundamental issues and choices involved in the Pinewood Site, in particular – and the Twelve Mile River site to a lesser, but still important, extent. The poor and misguided efforts, I believe, are due in large part to regulatory staff, consultants, and managers operating ignorant of the facts and technical understanding of the history, conditions, dynamics, conceptual site model elements, and critical physical and chemical fundamentals of the sites.

My promise to post a very large body of information regarding these two sites on a web site will be made good soon. Further disparagement of my reputation or further misuse of my work or the work of Kestrel Horizons, LLC or any of its former employees will be considered an affirmative commitment to legitimize and perpetuate past transgressions. Also, as you might imagine, any contact by Special Agent Kristina Gainey or any other individual who overtly or inferentially attempts to intimidate me is not advisable and will certainly result in a set of disproportional countermeasure responses and redoubled tenacity (if that is possible). Clearly, the best (and only feasible) defense from all of this is an unrelenting offense – and enlisting citizen reinforcements and national-level forces.

Finally, I continue to be dogged by the manner in which SC DHEC handled the conflict and split between the agency and Kestrel Horizons, LLC – particularly the inference of fiduciary malfeasance and fraud stemming from statements to staff and to reporters in 2014. To make matters much worse and degrading, SC DHEC staff and others (who are known to me and who I will not name here) continue to berate me to individuals within and outside the agency - and dismiss as “unreliable personal opinions” and “sour grapes” all past and present efforts to carry out my responsibilities as a Trustee and as a Professional Engineer of expert caliber who knows more about both of these sites than any five people alive today put together.

In the 20 months that have passed since October 31, 2014 – the final day of Kestrel Horizons, LLC service as Trustee of the PSCT and the last day of operation of the firm – I have not been able to get a single meeting – or even an oral or written response of any sort - in South

From: Bill Stephens

Sent: Monday, June 27, 2016 8:21 PM

To: _____

Cc: _____

Subject: FW: Documents related to ethical and legal issues of the Pinewood Site and Twelve Mile River - both in South Carolina

_____ – Here are the documents I sent to _____ a week ago. I would appreciate you making sure the committee leadership sees this email and the one I will send right afterwards, which includes highlights of my CV.

The text of the message I submitted after reading _____'s article is as follows (photographed from my iPhone). Please note that on the seventh line of the third image, "*isn't*" should be "*client*", and in the fourteenth line down "*formerient*" should read "*former client*". The intended words of a few other typos resulting from "autocorrect" are obvious.

Verizon LTE

7:33 PM

news.sccr.org



William A Stephens, P.E.

Your comment is awaiting moderation.

June 15, 2016 at 2:36 pm

I would like very much to present my personal experiences with ethical issues faced and addressed aggressively and professionally in South Carolina. One involves the Pinewood Site - at one time the second largest commercial hazardous waste landfill and treatment facility in the U.S. My firm served as trustee for the site for 11 years after Safety Kleen declared bankruptcy and the facility was left as it was on the last day of operation - raw and wide open. Ethical issues include covert and illegal acts by government officials to conceal very substantial imminent risks. The most vulnerable portion of the landfill contains 1 million cubic yards of untreated hazardous waste - much of it liquid in drums - placed in the early 1980's. The landfill had begun to release hazardous waste constituents and the leachate collection system, liner, and cover system are failing. The landfill is, in essence, 75 feet from Lake Marion, which is at the headwaters of the water supply for 1 million people - including the entire metropolitan population of Charleston. Our firm was terminated when we refused to defraud the citizens of South Carolina by signing a set of certifications regarding containment, monitoring results, and environmental risks. SC DHEC management sought to induce our firm, Kestrel

Horizons, and me, as Trust Manager and PE, to commit felonies under RCRA, the Clean Water Act, the SC Pollution Control Act, SC laws governing Trustees, and regulation governing Professional Engineers and Professional Engineering firms. The manner in which SCDHEC management went about dealing with us included a visit by State Law Enforcement and a thinly veiled threat of charges of fraud. SC DHEC has a new Director, and my disclosures are all widely distributed and a matter of public record. Elected officials and current SC DHEC management are attempting to address this very quietly through new funding to implement exactly what we recommended in 2014 in the packages that included our public disclosures. Our firm and my career viability were destroyed by the acts of government officials. We closed the doors of one of the finest small engineering firms in the nation on October 31, 2014. All that has ever been said about Kestrel Horizons and me by anyone other than the few top SC DHEC officials has been very positive. The stigma of being a "whistleblower" can be personally and professionally devastating. The reality is that I had no ethical, moral, or legal choice.

