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LEGAL ASSISTANT

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*Florida Bar Certified in Health Law
**Not a Member of the Florida Bar

August 3, 2001

Via Facsimile

Bruce Mitchell
Air Permitting
FDEP-DARM
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Re: Conrad Yelvington Distributors, Inc.
Air Construction Permit No.: 7770473-001-AC

Dear Bruce:

Enclosed please find a draft letter and supporting calculations from Stephanie Brooks, P.E., the air permit engineer of record for the above referenced application. I believe that this additional information, and the proposed throughput limitation for abrasive blast media ("ABM") should bring this lengthy permit review to a close. Please review this information, and let me know if you agree that this will be a sufficient basis for the Department to finalize the issuance of the air construction permit.

I understand that you are out of the office, and will be returning on August 8th. My client is anxious to move forward with plans to provide sorting and transportation of these materials for ultimate reuse.

Sincerely,

Geoffrey D. Smith

GDS/bf

cc: Howard Rhodes, DEP Division Director
Gary Yelvington, CYDI
Stephanie Brookes, P.E.

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August 1, 2001

Mr. Bruce Mitchell
Air Permitting
FDEP – DARM
3900 Commonwealth Boulevard
Tallahassee, FL 32399

RE: CYDI – Screen Operation

Dear Mr. Mitchell:

After reviewing the latest concern from DEP regarding the permit for CYDI, Brooks & Associates feels that the definition of a lead processing operation does not fit this operation because the total particulate as PM10 emitted will be 49.6 pounds based on the following restriction on throughput and total hours operated while processing spent abrasive blast media (calculations attached). We request that the throughput of the screening operation be restricted to 80 tons per hour and 200 hours per year while processing the spent abrasive blast media. We are confident that the worst case would be to assume that all PM10 coming from the operation would be lead contaminated and even so the 49.6 pounds per annum is less than the 100 lbs that is the exemption criteria. This is definitely the worst case scenario as the majority of the spent abrasive blast media comes from the blasting of new unpainted metal not older painted metal.

Should you have any questions, please feel free to call me at (954) 796-1987 or email me at brookseng@aol.com.

Sincerely,

Stephanie S. Brooks, PE

Cc: Clair Fancy, DARM
Gary Yelvington, CYDI
William C. Thomas, CYDI
Alex Padva, Ph.D
Geoffrey D. Smith, Esq

1. **CALCULATING EMISSIONS FROM BATCH DROP OPERATIONS ASSOCIATED WITH CRUSHING/SCREENING OPERATIONS**

   a. Examples of batch drop operations include truck dumping onto a storage pile, loading out from a storage pile to a truck with a front-end loader, or front-end loader dumping onto a storage pile. Batch drop operations do not include the loading of feed hoppers. Form C.2 has been designed to calculate the emissions from the loading of feed hoppers.

   b. Form C.1 must be completed, in order to calculate the PM_{10} emissions from batch drop operation(s). To calculate emissions from batch drop operations, the maximum throughput rate of the plant listed in column (a) is multiplied by the emission and conversion factor listed in columns (b) and (c).

   c. Once the emissions have been calculated for all batch drop operations, the emissions must be summed up and placed in the box labeled "Total PM_{10} Emissions".

Form C.1: **PM-10 Emissions from Batch Drop Operations**

For Agency Use Only

Max Throughput Rate (ton/hr) (a)	Emission Factor (lb/ton) (b)	Conversion Factor (ton/yr)/ (lb/hr) (c)	Emissions (ton/yr) (a x b x c)
80	0.000097	200/2000	0.000776
	TOTAL PM_{10} EMISSIONS (ton/yr):		0.000776

Reviewed By	Date

1.552 lb/yr

2. CALCULATING EMISSIONS FROM THE LOADING OF FEED HOPPERS ASSOCIATED WITH CRUSHING/SCREENING OPERATIONS

Form C.2 must be completed, in order to calculate the PM_{10} emissions from the loading of feed hopper(s). To calculate emissions from the loading of feed hoppers, the maximum throughput rate of each feed hopper listed in column (a) is multiplied by the emission and conversion factor listed in columns (b) and (c).

Once the emissions have been calculated for the loading of all feed hoppers, the emissions must be summed up and placed in the box labeled "Total PM_{10} Emissions".

