

BEFORE THE STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

ROBERT H. AND ZETTA M. BAKER,
WILLIAM D. AND GEORGIA M. TOWNER,
& ARTHUR DREWRY,
Plaintiffs,

v.

YANCEY'S LAND CLEARING, INC.,
SAMSULA LANDFILL, INC., &
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Defendants.

RECEIVED
MAR 30 2000
BUREAU OF AIR REGULATION

VERIFIED COMPLAINT

Plaintiffs, Robert H. and Zetta M. Baker ("Bakers"), William D. and Georgia M. Towner ("Townners"), and Arthur Drewry ("Drewry") submit this verified complaint pursuant to Section 403.412 (2)(c), Florida Statutes, and state as follows:

1. This is a verified complaint pursuant to Section 403.412 (2)(c), Florida Statutes, alleging that DEP has failed to enforce its rules and regulations enacted to protect the air, water and other natural resources of the State by allowing Yancey's Land Clearing, Inc ("Yancey's") and Samsula Landfill, Inc. ("Samsula") to illegally operate a construction and demolition debris ("C & D") landfill and an associated rock crusher.

PARTIES

3. Defendants Yancey's and Samsula operate a C & D landfill located at 363 S.R. 415, New Smyrna Beach, FL 32168.
4. Plaintiffs, Bakers, are applying as natural persons and citizens of the State and may maintain this action as provided for in Section 403.412 (2)(a), Florida Statutes. Plaintiffs, Bakers, own and live at property located at 353 S.R. 415, New Smyrna Beach, FL 32168. The Bakers' property is immediately adjacent to the subject C & D landfill and consequently they have interests which are adversely affected by DEP's failure to require Defendants Yancey's and Samsula to operate its landfill and rock crusher in compliance with the environmental laws of Florida.
5. Plaintiffs, Towners, are applying as natural persons and citizens of the State and may maintain this action as provided for in Section 403.412 (2)(a), Florida Statutes. Plaintiffs, Towners, own and live at property located at 355 S.R. 415, New Smyrna Beach, FL 32168. The Towners' property is adjacent to the subject C & D landfill and consequently they have interests which are adversely affected by DEP's failure to require Defendants Yancey's and Samsula to operate its landfill and rock crusher in compliance with the environmental laws of Florida.
6. Plaintiff, Drewry, is applying as a natural person and citizen of the State and may

maintain this action as provided for in Section 403.412 (2)(a), Florida Statutes. Plaintiff Drewry owns property located at 2885 S.R. 415, New Smyrna Beach, FL 32168. Plaintiff Drewry's property is adjacent to the subject C & D landfill and consequently has interests which are adversely affected by DEP's failure to require Defendants Yancey's and Samsula to operate its landfill and rock crusher in compliance with the environmental laws of Florida.

7. Defendant, DEP, is responsible for the enforcement of environmental statutes in Chapter 403, Florida Statutes, and environmental regulations contained in Florida Administrative Code, Chapter 62.

JURISDICTION AND VENUE

8. Pursuant to Section 403.412 (6), Florida Statutes, jurisdiction and venue for the instant action is in Volusia County because that is where the subject C & D landfill and related violations are located.

PRELIMINARY STATEMENT

9. Pursuant to Section 403.412 (2)(a)(1.), Florida Statutes, Plaintiffs, Bakers, Towners, and Drewry, seek to maintain an action for injunctive relief against DEP to compel DEP to enforce the laws of the State of Florida contained in Chapter 403, Florida

Statutes, and environmental regulations promulgated pursuant thereto and contained in Title 62, Florida Administrative Code.

10. Pursuant to Section 403.412 (2)(a)(2.), Florida Statutes, Plaintiff's Bakers, Towners, and Drewry, further seek to maintain an action for injunctive relief against Defendants Yancey's and Samsula to enjoin them from violating laws of the State of Florida contained in Chapter 403, Florida Statutes, and Title 62, Florida Administrative Code.

ENVIRONMENTAL LAWS AND REGULATIONS AT ISSUE

11. Section 403.087, Florida Statutes, prohibits the construction, operation, maintenance, or expansion of any stationary installation that is reasonably expected to be a source of air or water pollution without an appropriate and currently valid Department permit.
12. The subject C & D landfill and the associated rock crusher are "stationary installations" as used in Section 403.087, Florida Statutes, and "installations" as defined by Section 403.031(4), Florida Statutes.
13. Section 403.708 (1)(a), Florida Statutes, prohibits any person from placing or depositing any solid waste in or on the land or waters located within the State except in a manner approved by the Department.

14. Samsula and Yancey's operate the subject C & D landfill pursuant to DEP permit number SO64-275715.
15. The operation of the subject C & D landfill is subject to DEP regulations found in Rule 62.701.730, Florida Administrative Code ("FAC").

ILLEGAL OPERATION OF A PERMITTED LANDFILL

16. Rule 62-701.730 (7), FAC, requires owners and operators of C & D landfills to submit an operating plan describing the operation and maintenance, emergency and contingency plans, and types of equipment that will be used at the C & D landfill. All activities at the C & D landfill are required by this rule to be performed in accordance with the plan as submitted to DEP. A true and correct copy of the plan submitted to DEP as required by this rule is attached hereto and incorporated herein by reference as Exhibit "A." Hereinafter this plan shall be referred to as "operational plan."
17. The operational plan restricts the operation of the subject C & D landfill to the hours of 7:00am-5:30pm, Monday-Saturday.

ILLEGAL OPERATION OUTSIDE OF PERMITTED HOURS

18. Despite the clear restrictions of hours of operation between 7:00 am-5:30 pm imposed by the operational plan and, consequently, Rule 62-701.730(7), FAC, the Defendants, Samsula and Yancey's, have operated and continue to operate by allowing trucks to dump waste as early as 5:30-6:00 in the morning and in operating well past 5:30 pm. This illegal operation of the C & D Landfill substantially affects the Plaintiffs Bakers, Towners, and Drewry because said operation is potentially harmful or injurious to human health and/or welfare and it unreasonably interferes with their enjoyment of life and property.

ILLEGAL FAILURE TO CONTROL ACCESS

19. The operational plan and Rule 62-701.730 (7)(c), FAC, require that access to the subject C & D landfill be restricted to prevent disposal of solid waste other than C & D debris. Despite the clear requirements of the operational plan and Rule 62-701.730 (7)(c), FAC, Defendants, Samsula and Yancey's, have not restricted access to the C & D Landfill by virtue of not locking the gate to said landfill and/or having no gate at all. Plaintiffs, Bakers, Towners, and Drewry, are affected by this illegal operation by Defendants Samsula and Yancey's because of the substantial threat to the environment that exists in the potential for disposal of solid wastes other than that allowed by DEP regulations at the subject C & D landfill.