The second site is one of the largest CERCLA NPL sites involving PCBs in the nation. Facts, consequences, and actions are roughly parallel to the Pinewood Site and occurred in 2011. My

From There and Then to Here and Now

January 31, 2016

This message is an urgent plea to South Carolina citizens to actively support South Carolina Director of the Department of Health and Environmental Control, Catherine Heigel, in her funding requests and funding endorsements for environmental programs in our state. The programs and associated funding are absolutely necessary and reasonable.

As a dyed-in-the-wool conservative and a civil and environmental engineer who has consulted on some of the most challenging and notorious environmental matters involving industry and government in our nation, I can attest to you that Director Heigel and the team she is assembling have thought this through and have a solid plan. Director Heigel's proposed programs and budgets are not examples of "...oink! oink! time at the trough..." as one foolish lawmaker sarcastically commented recently. Don't buy that old sophomoric political hyperbole. We are smarter than that – or should be. So should they.

I am proud to have co-founded and managed Kestrel Horizons, LLC – the firm that served as your Trustee for the Pinewood Site for nearly eleven years – from December 2003 through October 2014. During that time, I experienced firsthand what I had observed and suspected for the two decades before in working primarily with industry – that SC DHEC was a government agency with broad and deep responsibilities, chronically managed by people too narrow, shallow, technically-weak, and politically-subservient to meet those responsibilities.

For most of the past 35 years SC DHEC has been a political concubine of South Carolina Governors and Legislators; today Director Heigel is coming to grips with that and doing exactly what she needs to do. It pains me to admit that, if she falls short or leaves her critical role in frustration, it will probably be because too many political pretenders who have the temerity to call themselves Republicans in South Carolina counter "tax and spend" government dynamics with "cut and run" antics. Fully as irresponsible as the politicians they rightly criticize as mortgaging our children's futures.

We are just now beginning to experience the results of short-sighted, politically-expedient decisions – perpetuated and accumulated over decades. The latent liabilities from systematic government negligence – and outright intentional deception of citizens – at the Pinewood Site and other sites will be very large. Much larger than most can now imagine. I'm not sure even I know the full measure of those. And who knows what might be the collateral damage to the state in resources and reputation if we do not do the right things right now?

We must force our public servants to fundamentally change their historical approaches, face and admit the serious challenges and needs, and achieve as a team the results needed. Willful negligence and deceit must not be allowed. Compliance with laws must be absolute. Foolishness and incompetence must be addressed with the tools we have as citizens.

If we don't step up and insist on our government doing the right things right now, our children and grandchildren will pay the price – the price for our complicity in our state government's pathological aversion to fulfilling some of the most basic shared stewardship responsibilities. Shame on us if we sit by and watch preventable calamities happen and liabilities mount. Pretty clear, really: Do our parts to protect life, health, welfare, nature, and future. Do our parts.

given to my wife, children, and grandchildren. I want them all to realize I was a productive, worthwhile person for many years.

Below is consistently one of the top results when searching the internet for the "Pinewood Site" and "Bill Stephens" – as well as many other variations. It serves as a perpetual reinforcement of the slander DHEC management perpetrated and has perpetuated. Marshall, you will recognize this article as one of the several that resulted from Catherine Templeton's ambush on the afternoon of July 25, which she executed while you were on the way to Greenville to request the resignation of Kestrel Horizons, LLC, as Trustee of the Pinewood Site Custodial Trust. Templeton's public statements to reporters and DHEC staff before, on, and after July 25, 2014 – combined with her slanderous inferences in the DHEC-Kestrel Horizons meeting on March 10, 2014 – have nailed my coffin shut.

