

# COLELLA & ASSOCIATES, INC.

Engineers / Scientists / Contractors Solving Environmental Issues

December 31, 2002

Project No.: 00-110

Mr. Len T. Kozlov  
Program Administrator  
Air Resources Management  
FDEP, Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

RECEIVED

JAN 06 2003

Central Dist. - DEP

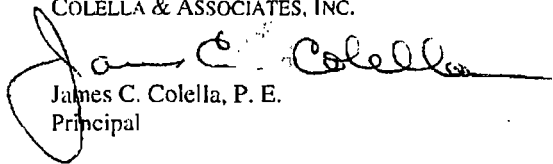
Notice of Modification  
Relocatable Crushing Plant  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida  
ID No.: 7775112  
Permit No.: 7775112-002-AO

Dear Mr. Kozlov:

As directed by Samsula Landfill, Inc. (Samsula), Colella & Associates, Inc., has prepared this letter to notify the Florida Department of Environmental Protection (FDEP) of a planned modification to the Relocatable Crushing Plant. The crusher is currently permitted for and powered by a diesel engine. Samsula is planning to convert to electrical power to operate the crusher. With the modifications, the calculated emissions associated with the use of diesel fuel will be eliminated and the calculated total emissions will be reduced. The conversion of the power system will not be finalized until the FDEP approves this modification.

If there are any questions regarding the information presented herein, please call us at (386) 322-9080.

Respectively Yours  
COLELLA & ASSOCIATES, INC.

  
James C. Colella, P. E.  
Principal

cc: Mr. Michael Stokes, Samsula Recycling, Inc.

Post-It® Fax Note	7671	Date	1/10/03	# of pages	1
To	Bruce Mitchell	From	Len Kozlov		
Co./Dept.	DEP-AIR	Co.			
Phone #		Phone	SC 325-3332		
Fax	SC 292-6979	Fax #			

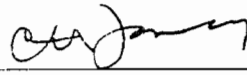
Mr. Michael Stokes  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**NOTICE OF ISSUANCE OF FINAL AIR CONSTRUCTION PERMIT**

Enclosed is the Final Air Construction Permit, No. 7775112-001-AC, for a diesel engine powered portable concrete, asphalt, and construction debris crusher that will be allowed to operate at sites in those counties designated in Appendix PC. This permit is issued pursuant to Chapter 403, Florida Statutes (F.S.):

Any party to this order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Legal Office; and, by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 (thirty) days from the date this Notice is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.



C.H. Fancy, P.E.  
Chief  
Bureau of Air Regulation

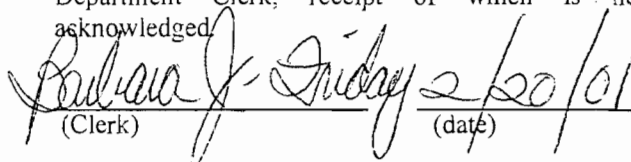
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this AIR CONSTRUCTION PERMIT was sent by certified mail (\*) and copies were mailed by U.S. Mail, or electronic mail (as noted) before the close of business on 2/20/01 to the person(s) listed:

Mr. Michael Stokes\*, Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, FL 32168  
James Colella, P.E., Colella & Associates, Inc. 805 Smokerise Boulevard, Port Orange, FL 32127  
William and Georgia Towner\*, 355 South State Road 415, New Smyrna Beach, FL 32168  
Robert and Zetta Baker\*, 353 South State Road 415, New Smyrna Beach, FL 32168  
Arthur Drewry, 800 Hull Road, Ormond Beach, FL 32174  
Danielle Marshall, Volusia County Environmental Management, 123 W Indiana Avenue, Deland, FL, 32720-4621  
Doug Weaver, Volusia County Attorney's Office, 123 W Indiana Avenue, Deland, FL 32720-4621  
J. A. Jurgans\*, Esq., Attorney of Record for the Towner's and Baker's, 505 Wekiva Springs Road, Suite 500,  
Longwood, FL 32770  
Albert Elsworth Ford II, Esq., 505 Wekiva Springs Road, Suite 500, Longwood, FL 32770  
Len Kozlov, DEP, Central District  
Douglas Beason, Esq., DEP - OGC

Clerk Stamp

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

  
(Clerk) 2/20/01  
(date)

Notes: Remaining DAPA's and LAPA's deleted because advertising was limited to Volusia County  
J. A. Jurgans was added as Attorney of Record for the Towner's and Baker's  
Danielle Marshall was substituted for Barry Appelby, Volusia County Environmental Management

**SENDER: COMPLETE THIS SECTION**

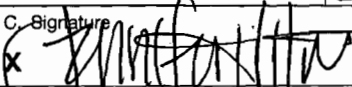
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

J.A. Jurgans, Esq.  
 Attorney of Record for the  
 Towner's and Baker's  
 505 Wekiva Springs Road  
 Longwood, Florida 32770

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery  
 2-22-01

C. Signature   Agent  
 Addressee

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Copy from service label): 7000 0600 0021 2825 2241

**U.S. Postal Service  
 CERTIFIED MAIL RECEIPT  
 (Domestic Mail Only; No Insurance Coverage Provided)**

Article Sent To:  
 J.A. Jurgans, Esq

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	<b>\$</b>	

Name (Please Print Clearly) (to be completed by mailer)  
 J.A. Jurgans, Esq.  
 Street, Apt. No., or PO Box No.  
 505 Wekiva Springs Road  
 City, State, ZIP+4  
 Longwood, Florida 32770

6927 5292 1200 0090 0002

**SENDER: COMPLETE THIS SECTION**

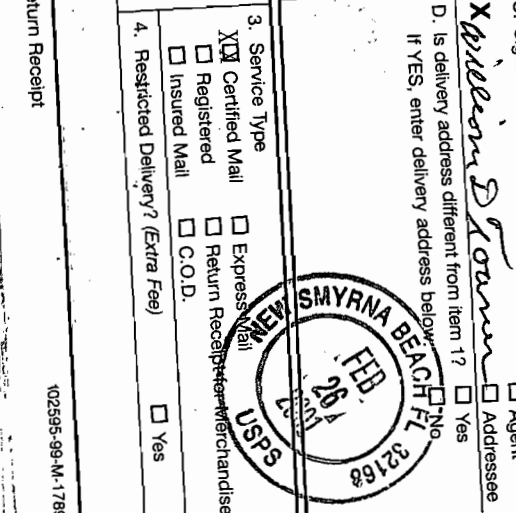
1. Article Addressed to:  
 William and Georgia Towner  
 355 South State Road 415  
 New Smyrna Beach, Florida  
 32168

2. Article Number (Copy from service label)  
 7000 0600 0021 2825 2241

PS Form 3811, July 1999 Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**


A. Received by (Please Print Clearly) B. Date of Delivery  
 William & Towner 2-26-01

C. Signature   Agent  
 Addressee

D. Is delivery address different from item 1?  No  
 If YES, enter delivery address below:  Yes

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



02595-99-M-1789

**U.S. Postal Service  
 CERTIFIED MAIL RECEIPT  
 (Domestic Mail Only; No Insurance Coverage Provided)**

Article Sent To:  
 William and Georgia Towner

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	<b>\$</b>	

Name (Please Print Clearly) (to be completed by mailer)  
 William and Georgia Towner  
 Street, Apt. No., or PO Box No.  
 355 South State Road 415  
 City, State, ZIP+4  
 New Smyrna Beach, FL 32168

6927 5292 1200 0090 0002

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Michael Stokes  
 Samsula Recycling, Inc.  
 363 State Road 415  
 New Smyrna Beach, Florida  
 32168

2. Article Number (Copy from service label)

7000 0600 0021 2825 2258

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

B. Date of Delivery

2-22-99

C. Signature

X

*Michael Stokes*

Agent

Addressee

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail

Registered  Return Receipt for Merchandise

Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

7000 0600 0021 2825

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Mr. Michael Stokes

Postage \$

Certified Fee

Return Receipt Fee  
(Endorsement Required)

Restricted Delivery Fee  
(Endorsement Required)

Total Postage & Fees \$

Postmark  
Here

Name (Please Print Clearly) (to be completed by mailer)

Mr. Michael Stokes

Street, Apt. No., or PO Box No.

363 State Road 415

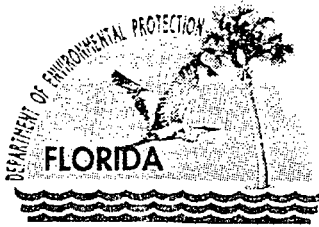
City, State, ZIP+4

New Smyrna Beach, Florida 32168

PS Form 3800, July 1999

See Reverse for Instructions





Jeb Bush  
Governor

# Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

**PERMITTEE:**

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**FID No.:** 7775112

**Permit No.:** 7775112-001-AC

**SIC No.:** 1795

**Expiration Date:** September 18, 2005

**Project:** Diesel engine powered relocatable concrete, asphalt, and construction debris crushing plant designated as Eagle Ultra Max Model 1200-25

**AUTHORIZED REPRESENTATIVE**

Mr. Michael Stokes  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**PROJECT**

This permit allows the applicant to construct/install a diesel engine powered relocatable concrete, asphalt, and construction debris crushing plant, designated as Eagle Ultra Max Model 1200-25 Crushing Plant, together with associated crusher feeder, classifier screens, conveyors, and electric generator.

**STATEMENT OF BASIS**

This air construction permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and the Florida Administrative Code (F.A.C.) Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297. The above named permittee is authorized to construct/install the facility in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department of Environmental Protection (Department).

**APPENDICES**

The attached appendices are a part of this permit:

Appendix GC - General Permit Conditions  
Appendix PC - Permitted Counties

Howard L. Rhodes, Director  
Division of Air Resources Management

"More Protection, Less Process"

Printed on recycled paper.

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT No.: 7775112-001-AC

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### FACILITY DESCRIPTION

This facility consists of a 250 tons per hour (TPH) Eagle Ultra Max Model 1200-25 impact crusher facility with associated crusher feeder, classifier screens and conveyors, and powered by a 305 hp Cummins diesel engine, all of which are mounted on a transportable chassis. The diesel engine also drives an electric generator to provide power to the various feeders, classifier screens and conveyors, and the water-spray pump. Process unconfined fugitive particulate matter emissions from the crushing operation, specifically the feeders, screen classifiers and conveyor transfer points, shall be controlled by a water-spray suppression system. Non-process unconfined fugitive particulate matter emissions from the roadways, stockpiles and work-yard, shall be controlled by watering and/or by application of some effective dust suppressant(s).

### REGULATORY CLASSIFICATION

The facility is subject to the regulations of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants. The generator portion of the facility is regulated under Rule 62-210.300, F.A.C., Permits Required, since there are no unit specific regulatory requirements that apply.

### RELEVANT DOCUMENTS

The documents listed below are the basis of the permit. They are specifically related to this permitting action. These documents are on file with the Department.

- Consent Order, OGC FILE No. 00-0210, dated February 22, 2000
- Application received (Central District) March 22, 2000
- Requests for additional information dated April 20, 2000
- Response to request for additional information received May 26, 2000
- Request for information by Volusia County received May 1, 2000
- Department's response to request for information by Volusia County dated May 26, 2000
- Intent to Issue with draft permit, mailed, August 23, 2000
- Proof of publication on August 31, 2000 in Daytona News Journal, received, September 7, 2000
- Petition for Administrative Hearing by Towner and Baker, received, September 14, 2000 at 5:26 PM
- Order dismissing Towner and Baker petition, with 10 days to re-file, October 22, 2000.
- Amended petition for administrative hearing received November 2, 2000
- Order Dismissing petition for administrative Hearing received January 30, 2001
- Douglas Beason's letter of January 31 to Administrative Law Judge sent via facsimile
- Amended Order Closing File DOAH Case No. 00-4594, dated February 2, 2001
- E-mail from Douglas Beason to issue final permit as noticed, received February 15, 2001

### PERMITTED COUNTIES

Please see Appendix PC, Permitted Counties, for a list of counties in which the facility will be able to operate once Public Notice has been published, the performance testing has been completed satisfactorily, and the air operation permit has been issued or amended after proper relocation notification. As proof of publication is received by the Department, the publication date shall be inserted into Appendix PC.

### OPERATING LOCATION

The facility will be based at 363 State Road 415, New Smyrna Beach Florida (midway between Samsula and Alamana), in Volusia County. The UTM coordinates for that site are Zone 17; 255.526 km E; and, 3367.127 km North.

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

PAGE 2 OF 18

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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The following facility-wide conditions apply to all emissions units at this facility.

### ADMINISTRATIVE

1. Regulating Agencies: All documents relating to the initial application for a permit to operate and all initial compliance tests shall be submitted to the Department's Bureau of Air Regulation in Tallahassee. Subsequent applications for permit renewals, reports, tests, minor modifications, and notifications shall be submitted to the Department's district office or local program that has permitting/compliance jurisdiction over the current or proposed operating location.

2. General Conditions: In addition to the specific conditions of this permit, the owner and operator are subject to and shall operate under the General Permit Conditions G.1 through G.15, contained in the attached Appendix GC - General Permit Conditions of this permit. General Permit Conditions are binding and enforceable pursuant to Chapter 403, F.S.

[Rule 62-4.160, F.A.C.]

3. Terminology: The terms used in this permit have specific meanings as defined in the corresponding chapters of the Florida Administrative Code.

4. Forms and Application Procedures: The permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C., and follow the application procedures in Chapter 62-4, F.A.C.

[Rule 62-210.900, F.A.C.]

5. Extension of Expiration Date: The permittee may, for good cause, request that this construction permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation prior to 60 days before the expiration of the permit.

[Rules 62-210.300(1), 62-4.070(4) and 62-4.210, F.A.C.]

6. Notification of Intent to Relocate: An air permit for a relocatable facility shall be amended upon each change of location of the facility. The owner or operator of the facility must submit a Notification of Intent to Relocate Air Pollutant Emitting Facility [DEP Form No. 62-210.900(6)] to the Department's district office and/or, if appropriate, the local program office, at least seven (7) days prior to the change, if the facility would be relocated to a county in which public notice of the proposed operation of the facility had been given within the previous five years pursuant to Rule 62-210.350(1), F.A.C., or otherwise thirty (30) days prior to the change. A separate form shall be submitted for each facility in the case of the relocation of multiple facilities which are jointly owned or operated.

The notification shall be submitted to the Department's district office and any approved local program office using DEP Form No. 62-210.900(6), along with the appropriate processing fee, and a USGS topographic map showing all potential sites in such county.

[Rule 62-210.370(1), F.A.C.]

7. Operation Permit Required: This permit authorizes construction/installation of the facility and initial operation for testing purposes in order to determine compliance with the applicable rules and standards. An operation permit is required for continued commercial operation of the facility. The owner or operator shall apply for and receive an operation permit prior to expiration of this permit. To apply for an operation permit, the applicant shall submit the appropriate application fee and, in quadruplicate, the appropriate application form, a certification that construction was completed with a notation of any deviations from the conditions in the construction permit, compliance test results, and such additional information as the Department may by law require. A copy of the compliance test results must be submitted to the Department's Tallahassee office as well as the district office or local program office that has compliance jurisdiction over the location where the performance test took place.

[Rules 62-4.030, 62-4.050, 62-4.220 and 62-210.300(2), F.A.C.]

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

PAGE 3 OF 18

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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8. Applicable Regulations: Unless otherwise indicated in this permit, the construction/installation and operation of the facility shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of Chapter 403, F.S.; Chapters 62-4, 62-204, 62-210, 62-296 and 62-297, F.A.C.; and, the Code of Federal Regulations Title 40, Parts 60 and 61, adopted by reference in Chapter 62-204, F.A.C. Issuance of this permit does not relieve the facility owner or operator from compliance with any applicable federal, state, or local regulations.  
[Rules 62-204.800 and 62-210.300, F.A.C.]

### EMISSION LIMITING STANDARDS

9. General Visible Emissions Standard: Except for emissions units that are subject to a particulate matter or opacity limit set forth or established by rule and reflected by conditions elsewhere in this permit, no person shall cause, let, permit, suffer, or allow to be discharged into the atmosphere the emissions of air pollutants from any activity, the density of which is equal to or greater than that designated as Number 1 on the Ringelmann Chart (20% opacity). If a special compliance test is required, the test method for visible emissions shall be EPA Method 9, incorporated and adopted by reference in Chapter 62-297, F.A.C.