ILLEGAL DISPOSAL OF SOLID WASTE

20. Defendant, Yancey's and Samsula, are only permitted to store and dispose of C & D debris at the subject C&D Landfill. Storage and disposal of any other solid waste is prohibited by Sections 403.707(1) and 403.708(1)(a), Florida Statutes, and Rules 62-701-730 (4)(c), (6) and (7)(d), FAC. Despite these clear prohibitions in Sections 403.707(1) and 403.708(1)(a), Florida Statutes, Rules 62-701-730 (4)(c), (6) and (7)(d), FAC, and the clear limitations of Defendant Yancey's permit, Defendants, Samsula and Yancey's, have been and continue to illegally dispose of solid wastes other than C&D debris. The illegal disposal of prohibited solid wastes includes, but is not limited to, vegetative wastes and yard wastes. Plaintiffs, Bakers, Towners, and Drewry, are affected by these violations of DEP rules and subject permit because of the environmental threats and human health concerns related to the illegal disposal of solid wastes.

ILLEGAL FAILURE TO CONTROL DUST

21. Paragraph 18.0 of page B1-2 of the operational plan requires that Defendant, Yancey's, water the road leading into the subject C & D landfill in order to control dust. Despite the clear requirements prescribed by the operational plan and, consequently, Rule 62-701.730(7), FAC, Defendant, Yancey's, has failed to water the roads to control dust. This failure to water the roads has resulted in the

production of large dust clouds that leave the subject C & D landfill and settle onto Plaintiffs', Bakers, Towners, and Drewry, adjacent property. Defendants, Bakers, Drewry and Towners, are affected by this illegal failure to control dust because of the obvious threats to human health and environment and unreasonable interference with the enjoyment of life and property that these dust clouds cause.

ILLEGAL OPERATION OF A ROCK CRUSHER

22. Without a valid permit from DEP for the operation of a rock crusher, Defendants, Samsula and Yancey's, have been and continue to operate a rock crusher at the subject C & D landfill that emits concrete dust and other fugitive emissions and produces high levels of noise pollution and vibrations. Pursuant to Section 403.087, Florida Statutes, and Chapter 62-210, FAC, the operation of a rock crusher of this type requires a DEP permit. Plaintiffs, Bakers, Towners, and Drewry, are affected by this illegal operation of a rock crusher by Defendant, Samsula and Yancey's, because of the substantial threats to the environment and human health and unreasonable interference with the enjoyment of life and property caused by the concrete dust and fugitive emissions from the rock crusher. Also, the high levels of noise pollution and vibrations produced by the rock crusher have been and continue to cause damage to Plaintiff Bakers' home including undermining the foundation and causing cracks in the wall structures of their home.

ILLEGAL FILLING OF WETLANDS

23. As evidenced by a May 12, 1999 letter from Volusia County, a true and correct copy of which is attached hereto and incorporated herein by reference as "Exhibit B," Defendant, Samsula, has located an air curtain incinerator ("ACI") and associated fill in designated wetlands without a DEP permit in violation of Chapter 62-312 and other wetlands regulations promulgated pursuant to Chapter 373, Florida Statutes. DEP was mailed a copy of said letter by Volusia County as a carbon copy recipient on May 12, 1999.

ILLEGAL LOCATION AND MAINTENANCE OF INCINERATOR

24. Besides being illegally located in jurisdictional wetlands, the ACI does not have an operational permit as required by DEP construction permit # 1270154-001-AC, a true and correct copy of which is attached hereto and incorporated herein by reference as "Exhibit C." In paragraph 15 of said permit, Defendant, Samsula, was clearly required to submit an application for an operating permit within 6 months of receiving the referenced construction permit. Approximately three months have passed since this deadline and no such permit application has been submitted. The failure to timely submit an application for an operating permit as provided for in the DEP permit is a violation of the permit and Section 403.161, Florida Statutes. Plaintiffs, Bakers, Towners, and Drewry, are affected by this illegal ACI being

maintained by Defendant, Samsula, because of the substantial and potential threats to the environment and human health caused by maintaining an unpermitted air pollution source in illegally filled wetlands.

25. DEP should immediately file for a temporary and permanent injunction requiring Defendant, Samsula, to immediately remove the ACI from the wetlands and forthwith apply for an operating permit after or simultaneous with the removal from the wetlands or, in the alternative, dismantle and remove the ACI from Defendants' property.

HISTORY OF ENVIRONMENTAL VIOLATIONS

26. Besides the violations just described, Defendant, Yancey's, and the officer of said company, Yancey McDonald, have a lengthy history of environmental violations at the subject C & D facility.
27. The first record of an environmental violation at the subject C & D landfill known to Plaintiffs at this time is found in records of the St. Johns River Water Management District in the file of record No. 94-1447, a Consent Order entered against Yancey McDonald. In this record, the St. Johns River Water Management District details how 5 to 7 acres of wetlands at the subject C & D landfill were cleared and excavated under Yancey McDonald's ownership and control in 1992. The record further details how, despite repeated warnings from the St. Johns River Water Management District in 1992 and 1993 that permits were required before further excavation could

continue, Yancey McDonald continued to excavate and clear wetlands without the required permits in 1993 and 1994.

28. The record of DEP reveals a similar pattern of violations by Defendant, Yancey's, including repeat violations after warning from DEP. The record of DEP reveals that on May 14, 1998, Gloria DePradine, a DEP solid waste inspector, discovered that Defendant, Yancey's, was placing land clearing debris in a dewatered pit in violation of DEP rules. The operator/manager was instructed to cease this violation both at the time of the inspection and in a follow-up letter. A follow-up inspection by DEP revealed that the same manager was again putting waste in the dewatered pit despite the clear warnings from DEP to the contrary. These inspections also revealed that Defendant, Yancey's, was performing work that illegally impacted wetlands. DEP entered a Consent Order against Defendant, Yancey's, OGC File No. 98-2097, that details these violations that resulted in the issuance of a civil penalty and the requirement for restoration work. Plaintiffs also have a reasonable basis to believe that the dewatering activity was performed without the required consumptive use permit from the St. Johns Water Management District.

29. Defendant, Yancey's and Samsula, also had and continue to have numerous environmental violations with Volusia County. These include wetlands violations and solid waste violations. Just in the last week, Volusia County Environmental Management has sent Defendant, Yancey's, and Yancey McDonald two separate Notices of Violation, true and correct copies of which are attached hereto and

incorporated herein by reference as "Exhibit D."

30. The January 5, 2000 Notice of Violation concerns the operation of the rock crusher in violation of Volusia County's Noise Ordinance.

31. The January 5, 2000 Notice of Violation pertains to Defendant, Yancey's, failure to obtain necessary permits for monitoring wells at the subject landfill. The operator for Defendant, Yancey's and Samsula, was warned on May 12, 1999 by Volusia County that permits for the monitoring wells was required. See, Exhibit C. Seven months have passed without Defendants, Yancey's and Samsula, obtaining the required permits from Volusia County.

