September 10, 2012

Kevin C. Martin 176 Juniper Trail Franklinton, North Carolina 27525

Stephen T. Smith, Chair North Carolina Environmental Management Commission P.O. Box 150 Raleigh, North Carolina 27602

Re: Petitioners' Response to Intervenor's Verified Requests and Petitioners' Verified Request for Disclosure, Investigation, and Determination of Commissioner Conflicts and Disqualification if and when Appropriate ("Petitioners' Request")

Case No. 09 HER 1839

Dear Chairman Smith:

I have received your electronic mail message dated September 5, 2012 relating to Petitioners' Request. A portion of Petitioners' Request requests disclosure regarding certain allegations pertaining to me. This letter responds to those allegations.

I am an Environmental Consultant and majority owner/cofounder of Soil & Environmental Consultants, PA (S&EC, PA). One of the services that I and/or my firm provide is to represent and advise clients regarding the application and compliance with certifications issued pursuant to section 401 of the federal Clean Water Act ("Section 401") as well as with the state's Tar Pamlico Nutrient Management Strategy Rules.

I reside in and own property in the Tar Pamlico River Basin.

I have had no contact on this matter with the Petitioners, Respondent or Intervener. To the best of my knowledge neither I nor S&EC, PA have ever been retained to advise or assist the Petitioners, Respondent or Intervener on this or any other case/project.

S&EC, PA represents one or more clients who may have a general interest in 401 water quality certifications and the Tar Pamlico Nutrient Management Strategy rules. Past and current client representation concerning these rules is not related to this Contested Case. The fact that many commissioners do consulting work for clients who have to comply with rules/decisions the Commission adopts has been vetted during our initial review by the Ethics commission. If the reasons stated by the petition were adequate to cause recusal of EMC members, we would often have difficulty reaching a quorum since everyone on the commission either is or works for someone who is subject to the state's regulations regulations or earns a living directly or indirectly because of state and/or Federal regulations. In the past, I was informed that decisions or rulemaking

that affects a large group of parties, some of whom may be represented individually by a commission member, does not constitute a conflict.

Since being appointed to the North Carolina Environmental Management Commission in April 2002, when appropriate, I have often recused myself from participation in matters before the commission where I had an appearance of a conflict of interest or an actual conflict of interest, and will continue to do so when appropriate. I am certain I can review the facts of the case and render an unbiased decision based on the record.

Sincerely, Heri CMant

Kevin C. Martin

cc: Frank Crawley