[Rules 62-296.320(4)(b)1. & 4., F.A.C.]

10. Unconfined Emissions of Particulate Matter:

- (a) No person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities such as loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions.
- (b) Any permit issued to a facility with emissions of unconfined particulate matter shall specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.
- (c) Reasonable precautions committed to by the permittee:
  - Unconfined fugitive particulate matter emissions that might be generated from various emission points throughout the crushing operation shall be controlled by a water suppression system with spray bars located at the various emissions points of the operation including, but not limited to, the Grizzly feeder, the entrance and exit of the impact crusher, the classifier screens and conveyor drop points.
  - All stockpiles, roadways and work-yard, where this crushing operation is located, shall apply water (by water trucks equipped with spray bars) and/or an effective dust suppressant(s) on a regular basis to control any unconfined fugitive particulate matter emissions that may be generated by vehicular traffic or prevailing winds.
- (d) In determining what constitutes reasonable precautions for a particular source, the Department shall consider the cost of the control technique or work practice, the environmental impacts of the technique or practice, and the degree of reduction of emissions expected from a particular technique or practice.

[Rule 62-296.320(4)(c), F.A.C. ; and, application received 3/22/2000]

11. General Pollutant Emission Limiting Standards:

a. No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems deemed necessary and ordered by the Department.

{Permitting note: No vapor control device was deemed necessary at the time of issuance of this permit.}

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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b. No person shall cause, suffer, allow or permit the discharge of air pollutants, which cause or contribute to an objectionable odor.

{Permitting note: An objectionable odor is defined in Rule 62-210.200, F.A.C., Definitions, as any odor present in the outdoor atmosphere which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance.}

[Rules 62-210.200 and 62-296.320(1)(a) and (2), F.A.C.]

### OPERATIONAL REQUIREMENTS

12. Modifications: No emissions unit or facility shall be constructed or modified without obtaining an air construction permit from the Department. Such permit must be obtained prior to the beginning of construction or modification.

[Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

13. Plant Operation - Problems: If temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department's district office and, if applicable, appropriate local program. The notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules.

[Rule 62-4.130, F.A.C.]

14. Circumvention: No person shall circumvent any air pollution control device or allow the emission of air pollutants without the applicable air pollution control device operating properly.

[Rule 62-210.650, F.A.C.]

### MISCELLANEOUS

15. Prior to application for an air operating permit and prior to commercial operation, the permittee shall:

- a. Resolve and bring to closure all pending violations and penalties with the Department;
- b. Train each operator on the equipment and document the training;
- c. Make sure each operator is knowledgeable of all of the operational requirements established in this permit; and,
- d. Provide a written corporate environmental policy to the Department.

[Rule 62-4.070(3), F.A.C.]

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

**Subsection A.**

The emissions units/activities contained in this subsection and their descriptions are as follows:

EMISSIONS UNIT/ACTIVITY NO.	DESCRIPTION
001	250 TPH Eagle Ultra Max Model 1200-25 Impactor Crusher; S/N: 1206; Mfg 1996; with associated feeder, classifier screens, and conveyors.
002	300 HP Cummins diesel engine; S/N: 11822539; with direct drives to the crusher and the electric generator, which powers the conveyors and classifier and the water-spray pump.

Emissions unit 001 is subject to the requirements of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR 60.670 - 60.676) and 40 CFR 60, Subpart A. The diesel engine is required to be permitted pursuant to Rule 62-210.300(1), F.A.C., Permits Required.

The following specific conditions apply to the above referenced emissions units after construction:

**ESSENTIAL POTENTIAL TO EMIT (PTE) PARAMETERS**

- Hours of Operation: The emissions units/activities are allowed to operate a maximum of 16 hours/day, 364 days/calendar year, for a total of 5824 hours/calendar year.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]
- Permitted Capacity: The maximum crusher operation process throughput of materials is 250 TPH.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]

**EMISSION LIMITATIONS AND PERFORMANCE STANDARDS**

- Visible Emissions: The following emission points/activities are subject to the visible emission limits in Table 1.

**Table 1**

Emission Point/Activity	Visible Emissions Limit (% Opacity) if operating in a PM maintenance area	Visible Emissions Limit (% Opacity) if <u>not</u> operating in a PM maintenance area and subject to 40CFR60, Subpart OOO
Receiving Hopper and Grizzly Feeder	5	10
Crusher	5	15*
Portable Belt Conveyor(s)	5	10**
Screen(s)	5	10
Truck Loading/Unloading	5	<20

- \* This limit applies since no capture system is used.
- \*\* This limit applies to transfer points onto conveyor belts only.

The description of the maintenance area and the visible emissions limit follows:

**Hillsborough County**

That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U. S. 41 South and State Road 60 and a radius of 12 kilometers.

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).

[Rule 62-204.340, F.A.C.; and, Rule 1-3.61, Rules of the Environmental Protection Commission of Hillsborough County]

[Reference to the Duval County Maintenance Area was deleted due to nonapplicability.]

4. No Visible Emissions - Saturated Materials: No owner or operator shall cause to be discharged into the atmosphere any visible emissions from:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.672(h)(1) & (2)]

5. Excess Emissions: The following excess emissions provisions cannot be used to vary any NSPS requirements from any subpart of 40 CFR 60:

- a. Excess emissions resulting from start-up, shutdown or malfunction of any emissions units shall be permitted providing (1) best operational practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized, but in no case exceed two hours in any 24 hour period unless specifically authorized by the Department for longer duration.

[Rule 62-210.700(1), F.A.C.]

- b. Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during start-up, shutdown, or malfunction shall be prohibited.

[Rule 62-210.700(4), F.A.C.]

## COMPLIANCE MONITORING AND TESTING REQUIREMENTS

6. Test Frequency:

- a. Prior to obtaining an operation permit for this facility, the owner or operator shall conduct a visible emissions compliance test to demonstrate compliance with the standards of this permit.

[Rule 62-297.310(7)(a)1., F.A.C.]

- b. The owner or operator of the facility shall conduct visible emissions tests annually for all emission points/activities subject to a visible emission standard.

[Rule 62-297.310(7)(a)4.a., F.A.C.]

7. Operating Rate During Testing: Unless otherwise stated in the applicable emission limiting standard rule, testing of emissions shall be conducted with the emissions unit operating 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 (i.e., at less than 90 percent of the maximum operation rate allowed by the permit); in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted provided however, operations do not exceed 100 percent of the maximum operation rate allowed by the permit. 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.]

8. Test Procedures shall meet all applicable requirements of Rule 62-297.310(4), F.A.C.

[Rule 62-297.310(4), F.A.C.]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

9. Determination of Process Variables:

a. Required Equipment. The owner or operator of an emissions unit for which compliance tests are required shall install, operate, and maintain equipment or instruments necessary to determine process variables, such as process weight input or heat input, when such data are needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

b. Accuracy of Equipment. Equipment or instruments used to directly or indirectly determine process variables, including devices such as belt scales, weight hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value.

[Rule 62-297.310(5), F.A.C.]

10. Test Notification: The owner or operator shall notify the Department's district office and/or, if applicable, appropriate local program, at least 15 days prior to the date on which each formal compliance test is to begin. Notification shall include the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator. [Rule 62-297.310(7)(a)9., F.A.C.; and, 40 CFR 60.8]

[Permitting note: The federal requirements of 40 CFR 60.8 require 30 days notice of the initial test and any tests required under section 114 of the Clean Air Act, but the Department rules require 15 days notice for the annual compliance tests. Unless otherwise advised by the Department, provide 15 days notice prior to conducting annual tests, except for the initial test when 30 days notice is required.]

11. Visible Emissions Test Method: In determining compliance with the standards in 40 CFR 60.672 (b) and (c), the owner or operator shall use EPA Method 9 and the procedures in 40 CFR 60.11, with the following additions:

a. The minimum distance between the observer and the emissions source shall be 4.57 meters (15 feet).

b. The observer shall, when possible, select a position that minimizes interference from other fugitive emissions units (e.g., road dust). The required observer position relative to the sun (Method 9, Section 2.1) must be followed.

c. For affected emissions units using wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of emissions is to be made at a point in the plume where the mist is no longer visible.

[40 CFR 60.675(c)(1)(i), (ii) & (iii)]

12. When determining compliance with the fugitive emissions standard for any affected facility described under 40 CFR 60.672(b), the duration of the EPA Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a. There are no individual readings greater than 10 percent opacity; and,

b. There are no more than 3 readings of 10 percent for the 1-hour period.

[40 CFR 60.675(c)(3)(i) & (ii)]

13. When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under 40 CFR 60.672(c), the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a. There are no individual readings greater than 15 percent opacity; and,

b. There are no more than 3 readings of 15 percent for the 1-hour period.

[40 CFR 60.675(c)(4)(i) & (ii)]



## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

14. Visible Emissions Test - Emissions Interference: For the method and procedure of 40 CFR 60.675(c), if emissions from two or more emissions units continuously interfere so that the opacity of fugitive emissions from an individual affected emissions unit cannot be read, either of the following procedures may be used:

- a. Use for the combined emission stream the highest fugitive opacity standard applicable to any of the individual affected emissions units contributing to the emissions stream; or,
- b. Separate the emissions so that the opacity of emissions from each affected emissions unit can be read. [40 CFR 60.675(e)(1)(i) & (ii)]

15. No Tests Required - Saturated Materials: Method 9 performance tests under 40 CFR 60.11 and 40 CFR 60.675 are not required for:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.675(h)(1) & (2)]

16. Special Compliance Tests: When the Department, after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained in a Department rule or in a permit issued pursuant to those rules is being violated, it shall require the owner or operator of the facility to conduct compliance tests which identify the nature and quantity of pollutant emissions from the emissions units and to provide a report on the results of said tests to the Department.

[Rule 62-297.310(7)(b), F.A.C.]

#### REPORTING AND RECORDKEEPING REQUIREMENTS

17. Log: The permittee shall maintain a daily log showing at a minimum, the following information:

- (a) The location and production rate.
- (b) The hours of operation of the crusher system.
- (c) Maintenance and repair logs for any work performed on the permitted emissions units.
  - (a) The use of wetting agents to control unconfined fugitive dust.
  - (b) Fuel consumption

This data shall be made available to the Department or county upon request.

[Rule 62-4.070(3), F.A.C.]

18. Operation and Maintenance (O&M) Plan and Log: The permittee shall keep an O&M plan and a daily log for the air pollution control equipment with the facility. The log shall include the list of the parameters being monitored, the frequency of the check/maintenance, observations, and comments.

[Rule 62-4.070(3), F.A.C.]

19. Test Reports: The owner or operator shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in 40 CFR 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with 40 CFR 60.672(b) and 40 CFR 60.672(c).

(b) The required test report shall be filed with the Department as soon as practical but no later than 45 days after the last sampling run of each test is completed.

(c) The test report shall provide sufficient detail on the emissions unit tested and the test procedures used to allow the Department to determine if the test was properly conducted and the test results properly computed. As a minimum, the test report, other than for an EPA Method 9 test, shall provide the following information:

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

1. The type, location, and designation of the emissions unit tested.
2. The facility at which the emissions unit is located.
3. The owner or operator of the emissions unit.
4. The normal type and amount of fuels used and materials processed, and the types and amounts of fuels used and material processed during each test run.
5. The method, raw data and computations used to determine the amount of fuels used and materials processed, if necessary to determine compliance with an applicable emission limiting standard.
6. The type of air pollution control devices installed on the emissions unit, its general condition, their normal operating parameters (pressure drops, total operating current and GPM scrubber water), and their operating parameters during each test run.

[40 CFR 60.676(f); and, Rules 62-297.310(8)(b) and (c)1. - 6., F.A.C.]

20. Change From Saturated to Unsaturated Material: The owner or operator of any screening operation, bucket elevator, or belt conveyor that processes saturated material and is subject to 40 CFR 60.672(h) and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the 10 percent opacity limit in 40 CFR 60.672(b) and the emission test requirements of 40 CFR 60.11 and subpart OOO. Likewise a screening operation, bucket elevator, or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the no visible emission limit in 40 CFR 60.672(h).

[40 CFR 60.676(g)]

21. Records Retention: This facility shall maintain a central file containing all measurements, records, and other data that are required to be collected pursuant to the various specific conditions of this permit. [Rule 62-4.160(14)(a), F.A.C.]

22. Duration of Recordkeeping: Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These records shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

[Rule 62-4.160(14)(b), F.A.C.]

23. Excess Emissions Report: If excess emissions occur, the owner or operator shall notify the Department within one working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident. Pursuant to the Standards of Performance for New Stationary Sources, excess emissions shall also be reported in accordance with 40 CFR 60.7.

[Rule 62-4.130, F.A.C.; and, 40 CFR 60.7]

24. Excess Emissions Report - Malfunctions: In case of excess emissions resulting from malfunctions, each owner or operator shall notify the Department or the appropriate local program in accordance with Rule 62-4.130, F.A.C. A full written report on the malfunctions shall be submitted in a quarterly report if requested by the Department.

[Rule 62-210.700(6), F.A.C.]

**NSPS GENERAL PROVISIONS**

[**Note:** The numbering of the original rules in the following conditions has been preserved for ease of reference. In cases where the state requirements are more restrictive than the NSPS general requirements, the state requirements shall prevail.]

**25. Notification And Recordkeeping:**

(a) Any owner or operator subject to the provisions of 40 CFR 60 shall furnish the Administrator written notification as follows:

(4) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(b) The owner or operator subject to the provisions of 40 CFR 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(f) The owner or operator subject to the provisions of 40 CFR 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least three years following the date of such measurements, maintenance, reports, and records.

[40 CFR 60.7]

**26. Performance Tests:**

(a) Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, (3) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance, (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard, or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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(d) The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present.

[40 CFR 60.8]

27. Compliance With Standards And Maintenance Requirements:

(a) Compliance with standards in 40 CFR 60, other than opacity standards, shall be determined only by performance tests established by 40 CFR 60.8, unless otherwise specified in the applicable standard.

(b) Compliance with opacity standards in 40 CFR 60.11 shall be determined by conducting observations in accordance with Reference Method 9 in appendix A of 40 CFR 60.11, any alternative method that is approved by the Administrator, or as provided in 40 CFR 60.11(e)(5). [Under certain conditions (40 CFR 60.675(c)(3)&(4)), Method 9 observation time may be reduced from 3 hours to 1 hour. Some affected facilities are exempted from Method 9 tests (40 CFR 60.675 (h)).]

(c) The opacity standards set forth in 40 CFR 60.11 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(g) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, nothing in this part shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[40 CFR 60.11]

28. Circumvention: No owner or operator subject to the provisions of 40 CFR 60.12 shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

[40 CFR 60.12]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

29. General Notification and Reporting Requirements:

(a) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[40 CFR 60.19]

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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30. **Prohibited Operations: Asbestos Containing Materials, 40 CFR 61, Subpart M:** This facility shall **not** process Asbestos Containing Materials (ACM), whether regulated asbestos containing material (RACM), category I or category II, and whether friable or nonfriable when received at the facility.

(1) "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite and includes trade acronyms products such as amosite.

(2) "Asbestos-containing materials", ACM, means any materials which contain more than one percent asbestos as determined by Polarized Light Microscopy. Based on a representative composite sample.

(3) "Asbestos removal project" means renovation or demolition operation in a facility that involves the removal of a threshold amount of regulated asbestos-containing material.

(4) "Category I Nonfriable Asbestos-Containing Material (ACM)" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(5) "Category II Nonfriable ACM" means any material, excluding Category I Nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

[40 CFR 61, Subpart M; Chapter 62-257, F.A.C.; and, Rules 62-730.300 and 62-701.520, F.A.C.]

31. **Restricted/Prohibited Activities: Co-location at Existing Stationary Source Facilities:** This relocatable crusher facility is not authorized to operate on the premises of, or adjacent to, any other permitted air pollution facility, unless the permit for such stationary source includes this crushing unit as an emission unit within such facility's air construction and air operation permits.

**MISCELLANEOUS**

32. The diesel engine is allowed to fire new No. 2 fuel oil, or better.

[Rules 62-4.070(3) and 62-210.200, Definitions - PTE, F.A.C.]