Form C.2: **PM-10 Emissions from the Loading of Feed Hoppers**

For Agency Use Only

Reviewed By	Date

Serial # or Equipment ID #	Max Throughput Rate (ton/hr) (a)	Emission Factor (lb/ton) (b)	Conversion Factor (ton/yr)/(lb/hr) (c)	Emissions (ton/yr) (a x b x c)
	80	0.000097	200/2,000	0.000776
		0.000097	4.38	
		0.000097	4.38	
		0.000097	4.38	
		0.000097	4.38	
		TOTAL PM_{10} EMISSIONS (ton/yr):		0.000776

1.552 lb/yr

4. Calculating Emissions From Screens Associated with Crushing/Screening Operations

a. Form C.4 must be completed in order to calculate the PM_{10} emissions from the screen(s). To calculate emissions from the screen(s), the *maximum* throughput rate of each screen listed in column (a) is multiplied by the emission and conversion factors listed in columns (b) and (c). Once the emissions have been calculated for each screen, the emissions from all the screens must be summed up and placed in the box labeled "Total PM_{10} Emissions".

b. Fines screens are defined as any screen that sizes material up to 3/16th inches in diameter.

Form C. 4: PM-10 Emission from Screens

For Agency Use Only

Reviewed By	Date

Serial # or Equipment ID #	Maximum Throughput Rate (ton/hr) (a)	Emission Factor (lb/ton) (b)	Conversion Factor (ton/yr)/(lb/hr) (c)	Emissions (ton/yr) (a x b x c)	
SCREENING					
	80	0.00048	200/2000	0.00384	7.68
		0.00048	4.38		
		0.00048	4.38		
		0.00048	4.38		
		0.00048	4.38		
FINES SCREENING					
	80	0.0021	200/2000	0.0168	33.6
		0.0021	4.38		
		0.0021	4.38		
		0.0021	4.38		
		TOTAL PM_{10} EMISSIONS (ton/yr):		0.02064	

8. EMISSIONS FROM WIND EROSION OF STORAGE PILES ASSOCIATED WITH THE CRUSHING/SCREENING OPERATION

The number of piles listed in column (1) must be multiplied by the suitable emission factor (column (2), (3), or (4)) and the conversion factor listed in column (6) to yield the total emissions for each category of fugitive emissions.

Form C.8: Wind Erosion of Storage Piles from those storage piles associated with Crushing/Screening Operations

Source	No of piles (1)	Emission factor (PM-10) lb/hr/pile (5)	Conversion factor (ton/yr)/(lb/hr) (6)	Total Emissions (tons/year) PM-10 (1)x(5)x(6)
Wind erosion from active aggregate storage piles		0.00005	4.38	
Wind erosion from active sand storage piles	1	0.0006	4.38	0.00262 5.256 lb/yr
Wind erosion from inactive aggregate storage piles		0.00027	4.38	
Wind erosion from inactive sand storage piles		0.00055	4.38	

FOR AGENCY USE ONLY
Reviewed:
Date:

TELEFAX

BLANK, MEENAN & SMITH, P.A.
204 South Monroe Street
Tallahassee, Florida 32301
Fax: (850) 681-6713
Fax: (850) 681-1003

TO: Bruce Mitchell CLIENT: 240.00

FROM: Geoff Smith

DATE: August 3, 2001 TIME: _____

FAX NO. (850) 922-6979 PHONE NO. (850) 413-9198

OPERATOR: Becki

Total number of pages including cover letter: 7

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL (850) 681-6710 AS SOON AS POSSIBLE.

MESSAGE:

Please call me to discuss. Thanks

The original of this document:

_____ Will not be sent
_____ Will be sent
_____ Regular Mail
_____ Overnight Mail

BLANK, MEENAN & SMITH, P.A.

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August 3, 2001

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Bruce Mitchell
Air Permitting
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cc: Howard Rhodes, DEP Division Director
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August 1, 2001

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Air Permitting
FDEP – DARM
3900 Commonwealth Boulevard
Tallahassee, FL 32399

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Stephanie S. Brooks, PE

Cc: Clair Fancy, DARM
Gary Yelvington, CYDI
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1. CALCULATING EMISSIONS FROM BATCH DROP OPERATIONS ASSOCIATED WITH CRUSHING/SCREENING OPERATIONS

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Reviewed By	Date

1.552 lb/yr

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Form C 2 must be completed, in order to calculate the PM_{10} emissions from the loading of feed hopper(s). To calculate emissions from the loading of feed hoppers, the maximum throughput rate of each feed hopper listed in column (a) is multiplied by the emission and conversion factor listed in columns (b) and (c).