32. These examples show a long and well-established trend of the Defendants, Yancey's and Samsula, operating without the required permits from regulatory agencies even after warnings from said agencies. This negative track record demonstrates the need for DEP to take swift action to secure a temporary and permanent injunction to prevent the continued irreparable harm caused by Defendants', Yancey's and Samsula, illegal environmental acts.

33. DEP has been recently stating publicly that "compliance counts." The Plaintiffs desire that DEP implement this "motto" especially in light of the history of Defendants' long record of environmental violations

WHEREFORE, Plaintiffs, Bakers, Towners and Drewry, respectfully request that DEP immediately file an action seeking a temporary and permanent injunction against Defendants, Yancey's and Samsula, to:

- A. Enjoin Defendants, Yancey's and Samsula, from operating the rock crusher until all appropriate and valid permits are obtained from DEP;
- B. Enjoin Defendants, Yancey's and Samsula, from operating the rock crusher in a manner such that noise, fugitive emissions, or vibrations are produced that cause threats to the environment and human health or an unreasonable interference with Plaintiffs', Bakers, Towners and Drewry, enjoyment of life and property;
- C. Require that Defendants, Yancey's and Samsula, take all necessary steps to prevent fugitive dust and emissions from entering the referenced property of the Plaintiffs, Bakers, Towners and Drewry;
- D. Require that Defendants, Yancey's and Samsula, remove the ACI from the premises;
- E. Enjoin Defendants, Yancey's and Samsula, from conducting further work in wetlands without the required permits;
- F. Enjoin Defendants, Yancey's and Samsula from operating the ACI until all appropriate and valid permits are obtained from DEP and Volusia County; and,
- G. Require that Defendants, Yancey's and Samsula, pay a civil penalty of \$10,000 for each day of each environmental violation that they commit or have committed at the Defendants' property.

Plaintiffs further request that DEP agree to the intervention of Plaintiffs, Bakers, Towners, and

Drewry, as parties to any case filed by DEP against Defendants, Yancey's and Samsula. Should DEP fail to immediately file an action against Defendants, Yancey's and Samsula, then Plaintiffs, Baker, Towners and Drewry, hereby give notice of their intent to proceed with an action against DEP and/or Defendants, Yancey's and Samsula, to obtain such a result themselves pursuant to Section 403.412(2)(a), Florida Statutes.

Dated this 17th day of January, 2000.

We, the undersigned Plaintiffs, Robert H. Baker, Zetta M. Baker, William D. Towner, Georgia M. Towner, and Andrew Drewry have personal knowledge of the facts stated herein and do hereby SWEAR AND AFFIRM that the facts stated herein are true and correct.

Robert H. Baker
Robert H. Baker

Zetta M. Baker
Zetta M. Baker

William D. Towner
William D. Towner

Georgia M. Towner
Georgia M. Towner


Andrew Drewry
Andrew Drewry
Arthur

Before me this 17th day of January, 2000, appeared, Robert H. Baker, Zetta M. Baker, William D. Towner, Georgia M. Towner, and ~~Andrew~~ Arthur Drewry all of whom are personally known to me or produced identification such as _____, and who swore or affirmed the truth of the foregoing statement and subscribed same in my presence.

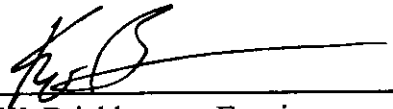
Notary Public Lori Williams
Commission Number: CC567086
My Commission expires: 8/31/00



LORI WILLIAMS
My Comm. Exp. 8/31/00
Bonded By Service Ins
No. CC567086
 Personally Known | Other I.D.



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Attorney for Plaintiffs



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Tampa, FL 33602
Phone: (813) 223-3888
Fax (813) 228-6422
Attorney for Plaintiffs

Samsula Landfill
BET Project No. 98128
98128.02.wpd

SAMSULA LANDFILL
VOLUSIA COUNTY, FLORIDA

DESCRIPTION OF OPERATIONS

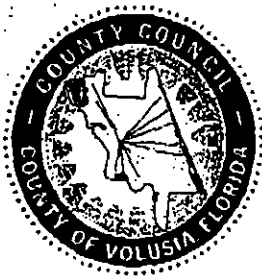
- 1.0 The landfill is open for operation between the hours of 7:00 a.m. to 5:30 p.m. Monday through Saturday. The landfill is closed to the public on Sunday.
- 2.0 Access is limited to one way into the facility and one way out of the facility. All vehicles enter through an entrance gate and are stopped at the facility's office for inspection by the Operator, Site Supervisor, and/or spotter. All vehicles return to the facility's office and are checked out of the facility.
- 3.0 Waste screening procedures include a three tier detection system throughout the facility. The Operator, Site Supervisor and/or spotter manages all entry and initial site inspection of materials. Spotters are located at the working face of the landfill and inspect all loads and separate recyclable materials and prohibited waste.
- 4.0 Traffic control procedures include the placement of stop and directional signs at appropriate entrances and intersections throughout the facility.
- 5.0 Waste is placed along the working face of the landfill. Land clearing debris, C&D debris and roofing materials are separated and placed in designated areas. Concrete and non-ferrous metals are separated and recycled. Any unauthorized waste inadvertently accepted by the facility is placed in designated on-site dumpsters or containers to be hauled to the Tomoka Landfill or other appropriate facility.
- 6.0 Compaction and application of cover material is accomplished by the use of a REX 3-55 Trashmaster compactor, front-end loader and bulldozer. Intermediate cover material is placed on all areas except the working face of the landfill. At a minimum, intermediate cover is placed at the end of each work week, and daily cover is placed as necessary to minimize blown litter. All cover material is available on-site.
- 7.0 Spotters are located at the office and at the working face of the landfill. A minimum of 2 spotters are available during operating hours.
- 8.0 Daily inspections of the facility are conducted by the operator. This includes all equipment, access points, covered and working face of the landfill and personnel associated with the facility.
- 9.0 Prohibited waste control is regulated on a daily basis by the Operator, Site Supervisor, spotters, and equipment operators at all times.