The following general conditions apply to all permits pursuant to Rule 62-4.160, F.A.C.:

- G.1 The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "Permit Conditions" and are binding and enforceable pursuant to Sections 403.161, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
- G.2 This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings or exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
- G.3 As provided in Subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit is not a waiver or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.
- G.4 This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
- G.5 This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
- G.6 The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
- G.7 The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at a reasonable time, access to the premises, where the permitted activity is located or conducted to:
- (a) Have access to and copy and records that must be kept under the conditions of the permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit, and,
  - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

## APPENDIX GC – GENERAL CONDITIONS

- G.8 If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
- (a) A description of and cause of non-compliance; and
  - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.
- The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.
- G.9 In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
- G.10 The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance, provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
- G.11 This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
- G.12 This permit or a copy thereof shall be kept at the work site of the permitted activity.
- G.13 This permit also constitutes:
- (a) Determination of Best Available Control Technology ( )
  - (b) Determination of Prevention of Significant Deterioration ( ) ; and
  - (c) Compliance with New Source Performance Standards (X).



G.14 The permittee shall comply with the following:

- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- (c) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application or this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- (d) Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements;
  - 2. The person responsible for performing the sampling or measurements;
  - 3. The dates analyses were performed;
  - 4. The person responsible for performing the analyses;
  - 5. The analytical techniques or methods used; and
  - 6. The results of such analyses.

G.15 When requested by the Department, the permittee shall provide the information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

## APPENDIX PC – PERMITTED COUNTIES

The permittee is authorized to operate in the following counties where public notice has been published:

Permitted Counties:	Date of Publication:	Permitted Counties:	Date of Publication:	Permitted Counties:	Date of Publication:
Alachua		Hamilton		Okeechobee	
Baker		Hardee		Orange	
Bay		Hendry		Osceola	
Bradford		Hernando		Palm Beach	
Brevard		Highlands		Pasco	
Broward		Hillsborough		Pinellas	
Calhoun		Holmes		Polk	
Charlotte		Indian River		Putnam	
Citrus		Jackson		St. Johns	
Clay		Jefferson		St. Lucie	
Collier		Lafayette		Santa Rosa	
Columbia		Lake		Sarasota	
Dade		Lee		Seminole	
DeSoto		Leon		Sumter	
Dixie		Levy		Suwannee	
Duval		Liberty		Taylor	
Escambia		Madison		Union	
Flagler		Manatee		<b>Volusia</b>	<b>August 31,2000</b>
Franklin		Marion		Wakulla	
Gasden		Martin		Walton	
Gilchrist		Monroe		Washington	
Glades		Nassau			
Gulf		Okaloosa			

BAR

**State of Florida  
Department of Environmental Protection**

Memo

TO	Howard Rhodes
THRU	Clair Fancy <i>CF</i> Bruce Mitchell <i>BM</i>
FROM	William Leffler, P.E. <i>WAL</i>
DATE	February 15, 2001
SUBJECT	Final Air Construction Permit No.: 7775112-001-AC Samsula Recycling, Inc. Relocatable Concrete, Asphalt, and Construction Debris Crushing Facility
Day 90	On hold at day 88 and, based on today's e-mail from Douglas Beason, the issuance of the final permit is the Department's Final Order

This air construction permit is for the construction/installation of a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The air construction permit will allow the permittee to initiate construction/installation, to conduct performance testing, and will support an application for an air operating permit or subsequent air operating permit amendments when relocating notification is received.

The application history is as follows:

- Consent Order, OGC File No. 00-0210, dated February 22, 2000
- Application for air construction permit received on March 22, 2000 (received by Central District)
- Request for additional information clerked April 20, 2000
- Request for information from Volusia County received May 1, 2000
- Response to request for additional information received May 26, 2000
- Department's response to request for information by Volusia County dated May 26, 2000
- Intent to issue with draft permit clerked August 23, 2000
- Proof of publication of August 31, 2000 (Daytona News Journal), received September 7, 2000
- Petition for administrative hearing received September 14, 2000
- Order dismissing petition for administrative hearing with 10 days to re-file, clerked October 22, 2000 (Order will be final on November 2, 2000, if no further papers are filed)
- Amended petition for administrative hearing received November 2, 2001 *2000?*
- Order dismissing petition for administrative hearing received January 30, 2001
- Douglas Beason's letter of January 31, 2001, to the Administrative Law Judge, sent via facsimile
- Amended Order Closing File, DOAH Case No. 00-4594, dated February 2, 2001
- E-mail from Douglas Beason to issue the final permit, as noticed, received February 15, 2001

The relocatable concrete, asphalt, and construction debris crusher is a minor facility. Unconfined fugitive particulate matter emissions from the process will be controlled by a water suppression system, and unconfined fugitive non-process particulate emissions from roadways, stockpiles and work-yard, will be controlled by watering and/or application of some effective dust suppressant(s).

It is recommended that the final permit be signed.

## Mitchell, Bruce

---

**From:** Zhu, Yi  
**Sent:** Thursday, March 08, 2001 2:01 PM  
**To:** Mitchell, Bruce  
**Cc:** Sheplak, Scott; Fancy, Clair; Leffler, William  
**Subject:** RE: ARMS update check for Samsula Recycling, Inc.: 7775112-001-AC.

The data is checked. I also removed EU 3 - 6 as requested. Thanks. Yi

-----Original Message-----

**From:** Mitchell, Bruce  
**Sent:** Thursday, March 01, 2001 4:36 PM  
**To:** Zhu, Yi  
**Cc:** Sheplak, Scott; Fancy, Clair; Leffler, William  
**Subject:** ARMS update check for Samsula Recycling, Inc.: 7775112-001-AC.

3/1/2001

Dear Yi,

Please check the above referenced permitting project for the ARMS data entries. Many thanks.

Bruce

## Mitchell, Bruce

---

**From:** Mitchell, Bruce  
**Sent:** Friday, March 02, 2001 9:17 AM  
**To:** Zhu, Yi  
**Cc:** Fancy, Clair; Sheplak, Scott; Leffler, William  
**Subject:** RE: ARMS update check for Samsula Recycling, Inc.: 7775112-001-AC.

3/2/2001

Dear Yi,

As we discussed, I forgot to request that EUs 003 thru 006 be deleted. EUs 001 and 002 duplicate the permit. Thanks again.

Bruce

-----Original Message-----

**From:** Mitchell, Bruce  
**Sent:** Thursday, March 01, 2001 4:36 PM  
**To:** Zhu, Yi  
**Cc:** Sheplak, Scott; Fancy, Clair; Leffler, William  
**Subject:** ARMS update check for Samsula Recycling, Inc.: 7775112-001-AC.

3/1/2001

Dear Yi,

Please check the above referenced permitting project for the ARMS data entries. Many thanks.

Bruce

**Mitchell, Bruce**

---

**To:** Zhu, Yi  
**Cc:** Sheplak, Scott; Fancy, Clair; Leffler, William  
**Subject:** ARMS update check for Samsula Recycling, Inc.: 7775112-001-AC.

3/1/2001

Dear Yi,

Please check the above referenced permitting project for the ARMS data entries. Many thanks.

Bruce

Best Available Copy

(Copy of permit inside envelope)

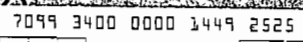
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TWIN TOWERS OFFICE BUILDING  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

*m & ssa*



POSTALIA 310474

RECEIVED  
MAR 13 2001  
BUREAU OF AIR REGULATION



Robert and Zetta Baker  
353 South State Road 415  
New Smyrna Beach, Florida 32168

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:  
**Robert and Zetta Baker**

Postage	1	Postmark	None
Canceled Fee			
Return Receipt Fee			
Endorsement Fee(s)			
Restricted Delivery Fee			
(Endorsement Fee(s))			
<b>Total Postage &amp; Fees</b>	<b>\$</b>		

Address (Please Print Clearly to our compliance for return)  
 Street, Apt. No. or PO Box No. **Robert and Zetta Baker**  
 City, State, ZIP **353 South State Road 415**  
**New Smyrna Beach, FL 32168**

PS Form 3800, July 1999. Send to nearest Post Office.

**NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES**

Mailed, Postage Guaranteed  
 Mailed, No Postage Necessary if Mailed in the United States  
 Registered Mail  
 Registered Mail Restricted Delivery  
 Registered Mail Signature Required  
 Registered Mail Signature Restricted Delivery  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise and Insurance  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise, Insurance, and Signature Confirmation  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise, Insurance, Signature Confirmation, and Restricted Delivery  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise, Insurance, Signature Confirmation, Restricted Delivery, and Restricted Delivery Signature Confirmation  
 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise, Insurance, Signature Confirmation, Restricted Delivery, Restricted Delivery Signature Confirmation, and Restricted Delivery Signature Confirmation with Return Receipt for Merchandise  
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 Registered Mail Signature Restricted Delivery with Return Receipt for Merchandise, Insurance, Signature Confirmation, Restricted Delivery, Restricted Delivery Signature Confirmation, Restricted Delivery Signature Confirmation with Return Receipt for Merchandise, Restricted Delivery Signature Confirmation with Return Receipt for Merchandise and Insurance, and Restricted Delivery Signature Confirmation with Return Receipt for Merchandise and Insurance with Return Receipt for Merchandise and Insurance

3-14-01  
 Owners (Robert's) have  
 moved out and are waiting  
 if Bill becomes aware of this  
 move to forward.  
 Rene

*Det 10/20/01*

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Robert and Zetta Baker  
353 South State Road 415  
New Smyrna Beach, Florida  
32168

2. Article Number (Copy from service label)  
7099 3400 0000 1449 2525  
PS Form 3811, July 1999

Domestic Return Receipt

102595-99-N-1789

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

Agent  
 Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

PLACE STICKER AT TOP OF ENVELOPE  
ON THE RIGHT OF RETURN ADDRESS  
OR FOLD/ADDED LINE



STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ROBERT H. and ZETTA M. BAKER, and  
WILLIAM D. and GEROGIA M. TOWNER,

Petitioner,

vs.

DOAH CASE NO. 00-4594  
OGC CASE NO. 00-1797

SAMSULA RECYCLING, INC., and  
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Respondents.

---

**FINAL ORDER**

On September 14, 2000, the Florida Department of Environmental Protection (Department) received a Combined Petition for Formal Administrative Hearing and to Initiate Rulemaking from Petitioners ROBERT H. and ZETTA M. BAKER, and WILLIAM D. and GEROGIA M. TOWNER. The Combined Petition challenged the Department's decision to issue Permit No. 7775112-001-AC to SAMSULA RECYCLING, INC., 363 S. R. 415, New Smyrna Beach, Volusia County, Florida.

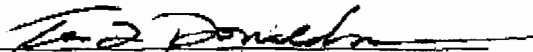
On January 30, 2001, after receiving a settlement stipulation, the assigned administrative law judge issued an order closing the file of the Division of Administrative Hearings and relinquishing jurisdiction back to the Department. See Exhibit 1. There being no further matters to consider,

IT IS ORDERED:

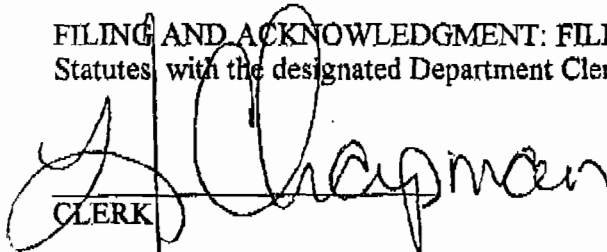
The petition having been withdrawn, the Department is directed to issue Permit No. 7775112-001-AC to Samsula Recycling, Inc.

DONE AND ORDERED this 23<sup>rd</sup> day of February, 2001 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
TERIL L. DONALDSON  
General Counsel  
3900 Commonwealth Boulevard  
Mail Station 35  
Tallahassee, Florida 32399-3000

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

  
CLERK

2/23/01  
DATE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U. S. Mail  facsimile  Federal Express this 2<sup>ND</sup> day of MARCH, 2001 to:

J. A. Jurgens, Esq.  
Scott Price, Esq.  
J.A. JURGENS, PA  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779

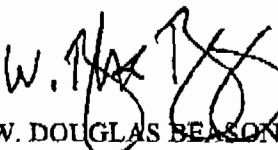
Facsimile: 407-722-2278

Christopher W. Wickersham, Sr.  
WICKERSHAM & BOWERS  
PO Drawer 2250  
Daytona Beach, FL 32115-2250

Facsimile: 904-239-5133

Michael Stokes  
Samsula Recycling Inc.  
363 State Road 415  
New Smyrna Beach, FL 32168

Facsimile: 904-423-1436

  
W. DOUGLAS BEASON,  
Assistant General Counsel

with a courtesy copy to:

William Leffler, PE  
Bruce Mitchell, Eng. IV  
DEP - Air Res. Mgt.  
Via facsimile only 922-6979.

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT H. BAKER, ZETTA M. )  
 BAKER, WILLIAM D. TOWNER, and )  
 GEORGIA M. TOWNER, )  
 )  
 Petitioners, )  
 )  
 vs. )  
 )  
 SAMSULA RECYCLING, INC., and )  
 DEPARTMENT OF ENVIRONMENTAL )  
 PROTECTION, )  
 )  
 Respondents. )

Case No. 00-4594

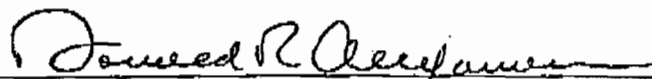
ORDER CLOSING FILE

This cause having come before the undersigned on  
Petitioners' and Applicant's Stipulation for Dismissal of  
Petition for Formal Administrative Hearing, and the undersigned  
being fully advised, it is, therefore,

ORDERED that:

1. The final hearing in this cause scheduled for  
 February 1 and 2, 2001, is hereby cancelled.
2. The file of the Division of Administrative Hearings in  
 the above-captioned matter is hereby closed.

DONE AND ORDERED this 30th day of January, 2001, in  
Tallahassee, Leon County, Florida.



DONALD R. ALEXANDER  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 30th day of January, 2001.

COPIES FURNISHED:

W. Douglas Beason, Esquire  
Department of Environmental Protection  
3900 Commonwealth Boulevard  
The Douglas Building, Mail Station 35  
Tallahassee, Florida 32399-3000

J. A. Jurgens, Esquire  
505 Wekiva Springs Road  
Suite 500  
Longwood, Florida 32779

Christopher W. Wickersham, Sr., Esquire  
Wickersham & Bowers  
Post Office Drawer 2250  
Daytona Beach, Florida 32115-2250

## Leffler, William

---

**From:** Beason, Doug  
**Sent:** Thursday, February 15, 2001 9:14 AM  
**To:** Glenn, Lisa  
**Cc:** Leffler, William  
**Subject:** Samsula Recycling

Lisa, could we expedite the order closing file?

Bill, go ahead and issue and mail the final permit (it should be identical to permit as originally noticed. The entry of the order closing file is ministerial at this juncture).

Douglas Beason

## Mitchell, Bruce

---

**From:** Leffler, William  
**Sent:** Thursday, February 15, 2001 11:05 AM  
**To:** Mitchell, Bruce  
**Subject:** FW: Samsula Recycling

-----Original Message-----

**From:** Beason, Doug  
**Sent:** Thursday, February 15, 2001 9:14 AM  
**To:** Glenn, Lisa  
**Cc:** Leffler, William  
**Subject:** Samsula Recycling

Lisa, could we expedite the order closing file?

Bill, go ahead and issue and mail the final permit (it should be identical to permit as originally noticed. The entry of the order closing file is ministerial at this juncture).

Douglas Beason

## Mitchell, Bruce

---

**From:** Beason, Doug  
**Sent:** Wednesday, January 31, 2001 10:23 AM  
**To:** Mitchell, Bruce  
**Cc:** Glenn, Lisa  
**Subject:** Samsula

Bruce, I got your message. The 90 day clock was satisfied when we issued the intent to issue. there is no default b/c we have issued the intent. the 90 day clock does not restart when the petition is dismissed. the DEP must enter a final order. the point is don't do anything until ogc releases the permit. for the time being you can forget about samsula b/c for the time being you have done what you needed to do.

Douglas Beason





# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David Struhs  
Secretary

VIA FACSIMILE

January 31, 2001

Donald R. Alexander  
Administrative Law Judge  
Division of Administrative Hearings  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-2602

Re: Baker v. Samsula Recycling, Inc. and Department of Environmental Protection, DOAH Case Nos. 00-4594 and 00-1797

Dear Judge Alexander:

The Department is in receipt of a Stipulation for Dimissal of Petition for Formal Administrative Hearing executed by Counsel for the Petitioners and Counsel for Samsula Recycling, Inc. The stipulation requests in part that "the Division of Administrative Hearings relinquish jurisdiction to the Department upon acknowledging that the Permit be issued subject to the terms of this Stipulation."