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Form C.2: **PM-10 Emissions from the Loading of Feed Hoppers** *For Agency Use Only*

Reviewed By	Date

Social # or Equipment ID #	Max Throughput Rate (ton/hr) (a)	Emission Factor (lb/ton) (b)	Conversion Factor (ton/yr)/(lb/hr) (c)	Emissions (ton/yr) (a x b x c)
	80	0.000097	200/2,000	0.000776
		0.000097	4.38	
		0.000097	4.38	
		0.000097	4.38	
		0.000097	4.38	
		TOTAL PM_{10} EMISSIONS (ton/yr):		0.00077

1.52 lb/yr

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Form C. 4: **PM-10 Emission from Screens** *For Agency Use Only*

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		SCREENING			
	80	0.00048	200/2000	0.00384	7.68
		0.00048	4.38		
		0.00048	4.38		
		0.00048	4.38		
		0.00048	4.38		
		FINES SCREENING			
	80	0.0021	200/2000	0.0168	33.6
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Reviewed By	Date

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Wind erosion from inactive aggregate storage piles		0 00027	4.38	
Wind erosion from inactive sand storage piles		0 00053	4 38	

FOR AGENCY USE ONLY
Reviewed:
Date:

State of Florida
Department of Environmental Protection

Memo

TO:	Clair Fancy
THRU:	Bruce Mitchell
FROM:	William Leffler, P.E.
DATE:	7/13/2001 1:48 PM
SUBJECT:	Finding of No Reasonable Assurance Spent Abrasive Blasting Media Issue Draft Air Construction Permit No.: 7770473-005-AC Conrad Yelvington Distributors, Inc. (CYDI)

In April 2000 Conrad Yelvington CYDI applied for a statewide permit for a relocatable diesel engine powered Powerscreen "Chieftain 510" scalper/screener/classifier unit and associated conveyors. Shortly before the notice of intent was issued on August 11, 2000 CYDI sought approval of use of the Powerscreen to clean "nuts, bolts, cigarette butts and candy wrappers" from spent abrasive blast media. Because this use was not in the first application, the Intent to Issue the air construction permit limited the facility to sand gravel and crushed stone. The public notice, which is necessary for the Air construction Permit to be issued from the Intent has never been published.

On October 2, 2000 CYDI provided some limited analytical information on the ABM and a setter requesting the change. The abrasive blast media is largely coal boiler slag, but may consist of alumina, garnet, silica, or other abrasives. In some areas copper slag is commonly used for abrasive but it is not used in Florida for economic reasons. The spent abrasive is transported to portland cement manufacturing facilities where it is incorporated in the clinker feed material, High temperature fusion with the other cement ingredients disburses the waste elements into an insoluble portland cement matrix which is generally used in all forms of construction. Initially, (October 2000) there was no specification as to the amount of such materials to be processed. The department and the applicant have shared technical information of the nature of the abrasive blasting media and other re-use operations. In May 2001 CYDI suggested a limited throughput and annual cap on tonnage and operating hours.

The scalper/screener/classifier unit and associated conveyors, if operated with water spray dust suppression, would be a minor facility. Both the capacity of the screener and CYDI's intent to use the unit to clean spent abrasive blast media (ABM), a potentially toxic or hazardous material, renders the unit ineligible for the "generic exemption" provided by Rule 62-210.300(3)(a)(37), F.A.C.

The scalper/screener/classifier is to be used for sand, gravel, crushed stone and recycled asphalt pavement (RAP). The draft permit contemplated operation at 550 tons per hour, 16 hours per day, 300 days per year (2,640,000 tons per year). The applicant's consultant used emission factors from AP-42, Emission Factors. Table 11-19.2.2., , which presumed control of unconfined particulate emissions by water spray. Analysis of emissions by dry processing (uncontrolled) emission factors from EPA's FIRE Air Emissions Database indicates potential particulate emissions far in excess of 100 tons per year. If controlled by water sprayers, the potential process particulate emissions from the screening operation are approximately 27 tons per year from the screens and conveyor drop points(all materials). Significant additional dust may be expected from storage piles and work-yard traffic operations. The applicant estimated .27 tons (540 lbs) of lead lost each year from the storage piles plus the losses from the vibrating screens.