B1-1

EXHIBIT "A"

Samaula Landfill
BET Project No. 98126
98126.02.wpd

- 10.0 Procedures include containing the material to a properly confined area, notification of proper authorities if deemed necessary, proper disposal of material off premises, notification of haulers and proper record maintenance.
- 11.0 Odor Control is accomplished by waste screening and removal of putrescible waste and application of cover. Additionally, all gypsum board and drywall material will be identified by the spotters and equipment operators and broken up and scattered so as to prevent accumulations of material.
- 12.0 Management of fuels and fluids for equipment is maintained on a daily basis and inspected for leaks. Equipment is removed from site if evidence of leakage is observed. All other fluids from incoming haul vehicles and/or as part of load are immediately contained and properly stored. Fuel for equipment is stored in a 350 gallon above-ground storage tank on site. All fuel and oil is stored according to OSHA and FDEP standards. Complete records are maintained for all related activity.
- 13.0 Sequence of cell filling is accomplished by adding material to the working face in 3 to 5 foot lifts, and spreading appropriately as needed. Width of the working face of the landfill is maintained at 100 feet or less.
- 14.0 Record keeping is part of the daily operations of the facility. Records such as daily count of vehicles and amount of debris, FDEP annual report, description of unacceptable waste, inspection records and operator/spotter training are maintained for the facility.
- 15.0 Permits, Plans and Supporting Documents are all maintained and documented as part of the operation plan for the facility.
- 16.0 Access Control is accomplished by fencing along the front (west) boundary of the site, and Natural Vegetation Buffer around the entire perimeter of the property. Entrance gate is locked whenever the facility is not in operation. Access is limited to one gate and proper signage is posted for trespassing. Security is maintained by a Certified Operator that lives on site.
- 17.0 Employee Health and Safety is maintained by weekly safety meeting held by the operator and staff. First aid stations are placed throughout the facility and proper protection such as steel toed boots, gloves and protective clothing is provided to landfill workers.
- 18.0 Maintenance Plan is established and includes the routine maintenance of all equipment used for the landfill operations on a scheduled basis. Access road is an all-weather shell road which is routinely graded. A 4,000 gallon tanker applies water, as needed for dust control.
- 19.0 Emergency Phone List is posted at the facility's office.
- 20.0 List of Equipment and Employees is presented on Figure B1-1



County of Volusia

Environmental Management

123 West Indiana Avenue • DeLand, Florida 32720-4621
Telephone: (904)736-5927 • (904)254-4612 • (904)423-3303
Suncom (904)377-5927 • Fax (904)822-5727

May 12, 1999

Mike Stokes
Operator
Samsula Landfill
363 S.R. 415
New Smyrna Beach, FL 32168

Reference: Follow-up letter

Dear Mike:

Per your request I am sending you a reminder regarding the groundwater monitoring well requirements for the County as well as a follow-up discussion of observations at your landfill. As discussed on May 6, permits are required from our Well Program for all groundwater monitoring wells. Please contact Tom Carey, Program Manager, at (904) 423-3303, extension 2073, to discuss the specifics of these requirements. Original notification of these permitting requirements was sent by me to all permitted Construction and Demolition Debris Landfill on January 22, 1998, before the state's regulatory deadline for application submission.

A second item discussed on May 6, was the construction of the Air Curtain Incinerator (ACI) on the eastern side of the landfill. The County zoning ordinance requires a special exception for the construction of an ACI. I have contacted Mary Robinson, Zoning Director and Carol Kerrigan, Code Enforcement Manager, about your facility and the requirements for the ACI. Since the landfill itself and the area for the ACI are contained on the same parcel, parcel number 7226-01-03-0090, the ACI would be considered an expansion of a non-conforming use. Please contact both Mary and Carol to discuss the remedies for this situation.

In addition, based on review of your site plan in the application sent to the Florida Department of Environmental Protection (FDEP), the area where you have placed the ACI, is designated wetlands. As such, this construction might require permits from our Wetlands Department and also the Environmental Resource Permitting Section of FDEP.



Printed On
Recycled Paper

EXHIBIT "B"

May 12, 1999

Mike Stokes
Operator
Samsula Landfill

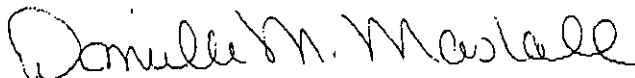
Reference: Follow-up letter

Page two

We understand there are setbacks in the state regulations for the placement of the ACI from the working face of the landfill, which may be the cause for the placement of the ACI in this area. Please contact Randall Sleister, Wetlands Program Manager at (904) 423-3303, extension 2092 to discuss the local requirements and Sue Leitholf with the FDEP at (407)894-7555 for their requirements.

We would be happy to set a meeting with you and the County staff involved in the permitting of the ACI to discuss remedies. We understand you would like to try to deal with this item yourself, but because the site is already under enforcement for the maintenance building, it might be in your best interest to notify the attorney you have already retained. Please contact Randall Sleister if you would like to set a meeting.

Sincerely,



Danielle M. Marshall
Environmental Specialist

c: Jennifer Deal, FDEP - Solid Waste
Carol Kerrigan
Mary Robinson



Department of Environmental Protection

Jeb Bush
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

David B. Struhs
Secretary

Permittee:
Samsula Landfill, Inc.
363 State Road 415
New Smyrna, Florida 32168

Atten: Charles Y. McDonald
President

I.D. Number: 1270154
Permit Number: 1270154-001-AC
Expiration Date: March 31, 2004
County: Volusia
Latitude/Longitude:
28° 59' 24"N/81° 04'10"W
Project: Air Curtain Incinerator

This permit is issued under the provisions of Chapter(s) 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-210. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the department and made a part hereof and specifically described as follows:

The permittee can construct an air curtain incinerator. The air curtain incinerator is manufactured by Qualico and is a Model 4239 T trench burner with 35 feet of 18-inch diameter carrier pipe and 37 feet of manifold.

This emission unit is located at 363 State Road 415, New Smyrna, Volusia County, Florida.

General Conditions, which are pages 2 and 3 are mailed only to the permittee.

Page 1 of 6

"Protect, Conserve and Enhance Florida's Environment and Natural Resources"

EXHIBIT "C"

Permittee:
Samsula Landfill, Inc.

Atten: Charles Y. McDonald,
President

I.D. Number: 1270154
Permit Number: 1270154-001-AC
Expiration Date: March 31, 2004
County: Volusia

SPECIFIC CONDITIONS:

OPERATING CONDITIONS

1. The maximum permitted operating hours are 2496 hours per consecutive twelve months, updated monthly, per the application.
2. The maximum permitted combustion rate is 3,900 tons of wood waste, per consecutive twelve months, updated monthly, per the application.
3. The following operational conditions must be adhered to [Rule 62-296.401(7), F.A.C.]:
 - a) The only materials that can be burned in the air curtain combustor are wood wastes, consisting of trees, logs, large brush, stumps relatively free of soil, unbagged leaves and yard trash, tree surgeon debris, and clean dry lumber such as pallets.
 - b) The burning of sawdust, paper, trash, tires, garbage, plastics, liquid wastes, chemically treated or painted wood, and other similar materials is expressly prohibited.
 - c) Only virgin oil, natural gas, or liquefied petroleum gas may be used to start the fire. The use of waste oil, chemicals, gasoline, or tires is expressly prohibited.
 - d) In no case shall an air curtain incinerator be started before sunrise. For refractory lined air curtain incinerators, charging must have completely stopped before sunset. For all other air curtain incinerators, charging must have completely stopped two hours before sunset.
 - e) The air curtain combustor must be located at least three hundred (300) feet from any pre-existing occupied building located off site.
 - f) The material shall not be loaded into the air curtain combustor such that it will protrude above the air curtain.
 - g) Ash shall not be allowed to build up in the chamber to higher than 1/3 the chamber depth or to the point where the ash begins to impede combustion, whichever occurs first.
 - h) A detailed operation and maintenance guide must be available to the operators at all times, and the permittee must provide the proper training to all operators before they work at the combustor. The Department may request a copy of this guide.
4. The incinerator must be maintained in good operating condition to insure that emission standards are met at all times and to minimize safety hazards [General Condition #6].
5. To limit particulate air pollution, fire hazards, etc., the incinerator shall not be operated under conditions which cause excess emissions of hot burning materials. Such conditions include, but are not limited to, high winds, improper operating or loading procedures, improper maintenance, improper

Permittee:
Samsula Landfill, Inc.