Please note the Department is not a party to the above-referenced stipulation. I was not involved in drafting the document so I am uncertain as to what this language seeks to accomplish. However, please note the Department will not enter a Final Order directing that the terms and conditions of the stipulation be incorporated in the Department's air construction permit. The terms and conditions of the stipulation are, as a matter of law, beyond the Department's regulatory jurisdiction. Counsel for respective parties are already aware of the Department's position.

Please feel free to contact my office should you have any questions.

Sincerely,

W. Douglas Beason, Esq.

cc: Counsel f Record

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

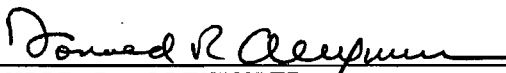
ROBERT H. BAKER, ZETTA M. )  
BAKER, WILLIAM D. TOWNER, and )  
GEORGIA M. TOWNER, )  
 )  
Petitioners, )  
 )  
vs. )  
 )  
DEPARTMENT OF ENVIRONMENTAL )  
PROTECTION and SAMSULA )  
RECYCLING, INC., )  
 )  
Respondents. )  
\_\_\_\_\_ )

Case No. 00-4594

AMENDED ORDER CLOSING FILE

The Order Closing File entered on January 30, 2001, is amended in the following respect. Because the Stipulation for Dismissal of Petition for Formal Administrative Hearing was executed only by Petitioners and the applicant, and not by the agency, jurisdiction in this matter is relinquished to the agency for consideration of the settlement agreement.

DONE AND ORDERED this 2<sup>nd</sup> day of February, 2001, in Tallahassee, Leon County, Florida.

  
\_\_\_\_\_  
DONALD R. ALEXANDER  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 2nd day of February, 2001.

COPIES FURNISHED:

J. A. Jurgens, Esquire  
J. A. Jurgens, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, Florida 32779

Christopher W. Wickersham, Sr., Esquire  
Wickersham & Bowers, P.A.  
Post Office Box 2250  
Daytona Beach, Florida 32115-2250

W. Douglas Beason, Esquire  
Department of Environmental Protection  
3900 Commonwealth Boulevard  
Mail Station 35  
Tallahassee, Florida 32399-3000

State of Florida  
 Department of Environmental Protection  
**OFFICE OF GENERAL COUNSEL**  
**Waste/Air Section**

3900 Commonwealth Blvd. - MS35  
 Tallahassee, FL 32399-3000  
 facsimile: 850-921-3000



**FACSIMILE TRANSMITTAL**

January 31, 2001

To: Donald R. Alexander, Administrative Law Judge Facsimile: 921-6847

cc: J. A. Jurgens, Esq. Scott Price, Esq. J.A. JURGENS, PA Facsimile: 407-722-2278

Christopher W. Wickersham, Sr. WICKERSHAM & BOWERS Facsimile: 904-239-5133

Michael Stokes Samsula Recycling Inc. Facsimile: 904-423-1436

From: Doug Beason 5 pages including cover sheet

Sender: Lisa Glenn Original \_\_\_ will \* will not follow  
 Phone: 850-921-9678 via \_\_\_ US Mail \_\_\_ Federal Express

RE: Baker & Towner v. Samsula Recycling & DEP  
 JOAH Case No. 00-4594

Please find faxed Mr. Beason's cover letter, together with a copy of the Stipulation for Dismissal of Petition.

with a courtesy copy to:

William Leffler, PE  
 Bruce Mitchell, Eng. IV  
 DEP - Air Res. Mgt

Facsimile 922-6979

---

*The information contained in this facsimile message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify sender by telephone and return the original message to us at the above address via U.S. Postal Service.*



# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

VIA FACSIMILE

January 31, 2001

Donald R. Alexander  
Administrative Law Judge  
Division of Administrative Hearings  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-2602

Re: Baker v. Samsula Recycling, Inc. and Department of Environmental Protection, DOAH Case Nos. 00-4594 and 00-1797

Dear Judge Alexander:

The Department is in receipt of a Stipulation for Dismissal of Petition for Formal Administrative Hearing executed by Counsel for the Petitioners and Counsel for Samsula Recycling, Inc. The stipulation requests in part that "the Division of Administrative Hearings relinquish jurisdiction to the Department upon acknowledging that the Permit be issued subject to the terms of this Stipulation."

Please note the Department is not a party to the above-referenced stipulation. I was not involved in drafting the document so I am uncertain as to what this language seeks to accomplish. However, please note the Department will not enter a Final Order directing that the terms and conditions of the stipulation be incorporated in the Department's air construction permit. The terms and conditions of the stipulation are, as a matter of law, beyond the Department's regulatory jurisdiction. Counsel for respective parties are already aware of the Department's position.

Please feel free to contact my office should you have any questions.

Sincerely,



W. Douglas Beason, Esq.

cc: Counsel of Record

Best Available Copy

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT H. BAKER, ZETTA M.  
BAKER, WILLIAM D. TOWNER,  
AND GEORGIA M. TOWNER

DOAH CASE NO.: 00-4594  
00-1797

Petitioners,

v.

SAMSULA RECYCLING, INC. AND  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION,

Respondents.

STIPULATION FOR DISMISSAL OF PETITION FOR FORMAL  
ADMINISTRATIVE HEARING

Petitioners, ROBERT H. BAKER and ZETTA M. BAKER ("Baker") and WILLIAM D. TOWNER and GEORGIA M. TOWNER ("Towner"), and Respondent, SAMSULA RECYCLING, INC. ("Samsula"), by and through their respective undersigned counsel, hereby stipulate to the following as grounds for the dismissal of the Petition for Formal Administrative Hearing currently before this Division of Administrative Hearings as follows:

1. The Department of Environmental Protection air construction and operating permit ("Permit") for the subject rock crusher is subject to the following specific conditions for which the subject Petition shall be considered dismissed without any further action required by any party:

- (a) The subject rock crusher will not be operated at the current facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168, in an area more than 200 feet North of the current South property line and outside of the area which was indicated as the location of the rock crusher in Figure 1 of

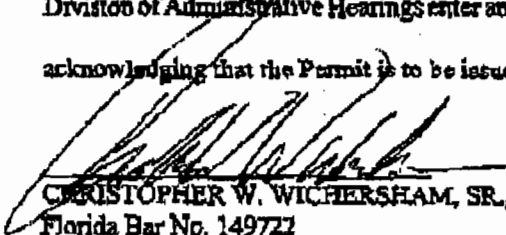
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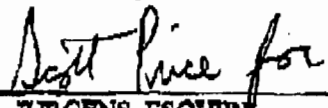
Samsula's May 25, 2000 response to the Department's request for additional information.

- (b) Within sixty (60) days of issuance of the permit, Samsula shall construct and maintain an earthen berm commencing 100 feet east of the intersection of the current Northern and Western property lines and continuing to the full length of the permitted landfill's North boundary line. Said earthen berm shall be constructed and maintained at height of at least 25 feet above the natural land surface.

2. All parties shall bear their own attorney's fees and costs related to this Petition.

**WHEREFORE**, Petitioners Bakers and Towners and Respondent, Samsula, request that the Division of Administrative Hearings enter an order relinquishing jurisdiction to the Department upon acknowledging that the Permit is to be issued subject to the terms of this Stipulation.

  
**CHRISTOPHER W. WICKERSHAM, SR., ESQUIRE**  
 Florida Bar No. 149722  
**Wickersham & Bowers**  
 501 North Grandview Avenue, Suite 115  
 Suntrust Executive Center  
 Daytona Beach, Florida 32115-2250  
 Telephone (904) 252-3000  
 Facsimile (904) 239-5133  
 Attorneys for Respondent Samsula

  
**J.A. JURGENS, ESQUIRE**  
 Florida Bar No. 637163  
**J.A. JURGENS, P.A.**  
 505 Wekiva Springs Road, Suite 500  
 Longwood, Florida 32779  
 Telephone (407) 772-2277  
 Facsimile (407) 772-2278  
 Attorneys for Petitioners



**Best Available Copy**

**CERTIFICATE SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been furnished via U.S. Mail, postage prepaid, to: W. Douglas Beason, Esquire, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000 and Christopher W. Wickersham, Sr., Esquire, Wickersham & Bowers, P.A., P.O. Box 2250, Daytona Beach, Florida 32115-2250 this 30 day of January, 2001.



J.A. JURGENS, ESQUIRE  
Florida Bar No. 068586  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, Florida 32779  
Telephone (407) 772-2277  
Facsimile (407) 772-2278  
Attorneys for Petitioners

Received Event (Event Succeeded)

Date: 1/30/01  
 Pages: 4  
 Remote CSID: 4077722278 4877722278  
 01730/2001 14:56

Time: 2:50 PM  
 Sender: 4077722278  
 J A JURGENS PA  
 904 239-5133  
 JA JURGENS PA

PAGE 02  
 P.02  
 PAGE 02

Jan-30-01 11:29A Meredith  
 01/30/2001 11:29 4877722278

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT H. BAKER, ZETTA M. BAKER, WILLIAM D. TOWNER, AND GEORGIA M. TOWNER,

DOAH CASE NO.: 00-4594 DRA  
00-1797

Petitioners,

v.

SAMSULA RECYCLING, INC. AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.

STIPULATION FOR DISMISSAL OF PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioners, ROBERT H. BAKER and ZETTA M. BAKER ("Baker") and WILLIAM B. TOWNER and GEORGIA M. TOWNER ("Towner"), and Respondent, SAMSULA RECYCLING, INC. ("Samsula"), by and through their respective undersigned counsel, hereby stipulate to the following as grounds for the dismissal of the Petition for Formal Administrative Hearing currently before this Division of Administrative Hearings as follows:

1. The Department of Environmental Protection air construction and operating permit ("Permit") for the subject rock crusher is subject to the following specific conditions for which the subject Petition shall be considered dismissed without any further action required by any party:

- (a) The subject rock crusher will not be operated at the current facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168, in an area more than 200 feet North of the current South property line and outside of the area which was indicated as the location of the rock crusher in Figure 1 of

Date: 1/30/01

Time: 2:50 PM

Pages: 4

Sender: 4077722278

Remote CSID: 4077722278 4077722278  
01/30/2001 14:56

J A JURGENS PA

PAGE 03

Jan-30-01 11:29A Meredith  
01/30/2001 11:29 4077722278

904 239-5133  
JA JURGENS PA

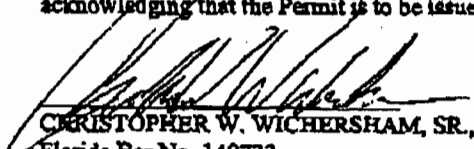
P. 03  
PAGE 03

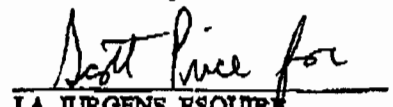
Samsula's May 25, 2000 response to the Department's request for additional information.

(b) Within sixty (60) days of issuance of the permit, Samsula shall construct and maintain an earthen berm commencing 100 feet east of the intersection of the current Northern and Western property lines and continuing to the full length of the permitted landfill's North boundary line. Said earthen berm shall be constructed and maintained at height of at least 25 feet above the natural land surface.

2. All parties shall bear their own attorney's fees and costs related to this Petition.

WHEREFORE, Petitioners Bakers and Towners and Respondent, Samsula, request that the Division of Administrative Hearings enter an order relinquishing jurisdiction to the Department upon acknowledging that the Permit is to be issued subject to the terms of this Stipulation.

  
CHRISTOPHER W. WICKERSHAM, SR., ESQUIRE  
Florida Bar No. 149722  
Wickersham & Bowers  
501 North Grandview Avenue, Suite 115  
Suntrust Executive Center  
Daytona Beach, Florida 32115-2250  
Telephone (904) 252-3000  
Facsimile (904) 239-5133  
Attorneys for Respondent Samsula

  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, Florida 32779  
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Facsimile (407) 772-2278  
Attorneys for Petitioners

**Received Event (Event Succeeded)**

Date: 1/30/01

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Pages: 4

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01730/2001 14:56 4077722278

J A JURGENS PA

PAGE 04

**CERTIFICATE SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been furnished via U.S. Mail, postage prepaid, to: W. Douglas Beason, Esquire, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000 and Christopher W. Wickersham, Sr., Esquire, Wickersham & Bowers, P.A., P.O. Box 2250, Daytona Beach, Florida 32115-2250 this 30 day of January, 2001.

*Best Price for*

J.A. JURGENS, ESQUIRE

Florida Bar No. 068586

J.A. JURGENS, P.A.

505 Wekiva Springs Road, Suite 500

Longwood, Florida 32779

Telephone (407) 772-2277

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Attorneys for Petitioners

**CHRISTOPHER W. WICKERSHAM, SR.  
WICKERSHAM & BOWERS  
Post Office Drawer 2250  
Daytona Beach, FL 32115  
(904) 252-3000  
FAX: (904) 239-5133**

**TELECOPY TRANSMITTAL**

**TO:** William A. Leffler, Esq.  
**RE:** Baker and Towner vs. DEP and Samsula  
**FROM:** Christopher W. Wickersham, Sr., Esq.  
**DATE:** January 26, 2001  
**FAX/PHONE NUMBER:** 850-922-6979

**TOTAL NUMBER OF PAGES TRANSMITTED: 5**

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CONTACT THE UNDERSIGNED AS SOON AS POSSIBLE AT (904) 252-3000.

**NAME:** Lee

**Mr. Leffler: Per your conversation with Mike Stokes, following is a copy of the proposed Stipulation for Dismissal of Petition for Formal Administrative Hearing.**

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

## Leffler, William

---

**From:** Beason, Doug  
**Sent:** Thursday, January 25, 2001 11:54 AM  
**To:** 'wickersham@msn.com'  
**Cc:** Leffler, William  
**Subject:** Samsula Recycling

I have reviewed the proposed stipulation. Although I'm encouraged the parties may be able to amicably resolve their differences, the Department cannot incorporate the terms of the stipulation into the air construction permit. The terms and conditions of an air construction have the force and effect of federal law. As such, the terms and conditions of an air construction permit must be authorized under the provisions of the Clean Air Act. There is no regulatory authority for the type of conditions contemplated under the proposed stipulation.

Douglas Beason

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT H. BAKER; ZETTA M. )  
BAKER; WILLIAM D. TOWNER; and )  
GEORGIA M. TOWNER, )  
 )  
Petitioners, )  
 )  
vs. ) Case No. 00-4594  
 )  
DEPARTMENT OF ENVIRONMENTAL )  
PROTECTION and SAMSULA )  
RECYCLING, INC., )  
 )  
Respondents. )  
\_\_\_\_\_ )

ORDER


This matter came before the undersigned on Petitioners' Motion for Clarification. By the motion, Petitioners seek clarification as to the issues to be tried at the final hearing now scheduled on February 1 and 2, 2001.

The Notice of Hearing in this matter identifies the only issue to be tried as whether the applicant should be issued an air construction permit. In their amended filing, however, Petitioners have also requested that the agency initiate rulemaking "within 30 days for purposes of adopting rulemaking regarding the regulation of excessive and unnecessary noise."

The process for a citizen to petition an agency to initiate rulemaking is described in Section 120.54(7), Florida Statutes (2000). The process does not contemplate that such a request is subject to a hearing under Sections 120.569 and 120.57(1),

Florida Statutes (2000). Accordingly, the undersigned has construed the referral of Petitioners' "combined" petition from the agency as including only that portion of the petition which relates to the permitting issue, while the agency continues to retain jurisdiction over the rulemaking matter. The issue to be tried at hearing is as previously noticed.

DONE AND ORDERED this 5<sup>th</sup> day of January, 2001, in Tallahassee, Leon County, Florida.

  
DONALD R. ALEXANDER  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 5<sup>th</sup> day of January, 2001.

