September 5, 2012

Benne C. Hutson 2624 Beretania Circle Charlotte, North Carolina 28211

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

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:

Re:

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, specifically paragraphs 41 through 46. This letter responds to those allegations.

I am an attorney at McGuireWoods LLP resident in both its Charlotte and Raleigh offices. During the course of my legal career, I have on certain occasions represented and advised clients regarding the application of and certifications issued pursuant to section 401 of the federal Clean Water Act ("Section 401"). At this time, I am not representing any clients regarding issues associated with Section 401 and have not been asked by any prospective clients to represent them regarding issues associated with Section 401.

Previously, I represented Mountain Air Development Corporation ("Mountain Air") with regard to environmental issues associated with the expansion of an existing golf course in Burnsville, North Carolina. That representation included defending Mountain Air in a contested case proceeding regarding the issuance of a certification under Section 401 to Mountain Air. That contested case proceeding was settled several years ago. The appellate decisions cited in Petitioners' Request did not deal with or pertain in any way to matters under Section 401.

Likewise, I have represented Republic Services on various matters. One matter involved the permitting of a new solid waste landfill in Anson County, North Carolina to be constructed and operated by a wholly owned subsidiary of Republic Services. Part of that representation included defending the subsidiary in a contested case proceeding

regarding the issuance of a certification under Section 401. That contested case proceeding ended several years ago.

As previously stated, I am not currently representing any clients regarding issues associated with Section 401 and have not been asked by any prospective clients to represent them regarding issues associated with Section 401. Likewise, I am not aware of any other lawyers at McGuireWoods LLP who are currently representing any clients on matters in North Carolina regarding issues associated with Section 401 or who have been asked by any prospective clients to potentially represent them regarding issues associated with Section 401 regarding matters in North Carolina.

I have never represented any clients regarding issues associated with the Tar-Pamlico Buffer Rules and have not been asked by any prospective clients to represent them regarding issues associated with the Tar-Pamlico Buffer Rules. Likewise, I am not aware of any other lawyers at McGuireWoods LLP who are currently representing any clients on matters regarding issues associated with Tar-Pamlico Buffer Rules or who have been asked by any prospective clients to potentially represent them regarding issues associated with the Tar-Pamlico Buffer Rules.

Since being appointed to the North Carolina Environmental Management Commission in July 2012, I have updated my biography to include my membership on the Commission. That biography is included on the website maintained by McGuireWoods LLP.

Sincerely,

Benne C. Hutson

cc: Frank Crawley