Atten: Charles Y. McDonald,
President

I.D. Number: 10154
Permit Number: 1270154-001-AC
Expiration Date: March 31, 2004
County: Volusia

materials, etc. A spark arrestor or other means may be needed to control particulate air pollutants and the hazards they may pose.

6. An operator must be in attendance at all times to insure proper loading, air flow adjustments, spark control and to keep the air intakes clear of obstructions.

EMISSION LIMITS

7. The emission limitations for this air curtain incinerator are as follows (Rule 62-296.401(7), F.A.C.):
 - a) Outside of startup periods, no visible emissions (5 percent opacity or less) shall be allowed, except that an opacity of up to 20 percent shall be permitted for not more than three minutes in any one hour.
 - b) During startup periods, which shall not exceed the first 30 minutes of operation, an opacity of up to 35 percent, averaged over a six-minute period, shall be allowed.
 - c) The general excess emissions rule, Rule 62-210.700, F.A.C., shall not apply to air curtain incinerators.
8. No objectionable odors will be allowed, as per Rule 62-296.320(2), F.A.C.

COMPLIANCE TESTING

9. The emission unit must be tested for visible emissions in accordance with DEP Method 9 [Rule 62-297.401(9), F.A.C.] for 30 minutes during startup and for 60 minutes during normal operation within 30 days after being placed in operation. For any other approved method to be utilized, the Department must give prior written approval.
10. At least 15 days prior to the date on which each formal compliance test is due to begin, the permittee shall provide written notification of the test to the air compliance section of this office. The notification must include the following information: the date, time, and location of each test; the name and telephone number of the facility's contact person who will be responsible for coordinating the test [Rule 62-297.310(7)(a)9, F.A.C.].
11. Testing of emissions shall be conducted with the emissions unit operation at permitted capacity. Permitted capacity is defined as 90 to 100 percent of the maximum operation rate allowed by the permit. If it is impractical to test at permitted capacity, an emissions unit may be tested at less than the minimum permitted capacity; in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted. Once the unit is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purpose of additional compliance testing to regain the authority to operate at the permitted capacity [Rule 62-297.310(2), F.A.C.].
12. The weight and type of material burned must be entered in the visible emission test report.

Permittee:

Samsula Landfill, Inc.

I.D. Number: 1270154

Permit Number: 1270154-001-AC

Expiration Date: March 31, 2004

County: Volusia

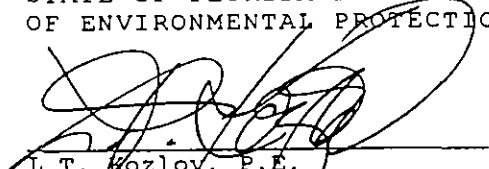
Atten: Charles Y. McDonald,
President

13. A copy of the compliance test results must be submitted to the compliance section of this office within 45 days after the last sampling run of each test is completed [Rule 62-297.401(8)b, F.A.C.].
14. A DEP Form No. 62-210.900(5), F.A.C. "Annual Operating Report for Air Pollutant Emitting Facility", including the Emissions Report, shall be completed for each calendar year on or before March 1 of the following year and submitted to the air compliance section of this office [Rule 62-210.370(3)(a), F.A.C.].

PERMIT APPLICATION

15. An operating permit is required for operation of this source. To obtain an operating permit, the permittee must demonstrate compliance with the conditions of the construction permit and submit the application fee, along with compliance test results and Application for Air Permit to the Department's Central Florida District office [Rule 62-4.220, F.A.C.]. The application shall be submitted no later than 180 days after receipt of this permit.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



L.T. Kozloy, P.E.
Program Administrator
Air Resources Management

Issued: 4-12-99

1115 TAKEN - FOR YOUR INFORMATION

ENVIRONMENTAL MANAGEMENT SERVICE GROUP
123 West Indiana Avenue
DeLand, Florida 32720-4621
January 3, 2000

CERTIFIED MAIL #P 919 009 269

Mr. Yancey McDonald
Samsula Landfill
363 South State Road 415
New Smyrna Beach, FL 32168

Dear Mr. McDonald:

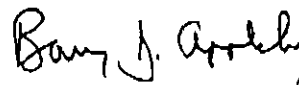
This Department is responsible for enforcement of Ordinance Number 83-22, as adopted by the Volusia County Council. As a result of an investigation conducted by staff from this office, I have reason to believe that you are presently violating certain provisions of this Ordinance as indicated on the attached notice.

In accordance with the penalty section of this Ordinance, violations are punishable by not more than sixty (60) days imprisonment in jail, or by a fine not to exceed five hundred (\$500) dollars or both such fine and imprisonment. Each day the violation continues shall be deemed a separate offense. Other legal remedies may be pursued as appropriate.

Therefore, you are hereby advised to respond to the specific violations alleged on the attached notice by taking suitable corrective action as indicated. Be advised this office will perform a re-inspection at the conclusion of the allotted time for corrective action. If the violation is not resolved at that time, I shall initiate other enforcement proceedings at our disposal, which may include a hearing before the Code Enforcement Board, or other suitable legal actions.

Your voluntary compliance with this Ordinance will be appreciated. It is to your advantage to resolve this alleged violation immediately to avoid further enforcement action. If you have any questions concerning this matter, please contact Barry Appleby as soon as possible, at 904/423-3303, extension 2734.

Very truly yours,



Environmental Management

Attachment
cc: Enforcement File

EXHIBIT "D"

COUNTY OF VOLUSIA
ENVIRONMENTAL MANAGEMENT SERVICE GROUP
NOTICE OF VIOLATION

1. NATURE OF THE ALLEGED VIOLATION:

Noise exceeding the commercial daytime decibel limit of 65 dbA at the southern property line of the Baker residence, in violation of Volusia County Ordinance 83-22. The source of the noise is the crushing and grinding apparatus and associated conveyers and vehicles at the Samsula Landfill, producing a L10 value of 74 dbA, in violation of the ordinance.

2. LOCATION OF THE ALLEGED VIOLATION:

The Baker residence, 353 South SR 415, New Smyrna Beach, Florida

3. LEGAL DESCRIPTION, INCLUDING PARCEL NUMBER:

Parcel Number 7226-01-03-0040

Legal Description: 26-17-32 N 1/4 of tracts 9 & 10 E of road exc E
553.8 ft on N/L of lot 10 blk 3 Howe & Curriers MB 4 PG 44 per OR 2457
PG 1074

4. CORRECTIVE ACTION TO RESOLVE ALLEGED VIOLATION:

Reduce the total noise generated by the crushing and grinding apparatus and appurtenant operations to a maximum of 60 dbA at the property line to achieve nighttime compliance with Ordinance 83-22.