COPIES FURNISHED:

J. A. Jurgens, Esquire  
J. A. Jurgens, P.A.  
505 Wekiva Springs Road, Suite 500  
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Christopher W. Wickersham, Sr., Esquire  
Wickersham & Bowers, P.A.  
Post Office Box 2250  
Daytona Beach, Florida 32115-2250



W. Douglas Beason, Esquire  
Department of Environmental Protection  
3900 Commonwealth Boulevard  
Mail Station 35  
Tallahassee, Florida 32399-3000

# INTEROFFICE MEMORANDUM

**Sensitivity:** COMPANY CONFIDENTIAL

**Date:** 07-Nov-2000 11:30am  
**From:** William Leffler TAL  
LEFFLER\_W  
**Dept:** Air Resources Management  
**Tel No:** 850/488-1344 222-3146 (home)

**To:** Doug Beason TAL ( BEASON\_D )  
**To:** Bruce Mitchell TAL ( MITCHELL\_B )

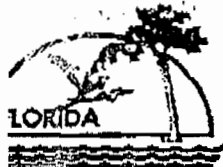
**Subject:** FWD: - no subject (01JVYIXA67SU000495) -

Doug: Attached is e-mail that I received from Al Ford.

I am upset about the misrepresentations that are made in the amended petition (November 2) regarding when the petitioners had to file. On the day of the first petition, (September 14, to my recollection) I told Al Ford that all of his rights and deadlines were specified in the intent to issue and the public notice, and that I would not be issuing the permit until the comment time passed after receiving the proof of publication. I fail to understand how an educated man could have interpreted this otherwise. The intent and the public notice both explicitly state that the time for response runs from the time of receipt of the intent to issue.

If nothing else this e-mail demonstrates Ford's direct involvement in the case despite having all of the pleadings and letters signed by his associates.

Please let me know how I can be of further service. I will not entertain any telephone conversations or direct correspondence with anyone outside the department on this matter. // Bill



# Department of Environmental Protection

Jeb Bush  
Governor

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

## FAX COVER SHEET

TO: William Leffler, Bruce Mitchell

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: 922-6979

FROM: Doug Beason

FAX NUMBER: (850) 921-3000

DATE OF TRANSMISSION: 11/7/00

NUMBER OF PAGES INCLUDING COVER: 17

If there are problems with this transmission, please contact TAMMY at (850) 921-9682

COMMENTS:

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ROBERT H. and ZETTA M. BAKER, and  
WILLIAM D. and GEROGIA M. TOWNER,

Petitioner,

vs.

DOAH CASE NO. \_\_\_\_\_  
OGC CASE NO. 00-1797

SAMSULA RECYCLING, INC., and  
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Respondents.

**REQUEST FOR ASSIGNMENT OF ADMINISTRATIVE LAW JUDGE  
AND NOTICE OF PRESERVATION OF RECORD**

YOU ARE HEREBY NOTIFIED that the Florida Department of Environmental Protection (Department) has received a Petition for Formal Administrative Hearing in the above-styled case. Under section 120.569(2)(a) of the Florida Statutes the Secretary has decided not to act as administrative law judge on the Petition For Administrative Hearing and requests that the Division of Administrative Hearings (DOAH) assign this matter to an administrative law judge to conduct any necessary proceedings required by law and to submit a recommended order to the Department. The Department retains jurisdiction over the Petition to Initiate Rulemaking submitted in the same documents as the Petition for Formal Administrative Hearing. The forwarding of this Petition For Administrative Hearing is not a waiver of the Department's right to object to any material defects in the Petition or to Petitioner's standing to institute this proceeding.

YOU ARE FURTHER NOTIFIED that the Department is responsible for preserving the record of any evidentiary hearings in this case in accordance with section 120.57(1)(g) of the Florida Statutes. Such a record will be preserved by a court reporter or by video tape recording

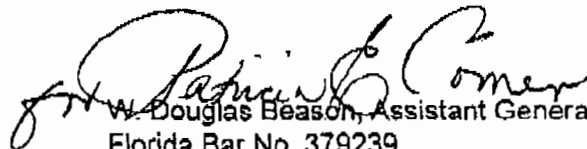
equipment. The Department will use video tape recording equipment unless one of the parties makes arrangements to provide a court reporter, including payment of the court reporter's fees. Any party arranging for the presence of a court reporter at hearing should notify the administrative law judge and all parties prior to the hearing of the court reporter's name, mailing address, and telephone number.

Whenever a court reporter is used, rule 28-106.214(2) of the Florida Administrative Code provides that the court reporter's recordation becomes the official transcript. The Department may video tape a hearing for its own use even when a court reporter is present. If the Department video tapes a proceeding which is also recorded by a court reporter, copies of the video tapes can be made available to all parties upon request at cost of reproduction. However, parties should not assume in all instances that the Department will video tape a proceeding.

If a party decides to file exceptions to any finding of fact made by the Department, the party will need to submit an official transcript of the proceeding. A transcript may be prepared, at the expense of the requesting party, from a court reporter's notes or, when no court reporter has been hired, from the video tapes made by the Department.

Respectfully submitted this 1<sup>th</sup> day of NOVEMBER, 2000.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



W. Douglas Beason, Assistant General Counsel  
Florida Bar No. 379239  
3900 Commonwealth Boulevard, MS #35  
Tallahassee, Florida 32399-3000  
Telephone (850) 488-9314  
Facsimile (850) 921-3000

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

\* U. S. Mail \* facsimile \_\_\_ Federal Express this 7<sup>th</sup> day of November, 2000 to:

J. A. Jurgens, Esq.  
Scott Price, Esq. Facsimile: 407-722-2278  
J.A. JURGENS, PA  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779

Christopher W. Wickersham, Sr.  
WICKERSHAM & BOWERS Facsimile: 904-239-5133  
PO Drawer 2250  
Daytona Beach, FL 32115-2250

Michael Stokes  
Samsula Recycling Inc. Facsimile: 904-423-1436  
363 State Road 415  
New Smyrna Beach, FL 32168

*for Patricia B. Cooper*  
W. DOUGLAS BEASON,  
Assistant General Counsel

with a courtesy copy to:

William Leffler, PE  
Bruce Mitchell, Eng. IV  
DEP - Air Res. Mgt.  
Via facsimile only 922-6979

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

ROBERT H. and ZETTA M. BAKER,  
and WILLIAM D. and GEORGIA M.  
TOWNER,

OGC CASE NO.: 00-1797

Petitioners,

v.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
and SAMSULA RECYCLING, INC.

Respondents.

**AMENDED COMBINED PETITION FOR FORMAL ADMINISTRATIVE  
HEARING AND TO INITIATE RULEMAKING**

Petitioners, ROBERT H. and ZETTA M. BAKER ("Bakers") and WILLIAM D. and GEORGIA M. TOWNER ("Townners"), hereby file this combined Petition for Formal Administrative Hearing and to Initiate Rulemaking in accordance with § 120.536, 120.54(7)(a), 120.569, 120.57 and 120.573, Florida Statutes ("F.S."), and Rules 62-110.103, 62-110.106(3), 28-103.006 and 28-106.201, Florida Administrative Code ("F.A.C."), and a Public Notice of Intent to Issue Air Construction Permit, Draft Permit #7775112-001-AC, Samsula Recycling, Inc., and as grounds therefore, states as follows:

**PARTIES**

1. Petitioners, Bakers, are natural persons who own and live at property located at 353 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904)767-2029. Petitioners are represented by undersigned counsel, whose name, address and

telephone number appear below.

2. Petitioners, Towners, are natural persons who own and live at property located at 355 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904) 427-2517.
3. Respondent, State of Florida Department of Environmental Protection ("DEP"), is an agency of the State of Florida whose principle office address is 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000.
4. Respondent, Samsula Recycling, Inc. ("Samsula"), is an operator of a C & D Landfill Facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168. Samsula seeks to permit and operate a concrete, asphalt, and construction debris crusher, which is the subject of this Combined Petition.
5. Petitioners reside immediately adjacent to the subject C. & D Landfill and the location of the proposed crusher.
6. On January 17, 2000, Petitioners filed with the Department a Verified Complaint pursuant to §403.412(2)(c), F.S., alleging that subsidiaries of Respondent, Samsula, Yancy's Landclearing, Inc. and Samsula Landfill, Inc., were operating the subject rock crusher without the required DEP permit. Yancy's Landclearing, Inc. and Samsula Landfill, Inc. have the same officers, directors, principals and managers as Respondent, Samsula, those are, Charles Yancey McDonald and Michael Stokes. For purposes of the agency action at issue, Samsula Landfill, Inc., Yancy's Landclearing, Inc. and Respondent, Samsula, are the same corporate entity.

**AGENCY ACTION AT ISSUE**

7. The agency action at issue is the Notice of Intent to Issue Air Construction Permit,



Draft Permit # 7775112-001-AC and the bases for that Notice, namely, a Technical Evaluation and Preliminary Determination for Draft Air Construction Permit # 7775112-001-AC, signed August 27, 2000 by William Leffler, P.E., DEP ("Technical Evaluation"), and the Draft Permit itself, pages 1-18.

**FACTS AND BACKGROUND**

8. Prior to the entry of the Consent Order, OGC File No. 00-0210, referred to above, Respondent, Samsula, by and through its officers, managers and related companies, illegally operated the subject rock crusher, without the required DEP Permit much to the detriment of the Petitioners. In said Consent Order, the Department made specific findings of fact that the Respondent's related companies had violated Department statutes and rules by, among other things, operating the subject rock crusher without the required DEP permit.
9. In paragraph 12 of the Consent Order, Respondent Samsula's related companies were directed not to operate the rock crusher without first obtaining the required DEP permit.
10. In less than 60 days of entering into the subject Consent Order, Respondent, Samsula, and/or its associated companies, officers, managers and directors, operated the subject rock crusher in another county without the benefit of the required Department permit. This was a willful and egregious violation of the Consent Order and is a matter of record in the comments submitted to the Department by Petitioners dated July 13, 2000, and the Department's own records. This violation and the myriad other environmental violations by Respondent, Samsula, and/or its related

companies, officers, managers and directors, is documented in the referenced Verified Complaint which is a matter of Department record and thus, will not be reiterated here.

11. During the operation of the subject rock crusher adjacent to the property of Petitioners, Petitioners were subjected to excessive dust and other particulate emissions and extremely excessive high levels of noise pollution and vibrations. These particulate emissions exceeded Department standards and if the subject permit is issued, these particulate emissions and extremely excessive noise pollution will continue.

#### **WHEN AND HOW NOTICE OF AGENCY ACTION RECEIVED**

12. In its Order Dismissing Petition with Leave to Amend dated October 23, 2000, the Department alleges that the Petitioners received notice of the Department's actions via U.S. Mail on August 25, 2000. Respondents do not deny that on August 25, 2000, that they did in fact receive, through undersigned counsel, a letter from C.H. Fancy, P.E., of DEP dated August 22, 2000, addressed to Michael Stokes, a copy of an Intent to Issue Air Construction Permit, and a Public Notice of Intent to Issue Air Construction Permit. However, based on the clear language provided in both the August 22, 2000 letter, language of the Intent to Issue, and a conversation with William Leffler, P.E., of the Department, it was made very clear that the Petitioners would not have standing to file a Petition until such time as the "Public Notice of Intent to Issue Air Construction Permit" was published in a newspaper in Volusia County.

13. That publication in Volusia County was a prerequisite for the filing of a Petition by the Petitioners is clear by the plain language provided in the Intent to Issue Air Construction Permit.
14. In Paragraph 4 of the Intent to Issue it states that "the Department has determined that an Air Construction Permit is required in order for the concrete, asphalt, and construction debris crusher facility to relocate to sites throughout the state by publishing a Public Notice in the counties designed for construction/installation, performance testing, and potential operation." (Emphasis added). Further, in Paragraph 5, it is stated that "the Notice shall be published one time only in the legal advertisement section of a newspaper of general circulation in the area affected." (Emphasis added). Most importantly, the paragraph goes on to state that "no permitting action for which published notice is required shall be granted until proof of publication of notice is made." Thus, the Department's own Intent to Issue makes very clear that there will be no agency action to challenge until publication of the required notice was made in the county for which the permit applicant intends to operate. Without an authorization to operate in their county, Petitioners in no way could satisfy the requirement that their substantial interests were affected by the agency action. Accordingly, Petitioners checked the papers daily until such time as the appropriate notice was published and thereafter timely filed a Petition thereon. The Department's assertion that this Petition was untimely is completely devoid of merit based on the plain language of the subject Intent to Issue.
15. Besides the plain language of the subject Intent to Issue, Petitioners' counsel was told

repeatedly that the Petitioners would have to wait until such time as the Notice of Intent was published in accordance with the subject Intent to Issue before they could petition. This instruction was repeated on more than one occasion by William Leffler, P.E. This direction was based on the fact that the application was for a statewide permit and that Petitioners would not be able to establish that their rights were substantially affected until such time as a notice was published in a newspaper of general circulation in their county.

16. At a minimum, the foregoing facts clearly establish a case for equitable tolling against the Department. Equitable tolling is a well-established legal doctrine in administrative proceedings. See, e.g., Garrepy v. Department of Environmental Protection, DOAH Case No. 98-5090, 1999 Fla. Div. Adm. Hear. LEXIS 209 (Recommended Order, April 9, 1999), citing Machules v. Department of Administration, 523 So. 2d 1132 (Fla. 1988). The parameters of the "equitable tolling" doctrine are:

Generally, the tolling doctrine has been applied when the Plaintiff has been misled or lulled into an action, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum. Machules, 523 So. 2d at 1134.

Certainly, the plain language of the Intent to Issue as quoted above and the clear instruction provided by the Department's representative, Mr. William Leffler, P.E., establish that the Petitioners were "misled or lulled into inaction."

17. Other facts applicable to this case justify the application of the "equitable tolling" doctrine. At most, according to the alleged facts described by the Department in its Order Dismissing the Petition With Leave to Amend, the delay in the filing of the Petition resulted in only a 6 day delay. It is inconceivable that the applicant will be unduly prejudiced by such a short delay. Furthermore, given the fact that the applicant has continually disregarded the Department's permit requirements and is even, in fact, on this day operating the applied for facility without the benefit of a Department permit, further emphasizes the fact that the applicant is not unduly or unfairly prejudiced by the Department accepting the Petition as filed.
18. Even if any prejudice would result to the applicant due to the minimal six (6) delay caused by accepting the subject Petition, this prejudice must be weighed against the harm that would be visited upon Petitioners if the doctrine is not applied. Department of Transportation v. AK Media Group, Inc., Case No. 99-2863T, Fla. DOAH, 1999 Fla. Div. Adm. Hear. LEXIS 745 (September 2, 1999, Recommended Order) at paragraph 24. The harm to Petitioners will be extreme if the Petition is dismissed and the applicant is granted the permit. Petitioners will again be subjected to the unconfined and uncontrolled emissions and the intolerable noise levels that are a matter of record as contained in the Verified Complaint filed by the Petitioners and as alleged throughout this Petition.
19. Finally, the fourteen (14) day filing requirement contained in the Intent to Issue is not a jurisdictional prerequisite to Petitioners' claim. Rowe v. Sea Ray Boat, Inc. and FDEP, Case No. 00-0218, DOAH, 2000 Fla. Div. Adm. Hear. LEXIS 86 (April 4,

2000, Recommended Order) at paragraph 34, citing, Irwin v. Department of Veteran Affairs, 498 U.S. 89, 92, 11 S.Ct.453,455 (U.S. 1990); Milano v. Molds Master, Inc., 703 So. 2d 1093, 1094-1095 (Fla. 4<sup>th</sup> DCA 1998).

20. Therefore, because the fourteen (14) day filing requirement is not a jurisdictional prerequisite, the six (6) day delay is a minor infraction, the applicant would not be prejudiced, especially in light of the stiff burden that would be imposed upon Petitioners if the doctrine is not applied, and, most importantly, the fact that the Petitioners were misled or lulled into inaction by the Department, the doctrine of equitable tolling applies in this case and this Amended Petition should be accepted as timely.

#### ULTIMATE FACTS

21. Rule 62-4.070, F.A.C., requires the Department to issue a permit "only if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate] Department standards or rules." Petitioners contend that Respondent, Samsula, has failed to provide the necessary reasonable assurances.

#### DISPUTED ISSUES OF MATERIAL FACTS

22. The repeated history of violation of Department rules and standards by Respondent, Samsula, and its related companies, officers, managers and directors, is so extensive that the applicant has failed to provide the Department with the required reasonable assurances as provided by Rule 62-4.070(5), F.A.C. The provisions in paragraph 15 of page 5 of 18 of the Draft Permit will not overcome this deficiency.