Other issues include the long term potential for surface and groundwater pollution, The site is already a RCRA designated cleanup site for other wastes. There are hazardous waste issues, should the applicant find itself in possession material that is hazardous. The applicants contingency plan to haul the material to a landfill is not adequate should the material be found to be hazardous waste. The accumulation and storage of ABM on the site has not been addressed either as a waste issue, leading to groundwater or surface water pollution or as an air issue dealing with best management practices for containing ABM and preventing wind erosion from storage piles and minimizing losses due to traffic in the work area.

There are public health issues, in addition to the air waste and water permitting disciplines, which are not within the Division's jurisdiction. There is concern that a relocatable facility that could create a nuisance through lead or other hazardous emissions next to a school, child care center, or other concentration of people.

There is evidence that Abrasive Blast Media has been screened on the site with no valid permit. A pile of the ABM was discovered on the Departments January 31, 2001 site visit in response to large dust clouds arising from the handling of power plant bottom ash.

This operation is presently initially contemplated at CYDI's Tampa yard, which is within one kilometer south-west of the center of the Hillsborough County particulate maintenance area. It is also within 2 kilometers of the center of the Hillsborough County Lead Air Quality Maintenance Area (Gulf Coast Recycling). CYDI contemplates remote operations near Tampa Shipyard, and steel fabrication shops in Jacksonville, Orlando Ft Lauderdale and Miami. CYDI maintains about 30 sand and gravel storage facilities throughout the state that are also potential operating sites both as a sand and gravel classifier and for spent abrasive blast media.

CYDI seeks permission to process potentially hazardous waste through a facility that will emit hazardous pollutants into the air. It says that it will sample each batch to demonstrate that the material is not a hazardous waste. Townsend and Carlson provide data indicating a significant portion of the materials from the Tampa area in 1989 would not have passed the TCLP clearance criteria for classification as non-hazardous. The overwhelming bulk of the spent abrasive material in the Tampa Bay Area is from shipyard sources and potentially hazardous. The applicants statement that it intends to provide a laboratory TCLP test on each lot is not sufficient to demonstrate continuous compliance with an agreement that the waste is not hazardous. There is no proffered plan to assure that the sampling is representative of the material processed, nor any laboratory quality assurance plan to demonstrate the statistical reliability of the acceptance testing

The TCLP test, which is the criteria for determining whether a batch of abrasive blasting media is non hazardous, is not a reliable surrogate for determining the quantity of air pollutants (PTE) emitted from processing that material on an open screen. The TCLP measures the solubility of the material in a laboratory simulation of an acidic landfill. The test is a simulation to estimate the portion of the pollutants that will be leached into groundwater. The TCLP does not represent the mass concentration of pollutants in the sample as a whole, nor in the fine portion of the sample (passing the 200 screen) Widely differing analytical results between the TCLP and Mass Analysis on the same sample have been demonstrated in Carlson's and Townsend's 1998 papers.

The applicant has provided laboratory results of three tests on the same sample (Southeastern Environmental Laboratories Submittal 10006422.) for comparison of SPLP (Synthetic Precipitation Leaching Procedure, a leaching test similar to TCLP), mass concentration and mass concentration in the portion passing the No 200 sieve). The relationship between SPLP and mass concentration is inconsistent and erratic. For some elements, especially those having generally soluble acidic salts, (particularly acetates) there is a fairly erratic relationship. For other elements, especially lead, cadmium and chromium the ratio of SPLP to the mass concentration is very poorly defined and subject to wide variability. The relationship between the lead level in the fine portion (229 mg/kg), and the gross sample (16.3 mg/kg) is nearly 14 times the concentration of lead in the gross sample; and all of this is in a sample where the lead was undetectable by leaching procedures. No direct comparison between TCLP, gross analysis or the sample and mass analysis of the fines was offered. The reported correlations are at Tables 4.17 and 4.18 of Carlson, Best Management Practices for ABM, 1998. Graphical representation of the variability for several pollutants is at Carlson, at Figures 4.21 through 4.23.