I have also attached a piece titled, "The Guy in the Glass". I haven't cheated the guy in the glass – or anyone else – ever.

Bill Stephens

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DHEC wants to replace company managing Pinewood hazardous ...

www.thestate.com/news/local/article13870994.html

The State

Loading...

Jul 25, 2014 - The site, between Summerton and Pinewood, is operated by Kestrel Horizons ... Kestrel Horizons' executive Bill Stephens was not immediately ...



JULY 25, 2014 6:16 PM

DHEC wants to replace company managing Pinewood hazardous-waste landfill



Buzzards fly over the shuttered Pinewood hazardous-waste landfill in January 2014. The site, between Summerton and Pinewood, is operated by Kestrel Horizons and regulated by the S.C. Department of Health and Environmental Control. FILE PHOTOGRAPH

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By SAMMY FRETWELL - sfretwell@thestate.com

State regulators are unhappy with the job being done by the company managing Pinewood's notorious hazardous-waste site, director Catherine Templeton says.

The state's environmental department wants the management company for a closed hazardous waste dump at Lake Marion to resign, citing dissatisfaction with some of the firm's expenditures.

Kestrel Horizons was hired to monitor and oversee the dump so that toxic chemicals don't leak into groundwater and trickle into the popular reservoir southeast of Columbia near Sumter.

But Catherine Templeton, the Department of Health and Environmental Control's director, said Kestrel has spent \$10 million on administrative costs during the past 12 years – and her agency is increasingly uncomfortable with the overhead expenses.

“Our relationship is to the point where we are going to have to ask for another trustee,” Templeton said late Friday afternoon.

Templeton said her department on Friday asked Kestrel to resign, as the company has threatened, effective in October, so that a new company can take over. If Kestrel does not resign, DHEC could fire the company or ask a judge to replace the company for cause, she said.

Kestrel Horizons' executive Bill Stephens was not immediately available for comment Friday. Templeton said Stephens has been dissatisfied with DHEC's questions about the company's performance.

Kestrel Horizons, headquartered in Greenville, is headed by a team of experienced environmental professionals. Among those is Stephens, the company's principal executive, who has 36 years of environmental and engineering experience. In South Carolina, Stephens helped manage removal of hazardous waste from the infamous Aqua-Tech/Groce Labs site in the Upstate.

Templeton emphasized that Kestrel has not done anything improper, but that her agency believes the site could be managed more frugally.

"It's not anything we believe to be illegal or inappropriate, it's just that it can be done better," Templeton said of Kestrel. "We need more money (to manage the site), and second of all we need to spend less money."

The landfill once was one of the South's few hazardous waste landfills but closed in 2000 after losing an extended court battle by environmentalists and the state Department of Natural Resources. The site had operated since 1978.

As part of a 2003 bankruptcy settlement with Safety Kleen, the site's previous owner, a trust was established to oversee and manage the shuttered landfill near the community of Pinewood for a century. The settlement established an annuity that was to pay the site's operating costs, including checking monitoring wells for signs of leaks and managing toxic water that trickled into the hazardous garbage years ago and must be removed regularly.

Records released earlier this year by DHEC, however, show that the annuity has brought in only about \$1.2 million annually since the 2003 settlement. Average annual operating costs have topped \$5.8 million, according to records released by DHEC.

Templeton took those concerns to the Legislature earlier this year in an attempt to find additional money for the landfill. At the time, she did not express concerns about Kestrel.

But Templeton said Friday the agency has been "nitpicking" in an attempt to save money for the site and "refusing to do business as usual with Kestrel Horizons. Just because you sent us a bill, that is not going to work. We need to know what the money went to."

Specifically, Templeton said DHEC has questioned a \$60,000 bill from Kestrel to work with a third-party consultant the agency plans to hire to examine the site, including how much waste was put there.

Read more here:

<http://www.thestate.com/news/local/article13870994.html#storylink=cpy>

END of Attachments to

**July 25, 2016 Letter from William A. Stephens, P.E.
to Governor Nikki R. Haley of South Carolina**