23. The Department has failed to promulgate required rules regarding noise pollution. If the Department had promulgated these required rules, Respondent, Samsula, would not be allowed to operate the subject rock crusher adjacent to Petitioners' residence as it will be allowed if the permit was issued in its current form.
24. The expected air pollutant emissions are not less than 100 TPY of any single criteria air pollutant as identified in the Technical Evaluation.
25. The unconfined fugitive particulate matter emissions from the Facility's operation are not less than 10 TPY of PM as indicated in the Technical Evaluation.
26. The diversion of the oversized stone as described in paragraph 4.1 of the Technical Evaluation will increase the Facility's emissions.
27. Fugitive particulate emission will not be controlled by watering or application of dust suppressant to roadways, work-yard stockpiles despite the description in paragraph 4.2 of the Technical Evaluation. There are other potential emissions at the subject C & D Landfill that were not considered in paragraph 6.1 of the Technical Evaluation. For example, there is currently an unpermitted screening operation at the subject C & D Landfill that is subject to Subpart OOO, 40 CFR Section 60.670. The fact that this screening operation occurs without the required Department permit further emphasizes that the applicant has failed to provide reasonable assurances to the Department for the subject permit. The screening operation along with the total emissions at the site will cause an exceedances of the 100 TPY threshold of Title 5 of the Clean Air Act.
28. The operation of the water-spray suppression system as described in the Facility

description paragraph on page 2 of the Draft Permit along with other dust suppression described therein will cause the unpermitted discharge of industrial wastewater in violation of Rule 62-620.300(2), F.A.C. The visible emissions limits identified on page 6 of the Draft Permit do not conform to the standards required by 40 CFR, Section 60.672.

29. The Draft Permit does not specify how the applicant will comply with the particulate matter limit specified in 40 CFR, Section 60.672(a)(1). Furthermore, the Draft Permit fails to specify how the applicant will demonstrate compliance with this particulate matter standard as required by 40 CFR, Section 60.675(b).

**HOW PETITIONERS' INTERESTS ARE AFFECTED**

30. Petitioners' substantial interests are affected by the proposed agency action because the proposed permit would subject them to air emissions in violation of Department standards, unnecessary and excessive noise, and unpermitted discharges of industrial wastewater.

**RULEMAKING**

31. Section 403.061(11), F.S., requires the Department to adopt "standards for the abatement of excessive and unnecessary noise."
32. The fact that the Department has a duty to regulate noise pollution is emphasized by the fact that "noise" is included within the definition of a "pollutant" by Section 403.021(7), F.S.
33. Because the Department has failed to promulgate rules regulating the abatement of excessive and unnecessary noise, Petitioners request that the Department initiate



rulemaking for the purpose of promulgating such rules.

34. The reason that Petitioners request such action of the Department is that without this rule, Petitioners are expected to be subjected to the excessive and unnecessary noise that will be generated by the operation of the rock crusher.
35. Petitioners have a substantial interest in the rule because a rule promulgated by the Department regulating excessive and unnecessary noise would be reasonably expected to alleviate them from being subjected to the excessive and unnecessary noise from the subject rock crusher that they experienced prior to the entry of the referenced Consent Order.

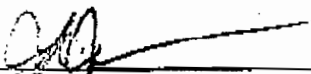
#### DEMAND FOR RELIEF

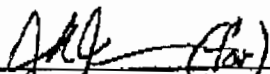
Petitioners demand the following relief:

- A. Pursuant to Section 120.569(2)(a), F.S., the assignment of an Administrative Law Judge within 15 days of the receipt of this Petition, for a Formal Administrative Hearing at which Petitioner will seek:
  1. A Final Order entered by the Department finding that the Respondent, Samsula, has failed to provide the Department the required reasonable assurances; and,
  2. A Final Order denying the applied for permit.
- B. Pursuant to Section 120.54(7)(b), F.S., the Department initiates rule making

or provide notice in the Florida Administrative Weekly that the Department will hold a public hearing on this Petition within 30 days for purposes of adopting rulemaking regarding the regulation of excessive and unnecessary noise.

Respectfully submitted this 2<sup>nd</sup> day of November, 2000.

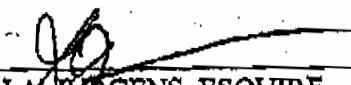
  
\_\_\_\_\_  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
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505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278

  
\_\_\_\_\_  
SCOTT PRICE, ESQUIRE  
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Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278

### Best Available Copy

#### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished via U.S. Mail this  
2<sup>nd</sup> day of November, 2000 to: W. Douglas Beason, Department of Environmental Protection, 3900  
Commonwealth Blvd, MS 35, Tallahassee, Florida 32399-3000.

  
\_\_\_\_\_  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
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State of Florida

Department of Environmental Protection

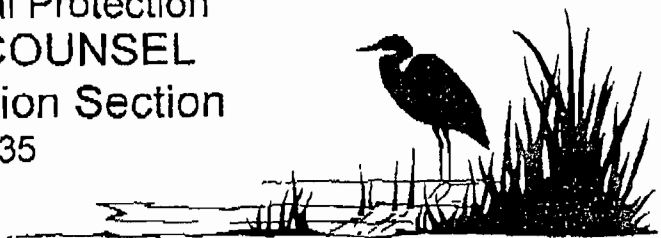
OFFICE OF GENERAL COUNSEL

Natural Resources/Litigation Section

3900 Commonwealth Blvd. - MS35

Tallahassee, FL 32399-3000

facsimile: 850-414-1228



**FACSIMILE TRANSMITTAL**

November 3, 2000

To: BRUCE MITCHELL

Fax: 922-6979

From: LISA GLENN

14 pages including cover sheet  
Original  will  will not follow  
via  US Mail  Federal Express

Phone: 850-921-9688

RE: SAMSULA AMENDED PETITION

Here's a copy of the Amended Petition filed yesterday. Let me know if you need anything else.

---

*The information contained in this facsimile message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify sender by telephone and return the original message to us at the above address via U.S. Postal Service.*

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ROBERT H. and ZETTA M. BAKER,  
and WILLIAM D. and GEORGIA M.  
TOWNER,

OGC CASE NO.: 00-1797

Petitioners,

v.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
and SAMSULA RECYCLING, INC.

Respondents.

---

**AMENDED COMBINED PETITION FOR FORMAL ADMINISTRATIVE  
HEARING AND TO INITIATE RULEMAKING**

Petitioners, ROBERT H. and ZETTA M. BAKER ("Bakers") and WILLIAM D. and GEORGIA M. TOWNER ("Townners"), hereby file this combined Petition for Formal Administrative Hearing and to Initiate Rulemaking in accordance with § 120.536, 120.54(7)(a), 120.569, 120.57 and 120.573, Florida Statutes ("F.S."), and Rules 62-110.103, 62-110.106(3), 28-103.006 and 28-106.201, Florida Administrative Code ("F.A.C."), and a Public Notice of Intent to Issue Air Construction Permit, Draft Permit #7775112-001-AC, Samsula Recycling, Inc., and as grounds therefore, states as follows:

**PARTIES**

1. Petitioners, Bakers, are natural persons who own and live at property located at 353 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904)767-2029. Petitioners are represented by undersigned counsel, whose name, address and

telephone number appear below.

2. Petitioners, Towners, are natural persons who own and live at property located at 355 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904) 427-2517.
3. Respondent, State of Florida Department of Environmental Protection ("DEP"), is an agency of the State of Florida whose principle office address is 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000.
4. Respondent, Samsula Recycling, Inc. ("Samsula"), is an operator of a C & D Landfill Facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168. Samsula seeks to permit and operate a concrete, asphalt, and construction debris crusher, which is the subject of this Combined Petition.
5. Petitioners reside immediately adjacent to the subject C & D Landfill and the location of the proposed crusher.
6. On January 17, 2000, Petitioners filed with the Department a Verified Complaint pursuant to §403.412(2)(c), F.S., alleging that subsidiaries of Respondent, Samsula, Yancy's Landclearing, Inc. and Samsula Landfill, Inc., were operating the subject rock crusher without the required DEP permit. Yancy's Landclearing, Inc. and Samsula Landfill, Inc. have the same officers, directors, principals and managers as Respondent, Samsula, those are, Charles Yancey McDonald and Michael Stokes. For purposes of the agency action at issue, Samsula Landfill, Inc., Yancy's Landclearing, Inc. and Respondent, Samsula, are the same corporate entity.

**AGENCY ACTION AT ISSUE**

7. The agency action at issue is the Notice of Intent to Issue Air Construction Permit,

Draft Permit # 7775112-001-AC and the bases for that Notice, namely, a Technical Evaluation and Preliminary Determination for Draft Air Construction Permit # 7775112-001-AC, signed August 27, 2000 by William Leffler, P.E., DEP ("Technical Evaluation"), and the Draft Permit itself, pages 1-18.

**FACTS AND BACKGROUND**

8. Prior to the entry of the Consent Order, OGC File No. 00-0210, referred to above, Respondent, Samsula, by and through its officers, managers and related companies, illegally operated the subject rock crusher, without the required DEP Permit much to the detriment of the Petitioners. In said Consent Order, the Department made specific findings of fact that the Respondent's related companies had violated Department statutes and rules by, among other things, operating the subject rock crusher without the required DEP permit.
9. In paragraph 12 of the Consent Order, Respondent Samsula's related companies were directed not to operate the rock crusher without first obtaining the required DEP permit.
10. In less than 60 days of entering into the subject Consent Order, Respondent, Samsula, and/or its associated companies, officers, managers and directors, operated the subject rock crusher in another county without the benefit of the required Department permit. This was a willful and egregious violation of the Consent Order and is a matter of record in the comments submitted to the Department by Petitioners dated July 13, 2000, and the Department's own records. This violation and the myriad other environmental violations by Respondent, Samsula, and/or its related

companies, officers, managers and directors, is documented in the referenced Verified Complaint which is a matter of Department record and thus, will not be reiterated here.

11. During the operation of the subject rock crusher adjacent to the property of Petitioners, Petitioners were subjected to excessive dust and other particulate emissions and extremely excessive high levels of noise pollution and vibrations. These particulate emissions exceeded Department standards and if the subject permit is issued, these particulate emissions and extremely excessive noise pollution will continue.

#### **WHEN AND HOW NOTICE OF AGENCY ACTION RECEIVED**

12. In its Order Dismissing Petition with Leave to Amend dated October 23, 2000, the Department alleges that the Petitioners received notice of the Department's actions via U.S. Mail on August 25, 2000. Respondents do not deny that on August 25, 2000, that they did in fact receive, through undersigned counsel, a letter from C.H. Fancy, P.E., of DEP dated August 22, 2000, addressed to Michael Stokes, a copy of an Intent to Issue Air Construction Permit, and a Public Notice of Intent to Issue Air Construction Permit. However, based on the clear language provided in both the August 22, 2000 letter, language of the Intent to Issue, and a conversation with William Leffler, P.E., of the Department, it was made very clear that the Petitioners would not have standing to file a Petition until such time as the "Public Notice of Intent to Issue Air Construction Permit" was published in a newspaper in Volusia County.



13. That publication in Volusia County was a prerequisite for the filing of a Petition by the Petitioners is clear by the plain language provided in the Intent to Issue Air Construction Permit.
14. In Paragraph 4 of the Intent to Issue it states that "the Department has determined that an Air Construction Permit is required in order for the concrete, asphalt, and construction debris crusher facility to relocate to sites throughout the state by publishing a Public Notice in the counties designed for construction/installation, performance testing, and potential operation." (Emphasis added). Further, in Paragraph 5, it is stated that "the Notice shall be published one time only in the legal advertisement section of a newspaper of general circulation in the area affected." (Emphasis added). Most importantly, the paragraph goes on to state that "no permitting action for which published notice is required shall be granted until proof of publication of notice is made." Thus, the Department's own Intent to Issue makes very clear that there will be no agency action to challenge until publication of the required notice was made in the county for which the permit applicant intends to operate. Without an authorization to operate in their county, Petitioners in no way could satisfy the requirement that their substantial interests were affected by the agency action. Accordingly, Petitioners checked the papers daily until such time as the appropriate notice was published and thereafter timely filed a Petition thereon. The Department's assertion that this Petition was untimely is completely devoid of merit based on the plain language of the subject Intent to Issue.
15. Besides the plain language of the subject Intent to Issue, Petitioners' counsel was told

repeatedly that the Petitioners would have to wait until such time as the Notice of Intent was published in accordance with the subject Intent to Issue before they could petition. This instruction was repeated on more than one occasion by William Leffler, P.E. This direction was based on the fact that the application was for a statewide permit and that Petitioners would not be able to establish that their rights were substantially affected until such time as a notice was published in a newspaper of general circulation in their county.

16. At a minimum, the foregoing facts clearly establish a case for equitable tolling against the Department. Equitable tolling is a well-established legal doctrine in administrative proceedings. See, e.g., Garrepy v. Department of Environmental Protection, DOAH Case No. 98-5090, 1999 Fla. Div. Adm. Hear. LEXIS 209 (Recommended Order, April 9, 1999), citing, Machules v. Department of Administration, 523 So. 2d 1132 (Fla. 1988). The parameters of the "equitable tolling" doctrine are:

Generally, the tolling doctrine has been applied when the Plaintiff has been misled or lulled into an action, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum. Machules, 523 So. 2d at 1134.

Certainly, the plain language of the Intent to Issue as quoted above and the clear instruction provided by the Department's representative, Mr. William Leffler, P.E., establish that the Petitioners were "misled or lulled into inaction."

17. Other facts applicable to this case justify the application of the "equitable tolling" doctrine. At most, according to the alleged facts described by the Department in its Order Dismissing the Petition With Leave to Amend, the delay in the filing of the Petition resulted in only a 6 day delay. It is inconceivable that the applicant will be unduly prejudiced by such a short delay. Furthermore, given the fact that the applicant has continually disregarded the Department's permit requirements and is even, in fact, on this day operating the applied for facility without the benefit of a Department permit, further emphasizes the fact that the applicant is not unduly or unfairly prejudiced by the Department accepting the Petition as filed.
18. Even if any prejudice would result to the applicant due to the minimal six (6) delay caused by accepting the subject Petition, this prejudice must be weighed against the harm that would be visited upon Petitioners if the doctrine is not applied. Department of Transportation v. AK Media Group, Inc., Case No. 99-2863T, Fla. DOAH, 1999 Fla. Div. Adm. Hear. LEXIS 745 (September 2, 1999, Recommended Order) at paragraph 24. The harm to Petitioners will be extreme if the Petition is dismissed and the applicant is granted the permit. Petitioners will again be subjected to the unconfined and uncontrolled emissions and the intolerable noise levels that are a matter of record as contained in the Verified Complaint filed by the Petitioners and as alleged throughout this Petition.
19. Finally, the fourteen (14) day filing requirement contained in the Intent to Issue is not a jurisdictional prerequisite to Petitioners' claim. Rowe v. Sea Ray Boat, Inc. and EDER, Case No. 00-0218, DOAH, 2000 Fla. Div. Adm. Hear. LEXIS 86 (April 4,

2000, Recommended Order) at paragraph 34, citing, Irwin v. Department of Veteran Affairs, 498 U.S. 89, 92, 11S.Ct.453,455 (U.S. 1990); Milano v. Molds Master, Inc., 703 So. 2d 1093, 1094-1095 (Fla. 4<sup>th</sup> DCA 1998).

20. Therefore, because the fourteen (14) day filing requirement is not a jurisdictional prerequisite, the six (6) day delay is a minor infraction, the applicant would not be prejudiced, especially in light of the stiff burden that would be imposed upon Petitioners if the doctrine is not applied, and, most importantly, the fact that the Petitioners were misled or lulled into inaction by the Department, the doctrine of equitable tolling applies in this case and this Amended Petition should be accepted as timely.

#### **ULTIMATE FACTS**

21. Rule 62-4.070, F.A.C., requires the Department to issue a permit "only if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate] Department standards or rules." Petitioners contend that Respondent, Samsula, has failed to provide the necessary reasonable assurances.

#### **DISPUTED ISSUES OF MATERIAL FACTS**

22. The repeated history of violation of Department rules and standards by Respondent, Samsula, and its related companies, officers, managers and directors, is so extensive that the applicant has failed to provide the Department with the required reasonable assurances as provided by Rule 62-4.070(5), F.A.C. The provisions in paragraph 15 of page 5 of 18 of the Draft Permit will not overcome this deficiency.