On June 7, 2001 the applicant responded to a second request for additional information (Brooks letter dated May 28, 2001) suggesting annual throughput limits on Spent ABM as follows:

> Spent abrasive blast media (ABM), not otherwise classified as hazardous waste, 23000 tons per year with the operation throughput limited to 80 tons per hour and the hours of operation limited to 200 hours per year in Hillsborough County and an additional 100 hours per year elsewhere throughout the state of Florida.

This proffer goes far to making the application intuitively acceptable. The gross unconfined emissions from the screening operation would be but a small fraction of the potential from unlimited operation. Closer examination indicates that the proffered operational limitations are based on the applicant's estimate of the available ABM rather than any analysis of the impact of such an operation on air quality.

The materials submitted in support of the request to modify the intent to issue failed to provide any assurance that the ambient air quality standards for lead and particulate will not be exceeded. Location of the facility within the Air Quality Maintenance Areas for Lead and Particulate gives cause for an even more extensive analysis than originally

contemplated. Not only is the quantification of the potential to emit (PTE) for hazardous air pollutants important, it is now necessary to demonstrate that the ambient concentrations of lead and fine dust (PM10) are less than the ambient standards. A facility emitting a little as 100 lb of lead or lead compounds is required to procure a special lead permit, Rule 62-210-200, Definitions, Lead Processing Facility; and, Rule 62-296.601, F.A.C., Lead Processing Facility. Because of the proximity to Gulf Coast Recycling, Rule 62-296.600, F.A.C., Reasonably Available Control Technology (RACT) Lead, imposes stricter housekeeping standards.

The concept and requirement of reasonable assurance comes from Rule 62-070. F.A.C.,

> **Standards of Issuing or Denying Permits; Issuance; Denial.**
> (1) A permit shall be issued to the applicant upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results, installation of pollution control equipment, or other information, that the construction, expansion, modification, operation, or activity of the installation will not discharge, emit, or cause pollution in contravention of Department standards or rules. However, for discharges of wastes to water, the Department may issue temporary operation permits under the criteria set forth in Section 403.088(3), F.S.
> (2) If, after review of the application and all the information, the Department determines that the applicant has not provided reasonable assurance that the construction, modification, expansion, or operation of the installation will be in accord with applicable laws or rules, including rules of approved local programs, the Department shall deny the permit.
> (3) The Department may issue any permit with specific conditions necessary to provide reasonable assurance that Department rules can be met.
> (4) No Department permits shall be issued for a term of more than five (5) years unless otherwise specified by statute, rule, or order of the Department. However, construction permits for air pollution sources may be issued for a period of time as necessary.
> (5) The Department shall take into consideration a permit applicant's violation of any Department rules at any installation when determining whether the applicant has provided reasonable assurances that Department standards will be met.
> (6) The applicant shall be promptly notified if the Department intends to deny the application, and shall be informed of the reasons for the intended denial, and of the right to request an administrative hearing.
> (7) The issuance of permit does not relieve any person from complying with the requirements of Chapter 403, F.S., or Department rules.
> Specific Authority: 403.021, 403.031, 403.061, 403.088, FS. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, FS.
> History: New 5-17-72, Amended 7-8-82, 2-1-83, 12-3-84, 8-31-88, 3-28-91. Previously numbered as 17-4.07, Formerly 17-4.070

The concept of reasonable assurance does not require the applicant to negate all possibilities of failure, or to provide an absolute guarantee that a proposed project will comply with all applicable standards. Rather, the concept requires a reason or rationale to be provided for assurance or for rejection. Campbell v. Southern Hy-Power Corporation and Florida DEP, and cases cited pages 38 and 39 thereof.

Emotional reaction against potentially hazardous substances is not a criteria for denial of air permits, but neither is intuition a "reasonable assurance based on engineering calculation and science". The lack of logical or statistical correlation between the quantification of pollutants in the ABM by the TCLP test and the estimation of Potential to Emit (PTE) various hazardous air pollutants, based on absolute or mass analysis, and the failure to address the issues of the Hillsborough county Air Quality Maintenance Area and the Hillsborough County Lead Air Quality Maintenance Areas are such a reasons for the Department's refusal to disallow processing of ABM under this permit. Waste and water pollution issues will ultimately be dealt with by separate permitting systems, but to process an air permit with disregard of these issues would be irresponsible engineering judgment.

I do not find the amendments to application and other supporting documents provide reasonable assurance that the facility will operate within applicable law and regulations.

W. Leffler

William Leffler, P. E.

Permitting Engineer - July 13, 2001