5. TIME LIMIT FOR CORRECTIVE ACTION:

Thirty (30) days from receipt of notice

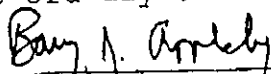
6. ADDITIONAL EXPLANATION:

Please call to discuss possible solutions to this situation. The easiest way to resolve the violation is to move the apparatus to a remote part of the property, away from adjacent neighbors.

If this violation is not corrected by the time limit specified above, the violation will be forwarded to the Volusia County Code Enforcement Board, which has the power to levy a fine of up to \$250 per day against your real and/or personal property for each day the violation continues beyond the date set by the Board for compliance. Further, you may be subject to a fine not to exceed \$500 or by imprisonment in the County jail for a period not to exceed 60 days, or by both such fine and imprisonment.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original Notice of Violation for this alleged violation was sent by certified mail this 3rd day of January 2000.



Environmental Management

NOISE MEASUREMENT FIELD DATA SHEET

DATE: 12/30/99 TIME: 10:10 AM TECHNICIAN: APPLEBY

COMPLAINANT INFORMATION: NAME: M.S. ETTA RAVER

ADDRESS: 353 ETTA SR 415 CITY: NEW BRUNSWICK BEACH

TELEPHONE: 438-5882 OTHER: _____

NOISE SOURCE: NAME: SAMMIE WADSWELL 438-6769

ADDRESS: SR 415 CONTACT: _____

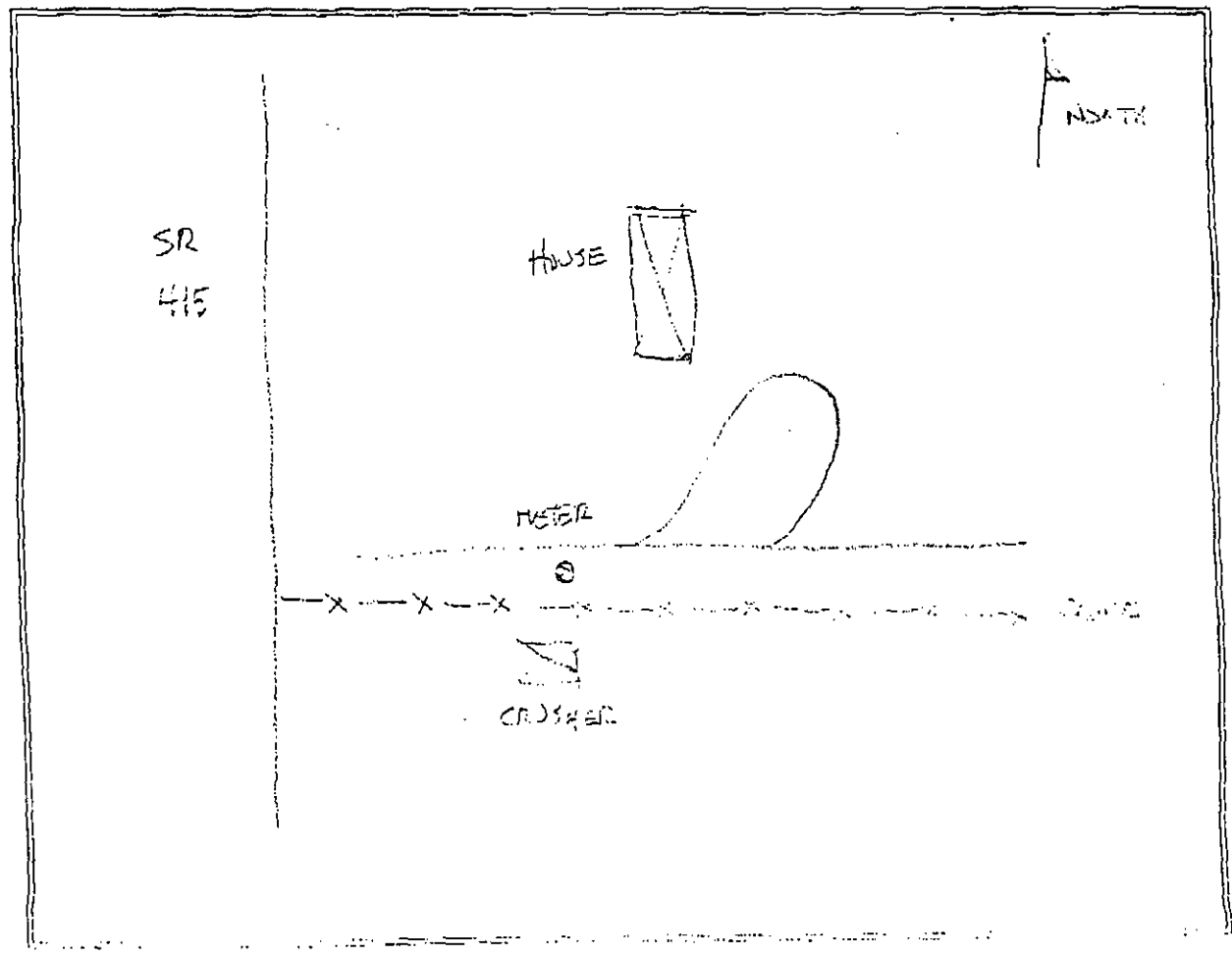
METEOROLOGICAL CONDITIONS (ESTIMATED) WIND DIRECTION: N/A

WIND SPEED: LT 5 TEMPERATURE: ≈ 50 HUMIDITY: ≈ 45

PHYSICAL DESCRIPTION OF TEST AREA: ADJACENT TO ENTRANCE
ROAD TO HOUSE OFF SR 415

NOTE ANY SOUND REFLECTING OBJECTS: SOME VEGETATION

SKETCH OF TEST AREA (Show source, location of test equipment, complainant's property and other important features)



COUNTY OF VOLUSIA, FLORIDA
NOTICE OF CODE VIOLATION

JANUARY 5, 2000

COMPLAINT NO: 000104025

YANCEYS LAND CLEARING INC
2455 TOMOKA FARMS RD
DAYTONA BEACH FL 32124-3731

YOU ARE HEREBY ADVISED THAT AN ENVIRONMENTAL CODE VIOLATION EXISTS AT:

363 S SR 415, NEW SMYRNA BEACH, FL 32168

ON JANUARY 4, 2000

ORDINANCE: COUNTY OF VOLUSIA CODE OF ORDINANCES, CHAPTER 74
SECTION 74-39(A)

DESCRIPTION:

SEVERAL MONITORING WELLS HAVE BEEN INSTALLED AT THIS
SITE WITHOUT A PERMIT.