23. The Department has failed to promulgate required rules regarding noise pollution. If the Department had promulgated these required rules, Respondent, Samsula, would not be allowed to operate the subject rock crusher adjacent to Petitioners' residence as it will be allowed if the permit was issued in its current form.
24. The expected air pollutant emissions are not less than 100 TPY of any single criteria air pollutant as identified in the Technical Evaluation.
25. The unconfined fugitive particulate matter emissions from the Facility's operation are not less than 10 TPY of PM as indicated in the Technical Evaluation.
26. The diversion of the oversized stone as described in paragraph 4.1 of the Technical Evaluation will increase the Facility's emissions.
27. Fugitive particulate emission will not be controlled by watering or application of dust suppressant to roadways, work-yard stockpiles despite the description in paragraph 4.2 of the Technical Evaluation. There are other potential emissions at the subject C & D Landfill that were not considered in paragraph 6.1 of the Technical Evaluation. For example, there is currently an unpermitted screening operation at the subject C & D Landfill that is subject to Subpart OOO, 40 CFR Section 60.670. The fact that this screening operation occurs without the required Department permit further emphasizes that the applicant has failed to provide reasonable assurances to the Department for the subject permit. The screening operation along with the total emissions at the site will cause an exceedances of the 100 TPY threshold of Title 5 of the Clean Air Act.
28. The operation of the water-spray suppression system as described in the Facility

description paragraph on page 2 of the Draft Permit along with other dust suppression described therein will cause the unpermitted discharge of industrial wastewater in violation of Rule 62-620.300(2), F.A.C. The visible emissions limits identified on page 6 of the Draft Permit do not conform to the standards required by 40 CFR, Section 60.672.

29. The Draft Permit does not specify how the applicant will comply with the particulate matter limit specified in 40 CFR, Section 60.672(a)(1). Furthermore, the Draft Permit fails to specify how the applicant will demonstrate compliance with this particulate matter standard as required by 40 CFR, Section 60.675(b).

#### HOW PETITIONERS' INTERESTS ARE AFFECTED

30. Petitioners' substantial interests are affected by the proposed agency action because the proposed permit would subject them to air emissions in violation of Department standards, unnecessary and excessive noise, and unpermitted discharges of industrial wastewater.

#### RULEMAKING

31. Section 403.061(11), F.S., requires the Department to adopt "standards for the abatement of excessive and unnecessary noise."
32. The fact that the Department has a duty to regulate noise pollution is emphasized by the fact that "noise" is included within the definition of a "pollutant" by Section 403.021(7), F.S.
33. Because the Department has failed to promulgate rules regulating the abatement of excessive and unnecessary noise, Petitioners request that the Department initiate

rulemaking for the purpose of promulgating such rules.

34. The reason that Petitioners request such action of the Department is that without this rule, Petitioners are expected to be subjected to the excessive and unnecessary noise that will be generated by the operation of the rock crusher.
35. Petitioners have a substantial interest in the rule because a rule promulgated by the Department regulating excessive and unnecessary noise would be reasonably expected to alleviate them from being subjected to the excessive and unnecessary noise from the subject rock crusher that they experienced prior to the entry of the referenced Consent Order.

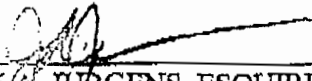
#### DEMAND FOR RELIEF


Petitioners demand the following relief:

- A. Pursuant to Section 120.569(2)(a), F.S., the assignment of an Administrative Law Judge within 15 days of the receipt of this Petition, for a Formal Administrative Hearing at which Petitioner will seek:
  1. A Final Order entered by the Department finding that the Respondent, Samsula, has failed to provide the Department the required reasonable assurances; and,
  2. A Final Order denying the applied for permit.
- B. Pursuant to Section 120.54(7)(b), F.S., the Department initiates rule making

or provide notice in the Florida Administrative Weekly that the Department will hold a public hearing on this Petition within 30 days for purposes of adopting rulemaking regarding the regulation of excessive and unnecessary noise.

Respectfully submitted this 2<sup>nd</sup> day of November, 2000.


  
\_\_\_\_\_  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278

  
\_\_\_\_\_  
SCOTT PRICE, ESQUIRE  
Florida Bar No. 135194  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was furnished via U.S. Mail this  
day of November, 2000 to: W. Douglas Beason, Department of Environmental Protection, 3900  
Commonwealth Blvd, MS 35, Tallahassee, Florida 32399-3000.

  
\_\_\_\_\_  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278



STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

RECEIVED

OCT 25 2000

BUREAU OF AIR REGULATION

ROBERT H. and ZETTA M. BAKER, and  
WILLIAM D. and GEROGIA M. TOWNER,

Petitioner,

vs.

OGC CASE NO. 00-1797

SAMSULA RECYCLING, INC., and  
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Respondents.

---

**ORDER DISMISSING PETITION WITH LEAVE TO AMEND**

On September 14, 2000, the Florida Department of Environmental Protection (Department) received a combined Petition for Administrative Hearing and to Initiate Rulemaking from the Petitioners. See Exhibit I. The petition challenged the Department's Public Notice of Intent to Issue Air Construction Permit, Draft Permit No. 7775112-001-AC to Samsula Recycling, Inc., to operate a concrete, asphalt, and construction debris crusher in Volusia County.

The Petitioners allege that they received notice of the Department's action on August 31, 2000, by publication of the subject Notice of Intent. However, the Department's records indicate that Counsel for the Petitioners received a copy of the notice of intent via U.S. Mail on August 25, 2000. See Exhibit 2. Florida Administrative Code Rule 62-110.106(3) and the notice provided the Petitioners require that persons whose substantial interests are affected by the agency's decision must file a petition for an administrative hearing in the Department's Office of General Counsel within 14 days

of publication of notice or receipt of notice, whichever occurs first. Failure to file a petition within the applicable time period shall constitute a waiver of any right to request an administrative proceeding under Chapter 120 of the Florida Statutes.

Under Rule 62-110.106(3)(b), the Petitioners' failure to timely file constitutes such a waiver of their right to request an administrative proceeding under Chapter 120 of the Florida Statutes. Therefore,

IT IS ORDERED:

The petition for hearing filed by ROBERT H. and ZETTA M. BAKER, and WILLIAM D. and GEROGIA M. TOWNER, is DISMISSED.

This dismissal is without prejudice to them to amend their petition to show why it should be considered timely.


The amended petition must be filed (received) in the Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within ten (10) days after the date set forth in the certificate of service on the last page of this Order. This order constitutes final agency action of the Department unless a timely amended petition is filed in conformance with this Order.

Any party to this order has the right to seek judicial review of the Order under Section 120.68 of the Florida Statutes by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal.


The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED this 20 day of October, 2000, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
TERI L. DONALDSON,  
General Counsel  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

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

  
\_\_\_\_\_  
CLERK

10/23/00  
DATE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U. S. Mail this 23<sup>rd</sup> day of October, 2000 to:

J. A. Jurgens, Esq.  
Scott Price, Esq.  
J.A. JURGENS, PA  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779

Michael Stokes  
Samsula Recycling Inc.  
363 State Road 415  
New Smyrna Beach, FL 32168

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



W. DOUGLAS BEASON,  
Assistant General Counsel  
Florida Bar No. 379239  
Douglas Building  
3900 Commonwealth Boulevard, MS #35  
Tallahassee, Florida 32399-3000  
Telephone (850) 488-9314  
Facsimile (850) 921-3000

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

ROBERT H. and ZETTA M. BAKER,  
and WILLIAM D. and GEORGIA M.  
TOWNER,

CASE NO.

Petitioners,

v.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
and SAMSULA RECYCLING, INC.

Respondents.

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**COMBINED PETITION FOR FORMAL ADMINISTRATIVE HEARING  
AND TO INITIATE RULEMAKING**

Petitioners, ROBERT H. and ZETTA M. BAKER ("Bakers") and WILLIAM D. and GEORGIA M. TOWNER ("Townners"), hereby file this combined Petition for Formal Administrative Hearing and to Initiate Rulemaking in accordance with § 120.536, 120.54(7)(a), 120.569, 120.57 and 120.573, Florida Statutes ("F.S."), and Rules 62-110.103, 62-110.106(3), 28-103.006 and 28-106.201, Florida Administrative Code ("F.A.C."), and a Public Notice of Intent to Issue Air Construction Permit, Draft Permit #7775112-001-AC, Samsula Recycling, Inc., and as grounds therefore, states as follows:

**PARTIES**

1. Petitioners, Bakers, are natural persons who own and live at property located at 353 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904)767-2029. Petitioners are represented by undersigned counsel, whose name, address and telephone number appear below.

2. Petitioners, Towners, are natural persons who own and live at property located at 355 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904) 427-2517.
3. Respondent, State of Florida Department of Environmental Protection ("DEP"), is an agency of the State of Florida whose principle office address is 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000.
4. Respondent, Samsula Recycling, Inc. ("Samsula"), is an operator of a C & D Landfill Facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168. Samsula seeks to permit and operate a concrete, asphalt, and construction debris crusher, which is the subject of this Combined Petition.
5. Petitioners reside immediately adjacent to the subject C & D Landfill and the location of the proposed crusher.
6. On January 17, 2000, Petitioners filed with the Department a Verified Complaint pursuant to §403.412(2)(c), F.S., alleging that subsidiaries of Respondent, Samsula, Yancy's Landclearing, Inc. and Samsula Landfill, Inc., were operating the subject rock crusher without the required DEP permit. Yancy's Landclearing, Inc. and Samsula Landfill, Inc. have the same officers, directors, principals and managers as Respondent, Samsula, those are, Charles Yancey McDonald and Michael Stokes. For purposes of the agency action at issue, Samsula Landfill, Inc., Yancy's Landclearing, Inc. and Respondent, Samsula, are the same corporate entity.

#### AGENCY ACTION AT ISSUE

7. The agency action at issue is the Notice of Intent to Issue Air Construction Permit, Draft Permit # 7775112-001-AC and the bases for that Notice, namely, a Technical Evaluation and Preliminary Determination for Draft Air Construction Permit #



7775112-001-AC, signed August 27, 2000 by William Leffler, P.E., DEP ("Technical Evaluation"), and the Draft Permit itself, pages 1-18.

**FACTS AND BACKGROUND**

8. Prior to the entry of the Consent Order, OGC File No. 00-0210, referred to above, Respondent, Samsula, by and through its officers, managers and related companies, illegally operated the subject rock crusher, without the required DEP Permit much to the detriment of the Petitioners. In said Consent Order, the Department made specific findings of fact that the Respondent's related companies had violated Department statutes and rules by, among other things, operating the subject rock crusher without the required DEP permit.
9. In paragraph 12 of the Consent Order, Respondent Samsula's related companies were directed not to operate the rock crusher without first obtaining the required DEP permit.
10. In less than 60 days of entering into the subject Consent Order, Respondent, Samsula, and/or its associated companies, officers, managers and directors, operated the subject rock crusher in another county without the benefit of the required Department permit. This was a willful and egregious violation of the Consent Order and is a matter of record in the comments submitted to the Department by Petitioners dated July 13, 2000, and the Department's own records. This violation and the myriad other environmental violations by Respondent, Samsula, and/or its related companies, officers, managers and directors, is documented in the referenced Verified Complaint which is a matter of Department record and thus, will not be reiterated here.

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11. During the operation of the subject rock crusher adjacent to the property of Petitioners, Petitioners were subjected to excessive dust and other particulate emissions and extremely excessive high levels of noise pollution and vibrations. These particulate emissions exceeded Department standards and if the subject permit is issued, these particulate emissions and extremely excessive noise pollution will continue.

#### WHEN AND HOW NOTICE OF AGENCY ACTION RECEIVED

12. Petitioners received notice of agency action by publication of the subject Notice of Intent on August 31, 2000.

#### ULTIMATE FACTS

13. Rule 62-4.070, F.A.C., requires the Department to issue a permit "only if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate] Department standards or rules." Petitioners contend that Respondent, Samsula, has failed to provide the necessary reasonable assurances.

#### DISPUTED ISSUES OF MATERIAL FACTS

14. The repeated history of violation of Department rules and standards by Respondent, Samsula, and its related companies, officers, managers and directors, is so extensive that the applicant has failed to provide the Department with the required reasonable assurances as provided by Rule 62-4.070(5), F.A.C. The provisions in paragraph 15 of page 5 of 18 of the Draft Permit will not overcome this deficiency.
15. The Department has failed to promulgate required rules regarding noise pollution. If the Department had promulgated these required rules, Respondent, Samsula, would

not be allowed to operate the subject rock crusher adjacent to Petitioners' residence as it will be allowed if the permit was issued in its current form.

16. The expected air pollutant emissions are not less than 100 TPY of any single criteria air pollutant as identified in the Technical Evaluation.
17. The unconfined fugitive particulate matter emissions from the Facility's operation are not less than 10 TPY of PM as indicated in the Technical Evaluation.
18. The diversion of the oversized stone as described in paragraph 4.1 of the Technical Evaluation will increase the Facility's emissions.
19. Fugitive particulate emission will not be controlled by watering or application of dust suppressant to roadways, work-yard stockpiles despite the description in paragraph 4.2 of the Technical Evaluation. There are other potential emissions at the subject C & D Landfill that were not considered in paragraph 6.1 of the Technical Evaluation. For example, there is currently an unpermitted screening operation at the subject C & D Landfill that is subject to Subpart OOO, 40 CFR Section 60.670. The fact that this screening operation occurs without the required Department permit further emphasizes that the applicant has failed to provide reasonable assurances to the Department for the subject permit. The screening operation along with the total emissions at the site will cause an exceedance of the 100 TPY threshold of Title 5 of the Clean Air Act.
20. The operation of the water-spray suppression system as described in the Facility description paragraph on page 2 of the Draft Permit along with other dust suppression described therein will cause the unpermitted discharge of industrial wastewater in violation of Rule 62-620.300(2), F.A.C. The visible emissions limits

identified on page 6 of the Draft Permit do not conform to the standards required by 40 CFR, Section 60.672.

21. The Draft Permit does not specify how the applicant will comply with the particulate matter limit specified in 40 CFR, Section 60.672(a)(1). Furthermore, the Draft Permit fails to specify how the applicant will demonstrate compliance with this particulate matter standard as required by 40 CFR, Section 60.675(b).

#### HOW PETITIONERS' INTERESTS ARE AFFECTED

22. Petitioners' substantial interests are affected by the proposed agency action because the proposed permit would subject them to air emissions in violation of Department standards, unnecessary and excessive noise, and unpermitted discharges of industrial wastewater.

#### RULEMAKING

23. Section 403.061(11), F.S., requires the Department to adopt "standards for the abatement of excessive and unnecessary noise."
24. The fact that the Department has a duty to regulate noise pollution is emphasized by the fact that "noise" is included within the definition of a "pollutant" by Section 403.021(7), F.S.
25. Because the Department has failed to promulgate rules regulating the abatement of excessive and unnecessary noise, Petitioners request that the Department initiate rulemaking for the purpose of promulgating such rules.
26. The reason that Petitioners request such action of the Department is that without this rule, Petitioners are expected to be subjected to the excessive and unnecessary noise that will be generated by the operation of the rock crusher.

27. Petitioners have a substantial interest in the rule because a rule promulgated by the Department regulating excessive and unnecessary noise would be reasonably expected to alleviate them from being subjected to the excessive and unnecessary noise from the subject rock crusher that they experienced prior to the entry of the referenced Consent Order.


#### DEMAND FOR RELIEF


Petitioners demand the following relief:

- A. Pursuant to Section 120.569(2)(a), F.S., the assignment of an Administrative Law Judge within 15 days of the receipt of this Petition, for a Formal Administrative Hearing at which Petitioner will seek:
1. A Final Order entered by the Department finding that the Respondent, Samsula, has failed to provide the Department the required reasonable assurances; and,
  2. A Final Order denying the applied for permit.
- B. Pursuant to Section 120.54(7)(b), F.S., the Department initiates rule making or provide notice in the Florida Administrative Weekly that the Department will hold a public hearing on this Petition within 30 days for purposes of adopting rulemaking regarding the regulation of excessive and unnecessary

noise.

Respectfully submitted this 14<sup>th</sup> day of September, 2000.