ACTION REQUIRED:

CALL OUR OFFICE WITH THE NAME OF THE WELL INSTALLER. A
PERMIT APPLICATION MUST BE SUBMITTED TO OUR OFFICE. THE \$20
PERMIT FEE MUST BE PAID FOR EACH ONE OF THE WELLS, A \$150.00
LATE FEE MUST BE PAID FOR EACH ONE OF THE WELLS.

THIS IS A VIOLATION OF THE ABOVE ORDINANCE.

PLEASE BE ADVISED THAT THIS VIOLATION MUST BE CORRECTED WITHIN 15 DAYS.
IF YOU HAVE ANY QUESTIONS, PLEASE CALL BETWEEN 7:30AM-5PM, THE
VOLUSIA COUNTY ENVIRONMENTAL OFFICE.

DELAND (904) 736-5927 X2873.
DAYTONA BEACH (904) 254-4612 X2873.
NEW SMYRNA BEACH (904) 423-3303 X2873.

TOM CAREY ENVIRONMENTAL SPECIALIST
ENVIRONMENTAL MANAGEMENT
123 WEST INDIANA AVENUE
DELAND, FL. 32720-4253

COPY

DEP CERTIFIED MAIL NO.: P 248 041 823

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION)

Complainant,)

vs.)

SAMSULA LANDFILL, INC., and)
YANCEY'S LAND CLEARING, INC.,)

Respondents .)

IN THE OFFICE OF THE
CENTRAL DISTRICT

OGC FILE NO: 00-0210

REP 00-0161

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and Samsula Landfill, Inc., and Yancey's Land Clearing, Inc., ("Respondents") to reach settlement of certain matters at issue between the Department and Respondents .

The Department finds:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Part IV of Chapters 373 and 403, Florida Statutes, and the

rules promulgated thereunder, Florida Administrative Code ("F.A.C.") Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondents are corporations doing business in Florida and are registered with the Florida Division of Corporations. Each Respondent is a "person" within the meaning of Sections 373.019(12) and 403.031(5), Florida Statutes. The Respondent Samsula Landfill, Inc., owns and operated a stationary air curtain incinerator located at a Department permitted construction and demolition Landfill. The location of the landfill is 363 State Road 415, Volusia County, Florida, Latitude 28° 59' 24" N and Longitude 81° 04' 10" W. The Respondent Samsula Landfill, Inc., was issued Department Air Construction Permit 1270154-001-AC for the air curtain incinerator. The Respondent Yancey's Land Clearing, Inc., was issued Department Solid Waste Permit S064-275715 for the landfill ("Facility").

3. Inspections conducted by Department personnel on November 10, 1999 and January 27, 2000 revealed the Respondents have operated a rock crusher at the Facility without a Department permit. The crusher has a design capacity of 250 tons per hour and is subject to Part 40 Code of Federal Regulation, Section 60.670. The Respondents' operation of the rock crusher is a violation of Section 403.161(1)(b) and 403.087(1), Florida Statutes, and Rules 62-4.030 and 62-210.300, Florida Administrative Code.

4. An inspection by Department personnel on December 6, 1999 revealed the air curtain incinerator and fill had been placed within wetlands without a valid permit from the Department. The activity was conducted on the property referenced in paragraph 2 within the landward extent of Spruce Creek, surface waters as defined by

Florida Law, Latitude 28° 59' 28" N and Longitude 81° 03' 58" W . The filling of the wetland without an appropriate Department or Water Management District permit, or without having first obtained an appropriate exemption is a violation of Section 373.430, Florida Statutes and Rule 40C-4.041(1), Florida Administrative Code. The Respondents do not agree that this area is a wetland area or that they have violated Florida Statutes and Rules.

5. The Department informed the Respondents of the Respondents' violations of Florida Statutes, and applicable Department Rules in Warning Letter OWL AP-00-468, dated February 11, 2000, and during an informal meeting held at the Department's Orlando office on February 11, 2000 between the Respondents' representatives and the Department. At the meeting, the Respondents' representatives informed the Department that they had previously dismantled the air curtain incinerator and put the parts in storage.

6. Having reached a resolution of the matter, the Department and the Respondents mutually agree and it is,

ORDERED:

7. Commencing immediately upon the effective date of this Consent Order, the Respondents shall not re-construct or operate the Facility's air curtain incinerator within the wetland areas described in paragraph 4 of this Consent Order.

8. The Respondents must notify the Department in writing 15 days in advance of the air curtain incinerator being moved and re-constructed in an upland portion of its Facility. The air curtain incinerator must comply with Rule 62-296.401(7), F.A.C., to specifically include depth and width requirements.

9. The Respondents shall not re-construct the air curtain incinerator at a location outside of this Facility without having first obtained an appropriate Department Air Pollution Permit for the construction and operation outside of the Facility. The air curtain incinerator must comply with Rule 62-296.401(7), F.A.C., to specifically include depth and width requirements.

10. If Respondents obtain the permits described in paragraph 9 of this Consent Order or if Respondents relocate the air curtain incinerator to an upland portion of Facility as discussed in Paragraph 8, upon initial operation of the air curtain incinerator the Respondents shall conduct a DEP Method 9 Visible Emissions Observation in accordance with Rule 62-297.401, F.A.C. The Respondents shall notify the Department of the observation test, in writing, at least 15 days prior to the observation. The results of the observation shall be submitted to the Department within 7 days of the completion of the observation.

11. If the results of the observation referenced in paragraph 10 of this Consent Order do not demonstrate compliance with 62-296.401, F.A.C., and applicable permits, the Respondents shall notify the Department in accordance with paragraph 10, above, and immediately cease operation of the air curtain incinerator until repairs are made and the air curtain incinerator is retested to demonstrate compliance. Any retest must follow the procedures described in paragraph 10 of this Consent Order. The Respondents shall demonstrate compliance with Rule 62-296.401 F.A.C., and applicable permits prior to continued operation of the Facility's air curtain incinerator.

12. If Respondents' wish to use the rock crusher referenced in Paragraph 3 of this Consent Order, Respondents must submit an appropriate permit application for

Department consideration. The Respondents shall not operate the rock crusher without first having been issued an appropriate Department Air permit.

13. Respondents shall implement and complete the Restoration Actions listed below in the manner specified within 15 days of the effective date of this Consent Order:

a. Turbidity barriers such as staked hay bales and staked silt screen shall be installed at the edge of the Restoration Area, depicted in Exhibit A, to control turbidity during all restoration activities.

b. Remove all fill from within Restoration Area, depicted in Exhibit A, down to the natural, undisturbed, adjacent wetland grade. All fill removed from the restoration area shall be placed in a contained upland location which will not discharge to surface waters

c. Replant the Restoration Area, depicted in Exhibit A, with at least 80 (eighty): Sweet Gum (Liquidambar styraciflua), Red Maple (Acer rubrum), Sweet Bay (Magnolia virginiana), Blackgum (Nyssa sylvatica), Pond Pine (Pinus serotina) or Loblolly Bay (Gordonia lasianthus) in minimum one gallon container on 6 foot centers.

14. With the exception of the activities described in the Restoration Actions, effective immediately and henceforth, Respondents shall not conduct any dredging, filling, or construction activities on or within the landward extent of surface waters without first obtaining a valid Department permit or written notification from the Department that the activities as proposed appear to be exempt from Department permitting requirements.

15. Commencing immediately upon the effective date of this Consent Order, the Respondents shall operate the Facility according to the Landfill Operation Plan approved by the Department. The Operation Plan is contained in Attachment B of the document entitled *Supporting Documentation, General Permit Modification, Samsula Landfill, Volusia County, Florida, Permit No. SO64-275715*. Respondent shall take the necessary precautions to control any dust at the landfill as specified in Section 18.0, Page B1-2 of the Operation Plan. Respondents notified the Department on December 30, 1999 of its amendment to the Operation Plan, which notification changed its hours of operation to 6:00 a.m. to 6:00 p.m.

16. Respondents shall control access to the Facility during the hours that the facility is not operating. Respondents shall close and lock the gate when the facility is not in operation.

17. Respondents agrees to pay the Department stipulated penalties in the amount of \$200.00 per day for each and every day the Respondent fails to timely comply with any of the requirements of paragraphs 7-16 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 20 days of written demand from the Department, Respondents shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767. The Department may make demands for payment at any time after

violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

18. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or

modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Meditation is not available to petitioners in this case.

19. Entry of this Consent Order does not relieve Respondents of the need to comply with the applicable federal, state or local laws, regulations or ordinances.

20. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

21. Respondents are fully aware that a violation of the terms of this Consent Order may subject Respondents to judicial imposition of damages, civil penalties up to \$10,000.00 per offense and criminal penalties.

22. Respondents shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

23. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department should be sent to Florida Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

24. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the

25. The Department, for and in consideration of the complete and timely performance by Respondents of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondents acknowledge but waive their right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondents acknowledge their right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waive that right upon signing this Consent Order.

26. The provisions of this Consent Order shall apply to and be binding upon the parties, its officers, its directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

27. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both of the Respondents and the Department.

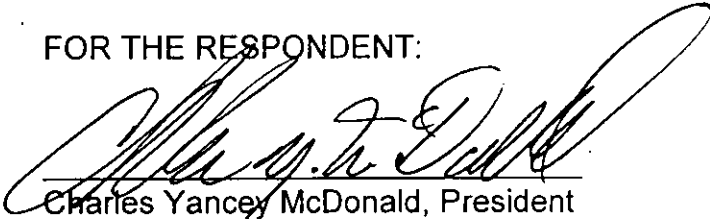
28. In the event of a sale or conveyance of the facility or of the property upon which the facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondents shall, at least 30 days prior to a sale or conveyance of the property or facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the facility, or the property upon which the facility is located shall not relieve the Respondents of the obligations imposed in this Consent Order.

29. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

30. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with

Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

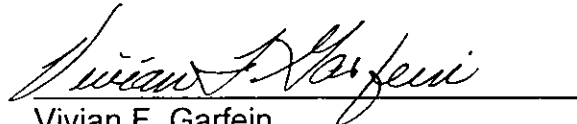


Charles Yancey McDonald, President
Yancey's Land Clearing, Inc.
Samsula Landfill, Inc.

2-18-00
Date

Done and ordered this 22nd day of February, 2000 in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Vivian F. Garfein
Director of District Management
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

FILING AND ACKNOWLEDGMENT FILED,
on this date, pursuant to §120.52, Florida
Statutes, with the designated Department Clerk
receipt of which is hereby acknowledged.


CLERK

2/22/00
Date

cc: Larry Morgan

Samsula Landfill

OCC File

No. 00-0210

exhibit A.

SR 415

ENTRANCE ROAD

landfill

existing road

fence

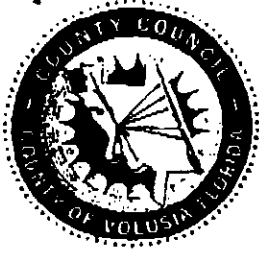


= Restoration Area

APPROX SIZE: 1.4 ACRES

NOT TO SCALE - DIMENSIONS EXTENDED FROM AERIAL PHOTO DATED 12/26/95

RECEIVED
FEB 25 2000
DEPT OF ENVIRONMENTAL PROTECTION
OFFICE OF GENERAL COUNSEL



County of Volusia

Environmental Management

123 West Indiana Avenue • DeLand, Florida 32720-4621
Telephone: (904)736-5927 • (904)254-4612 • (904)423-3303
Suncom (904)377-5927 • Fax (904)740-5193

3/24 Bruce
In case
you lose
the other
two
Clan

FAX TRANSMITTAL COVER SHEET

TO: CLAIR FANCY

FAX NO. 850-922-6979

FROM: BARRY APPLEBY

TELEPHONE/EXT NO. SC 377-2734

FAX NO. 904-740-5193

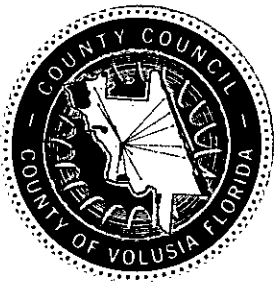
DATE: 3/24/00

SUBJECT: SANJULA RECYCLING / UND Fee

MESSAGE: REQUEST for INFORMATION

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 2





County of Volusia

Brice

Environmental Management

123 West Indiana Avenue • DeLand, Florida 32720-4621

Telephone: (904)736-5927 • (904)254-4612 • (904)423-3303

Suncom (904)377-5927 • Fax (904)822-5727

March 24, 2000

Mr. Clair Fancy, P.E.
Bureau Chief, Air Resource Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Mail Station 5505
Tallahassee, FL 32399-2400

RECEIVED

MAR 27 2000

BUREAU OF AIR REGULATION

Subject: Samsula Recycling – Request for Information

Dear Mr. Fancy:

Please accept this letter as a formal request for copies of the subject permit application and of all subsequent correspondence and information relating to the processing of the Air Construction Permit Application recently submitted to your agency by Samsula Recycling of New Smyrna Beach, Florida. We have some serious local concerns regarding the operation and siting of this equipment and would like the opportunity to comment and/or intervene in the permitting process, as necessary.

In addition, we would like to receive copies of any public notices and the Department's Notice of Intent to Issue Permit in order to intervene, if necessary. This is a controversial issue at a controversial facility, which may end up in court. Thank you for your cooperation in this matter.

Sincerely,

Barry Appleby, Manager
Pollution Control

cc: Bruce Mitchell, FDEP, Tallahassee
Doug Weaver, Attorney, Volusia County

dm\\VC1\\SYS\\GMA\\ENVIRO\\Users\\MARSHALL\\SOLID\\Word\\P0300011.doc