  
\_\_\_\_\_  
J.A. JURGENS, ESQUIRE  
Florida Bar No. 637165  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278

  
\_\_\_\_\_  
SCOTT PRICE, ESQUIRE  
Florida Bar No. 135194  
J.A. JURGENS, P.A.  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Telephone: 407-772-2277  
Facsimile: 407-772-2278

P. 02702

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UET 17 00

FAX 030-377-0511

FUEP

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
  - 2.  Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:  
 Mr. Albert Elsworth Ford II  
 505 Wekiva Springs Road  
 Longwood, Florida 32770

4a. Article Number  
 Z 333 638 228

4b. Service Type

<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Certified
<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured
<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> COD

7. Date of Delivery  
 8-25-00

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: *Albert Elsworth Ford II*

Thank you for using Return Receipt Service.

EXHIBIT 2

The News-Journal

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

RECEIVED

SEP 07 2000

BUREAU OF AIR REGULATION

LEGAL ADVERTISEMENT

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION Draft Permit No. 7775112-001-AC Samsula Recycling, Inc.

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit to Samsula Recycling, Inc., for a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The permittee plans to operate the facility at construction and industrial sites throughout Florida. The facility is a minor source of air pollution. It is subject to New Source Performance Standards, 40 CFR 60, Subpart OOO. It is not subject to the Prevention of Significant Deterioration (PSD) regulations, Rule 62-212.400, Florida Administrative Code (F.A.C.). A Best Available Control Technology determination was not required for this facility. The applicant's name and address is: Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, Florida 32168.

The facility has been reviewed for potential operation in all counties of Florida. The facility will emit fugitive particulate matter from the crusher operation and the products of combustion from the diesel fuel firing. Control of process unconfined fugitive particulate matter emissions shall be accomplished by wetting the material using water spray bars as needed at unloading, at the crusher entrance, and at conveyor transfer points; and, non-process unconfined fugitive particulate matter emissions shall be controlled using watering and/or application of some dust suppressant(s) on the haul roads, work-yards and stockpiles. Because of the low emissions estimates and limited time of operation at any one site, the crusher will not cause or contribute to any violation of an ambient air quality standard or increment.

The Department will issue the Final permit, in accordance with the conditions of the Draft permit, unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed Draft permit issuance action for a period of 14 (fourteen) days from the date of publication of this Notice. Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this Draft permit, the Department shall issue a revised Draft permit and require, if applicable, another Public Notice.

The Department will issue the Final permit with the conditions of the Draft permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.). Mediation is not available for this action. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000, telephone: 850/488-9370, fax: 850/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any per-

State of Florida, County of Volusia:

Before the undersigned authority personally appeared Maggie Rollins

who, on oath says that he is Classified Sales Manager

of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia County, Florida; that the attached copy of advertisement, being a

Public Notice

Of Intent to Issue Air Construction Permit in the matter of

in the Court, was published

in said newspaper in the issues

August 31, 2000

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Maggie Rollins (signature)

Sworn to and subscribed before me

this 31st day of August

A.D. 19 2000

Anita Marie Saundess (signature)



ANITA MARIE SAUNDNESS Notary Public, State of Florida My Comm. Exp. Aug. 30, 2003 Comm. No. CC 867646



RECEIVED

SEP 07 2000

BUREAU OF AIR REGULATION

LEGAL ADVERTISEMENT

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION Draft Permit No. 776112-001-AC Samsula Recycling, Inc.

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit to Samsula Recycling, Inc. for a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The permittee plans to operate the facility at construction and industrial sites throughout Florida. The facility is a minor source of air pollution; it is subject to New Source Performance Standards, 40 CFR 60, Subpart OOO. It is not subject to the Prevention of Significant Deterioration (PSD) regulations, Rule 62-212.400, Florida Administrative Code (F.A.C.). A Best Available Control Technology determination was not required for this facility. The applicant's name

and address is: Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, Florida 32168.

The facility has been reviewed for potential operation in all counties of Florida. The facility will emit fugitive particulate matter from the crusher operation and the product of combustion from the diesel fuel firing. Control of process unconfined fugitive particulate matter emissions shall be accomplished by wetting the material using water spray bars as needed at unloading, at the crusher entrance, and at conveyor transfer points; and non-process unconfined fugitive particulate matter emissions shall be controlled using watering and/or application of some dust suppressant(s) on the haul roads, workyards and stockpiles. Because of the low emissions estimates and limited time of operation at any one site, the crusher will not cause or contribute to any violation of an ambient air quality standard or increment.

The Department will issue the final permit, in accordance with the conditions of the Draft permit, unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed Draft permit issuance action for a period of 14 (fourteen) days from the date of publication of this Notice. Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this Draft permit, the Department shall issue a revised Draft permit and require, if applicable, another Public Notice.

The Department will issue the final permit with the conditions of the Draft permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.). Mediation is not available for this action. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below, and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000; telephone: 850/488-9370, fax: 850/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any per-

son to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207, F.A.C.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner; the applicant's name and address, the Permit File Numbers and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by the petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the Department's action or proposed action addressed in this notice of intent.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Copies of the proposed air construction permit and the technical evaluation are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at: Florida Dept. of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803. Telephone: 407/894-7555.

The complete project file, which includes the application, technical evaluation, Draft air construction permit, and the information submitted by the applicant, exclusive of confidential records under Section 403.111, F.S., is available in the office of the permitting authority in Tallahassee. Interested persons may contact William Leffler, P.E., project engineer, at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 850/921-9522, for additional information. Legal L41612, August 31, 2000 lt.

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Air Construction Permit



# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

August 22, 2000

CERTIFIED MAIL - Return Receipt Requested

Mr. Michael Stokes, President  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

Re: DRAFT Air Construction Permit No.: 7775112-001-AC  
Relocatable Eagle Ultra Max Model 1200-25 Concrete, Asphalt, and Construction Debris Crushing Facility

Dear Mr. Stokes:


Enclosed is one copy of the Draft Air Construction Permit for a diesel engine powered relocatable concrete, asphalt, and construction debris crusher facility, which will be based at 363 State Road 415, New Smyrna Beach (midway between Samsula and Alamana) in Volusia County. The air construction permit will allow the permittee to advertise in counties for the purpose of construction/installation, performance testing, and to support an application for an air operating permit or subsequent air operating permit amendments when relocating notification is received. The Technical Evaluation and Preliminary Determination, the Department's Intent to Issue Air Construction Permit, and the "Public Notice of Intent to Issue Air Construction Permit" are also included.

The "**Public Notice of Intent to Issue Air Construction Permit**" must be published one time only, as soon as possible, in the legal advertisement section of a newspaper of general circulation in the area in which you propose to set up or operate this facility. The publication must meet the requirements of Chapter 50, F.S. Proof of publication, i.e., newspaper affidavit, must be provided to the Department's Bureau of Air Regulation office within seven (7) days of publication. Failure to publish the notice and provide proof of publication may result in the denial of the permit. Please do not confuse the "Public Notice" part with the "Intent to Issue" part of this section.

Please note the addition of a specific condition prohibiting the crushing of asbestos containing material. Crushing, grinding, or abrading of asbestos materials is already prohibited by state and federal law.

Please submit any written comments you wish to have considered concerning the Department's proposed action to William Leffler, P.E., at the above letterhead address. If you have any other questions, please contact him at 850/921-9522.

Sincerely,

  
C. H. Fancy, P.E.  
Chief,  
Bureau of Air Regulation

CHF/wl

Enclosures

"More Protection, Less Process"

Printed on recycled paper.

In the Matter of an  
Application for Permit by:

Samsula Recycling, Inc.  
373 State Road 415  
New Smyrna Beach, Florida 32168

Draft Air Construction Permit No.: 7775112-001-AC  
Relocatable Concrete, Asphalt, and Construction Debris Crushing Plant  
Statewide Operation

### INTENT TO ISSUE AIR CONSTRUCTION PERMIT

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit (copy of Draft permit attached) for the proposed project, detailed in the application specified above and the attached Technical Evaluation and Preliminary Determination, for the reasons stated below.

The applicant, Samsula Recycling, Inc., applied to the Department on March 22, 2000, for an air construction permit to allow the permittee to advertise in counties for the purpose of construction/installation, performance testing, and to support an application for an air operating permit or subsequent air operating permit amendments when relocating notification is received.

Samsula Recycling, Inc., maintains its primary Florida office at 363 State Road 415, New Smyrna Beach, Volusia County, Florida (midway between Samsula and Alama). The relocatable facility will be based at this same location, at UTM coordinates Zone 17; 255.526 km E; and, 3367.127 km North.

The Department has permitting jurisdiction under the provisions of Chapter 403, F.S. (F.S.), and Florida Administrative Code (F.A.C.) Chapters 62-4, 62-210, and 62-212. The above action is not exempt from permitting procedures. The Department has determined that an air construction permit is required in order for the concrete, asphalt, and construction debris crusher facility to relocate to sites throughout the state by publishing Public Notice in the counties desired for construction/installation, performance testing, and potential operation.

The Department intends to issue this air construction permit based on the belief that reasonable assurances have been provided to indicate that operation of this facility will not adversely impact air quality, and the facility will comply with all appropriate provisions of Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297, F.A.C.

Pursuant to Section 403.815, F.S., and Rule 62-110.106(7)(a)1., F.A.C., you (the applicant) are required to publish at your own expense the enclosed "Public Notice of Intent to Issue Air Construction Permit." The notice shall be published one time only in the legal advertisement section of a newspaper of general circulation in the area affected. Rule 62-110.106(7)(b), F.A.C., requires that the applicant cause the notice to be published as soon as possible after notification by the Department of its intended action. For the purpose of these rules, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department's Bureau of Air Regulation, at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400 (Telephone: 850/488-0114; Fax 850/ 922-6979). You must provide proof of publication within seven days of publication, pursuant to Rule 62-110.106(5), F.A.C. No permitting action for which published notice is required shall be granted until proof of publication of notice is made by furnishing a uniform affidavit in substantially the form prescribed in Section 50.051, F.S., to the office of the Department issuing the permit. Failure to publish the notice and provide proof of publication may result in the denial of the permit pursuant to Rules 62-110.106(9) & (11), F.A.C.

The Department will issue the Final permit with the attached conditions unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed permit issuance action for a period of fourteen days from the date of publication of the "Public Notice of Intent to Issue Air Construction Permit." Written comments should be provided to the Department's Bureau of Air Regulation at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, FL 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the draft permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the

information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S., must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and (f) A demand for relief.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that 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 such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542, F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2), F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally

Intent to Issue Air Construction Permit  
Draft Air Construction Permit No.: 7775112-001-AC  
Samsula Recycling, Inc.  
Page 3 of 4

delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Tallahassee, Florida.



C. H. Fancy, P.E.  
Chief  
Bureau of Air Regulation

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this INTENT TO ISSUE AIR CONSTRUCTION PERMIT (including the PUBLIC NOTICE, Technical Evaluation and Preliminary Determination, and the Draft permit) was sent by certified mail (\*) and copies were mailed by U.S. Mail, or electronic mail (as noted) before the close of business on 8/23/00 to the person(s) listed:

- Mr. Michael Stokes\*, Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, FL 32168
- James Colella, P.E., Colella & Associates, Inc., 805 Smokerise Boulevard, Port Orange, FL 32127
- William and Georgia Towner, 355 South State Road 415, New Smyrna Beach, FL 32168
- Robert and Zetta Baker, 353 South State Road 415, New Smyrna Beach, FL 32168
- Arthur Drewry, 800 Hull Road, Ormond Beach, FL 32174
- Barry Appelby, Volusia County Environmental Management, 123 W Indiana Avenue, Deland, FL 32720-4621
- Doug Weaver, Volusia County Attorney's Office, 123 W Indiana Avenue, Deland, FL 32720-4621 - *Certified Mail*
- Albert Elsworth Ford II, 505 Wekiva Springs Road, Suite 500, Longwood, FL 32770 - *Certified Mail*
- Len Kozlov, DEP, Central District
- Chris Kirts, DEP, Northeast District
- Ed Middleswart, DEP, Northwest District
- Bill Thomas, DEP, Southwest District
- David Knowles, DEP, South District
- Isidore Goldman, DEP, Southeast District
- Daniela Banu, Broward County Department of Natural Resource Protection
- H. Patrick Wong, Dade County Department of Environmental Resources Management
- Richard Robinson, Regulatory and Environmental Services Department
- Jerry Campbell, Hillsborough County Environmental Protection Commission
- James E. Stormer, Palm Beach County Health Department
- Peter Hessling, Pinellas County Department of Environmental Management
- Kent Kimes, Sarasota County Natural Resources Department
- Marie Driscoll, Orange County Environmental Protection Department

*Christopher W. Wickersham, Sr.*  
*Wickersham & Bowers*  
*Attorneys And Counsellors at Law*  
*501 North Grandview Avenue*  
*Suite 115*  
*SunTrust Executive Center*  
*Daytona Beach, FL 32118*  
*Post Office Drawer 2250*  
*Daytona Beach, FL 32115-2250*

Clerk Stamp

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

*Barbara J. Butwell* 8/23/00  
(Clerk) (date)

*8/23/00 cc- Reading File*

## PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Draft Permit No. 7775112-001-AC  
Samsula Recycling, Inc.

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit to Samsula Recycling, Inc., for a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The permittee plans to operate the facility at construction and industrial sites throughout Florida. The facility is a minor source of air pollution. It is subject to New Source Performance Standards, 40 CFR 60, Subpart OOO. It is not subject to the Prevention of Significant Deterioration (PSD) regulations, Rule 62-212.400, Florida Administrative Code (F.A.C.). A Best Available Control Technology determination was not required for this facility. The applicant's name and address is: Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, Florida 32168.

The facility has been reviewed for potential operation in all counties of Florida. The facility will emit fugitive particulate matter from the crusher operation and the products of combustion from the diesel fuel firing. Control of process unconfined fugitive particulate matter emissions shall be accomplished by wetting the material using water spray bars as needed at unloading, at the crusher entrance, and at conveyor transfer points; and, non-process unconfined fugitive particulate matter emissions shall be controlled using watering and/or application of some dust suppressant(s) on the haul roads, work-yards and stockpiles. Because of the low emissions estimates and limited time of operation at any one site, the crusher will not cause or contribute to any violation of an ambient air quality standard or increment.

The Department will issue the Final permit, in accordance with the conditions of the Draft permit, unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed Draft permit issuance action for a period of 14 (fourteen) days from the date of publication of this Notice. Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this Draft permit, the Department shall issue a revised Draft permit and require, if applicable, another Public Notice.

The Department will issue the Final permit with the conditions of the Draft permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.). Mediation is not available for this action. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 850/488-9370, fax: 850/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207, F.A.C.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Numbers and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the Department's action or proposed action addressed in this notice of intent.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent.

Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Copies of the proposed air construction permit and the technical evaluation are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Florida Dept. of Environmental Protection  
Bureau of Air Regulation  
111 S. Magnolia Drive, Suite 4  
Tallahassee, Florida 32301  
Telephone: 850/488-0114

Florida Dept. of Environmental Protection  
Central District Office  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803  
Telephone: 407/894-7555

Orange County Environmental Protection  
Department - Air Program Section  
800 Mercy Drive  
Orlando, Florida 32808  
Telephone: 407/836-1400

Florida Dept. of Environmental Protection  
Northwest District Office  
160 Governmental Center  
Pensacola, Florida 32501  
Telephone: 850/595-8300

Florida Dept. of Environmental Protection  
Northeast District Office  
7825 Baymeadows Way, Suite 200B  
Jacksonville, Florida 32256  
Telephone: 904/448-4300

Florida Dept. of Environmental Protection  
Southwest District Office  
3804 Coconut Palm Drive  
Tampa, Florida 33619  
Telephone: 813/744-6100

Florida Dept. of Environmental Protection  
Southeast District Office  
400 North Congress Avenue  
West Palm Beach, Florida 33416  
Telephone: 561/681-6755

Florida Dept. of Environmental Protection  
South District Office  
2295 Victoria Avenue, Suite 364  
Fort Myers, Florida 33902  
Telephone: 941/332-6975

Broward County Department of Natural Resource Protection  
218 Southwest First Avenue  
Fort Lauderdale, Florida 33301  
Telephone: 954/519-1202

Dade County Department of Environmental Resources Management  
33 Southwest Second Avenue  
Suite 900  
Miami, Florida 33130  
Telephone: 305/372-6925

Regulatory and Environmental Services Department  
117 West Duval Street, Suite 225  
Jacksonville, Florida 32202  
Telephone: 904/630-3484

Hillsborough County Environmental Protection Commission  
1410 North 21 Street  
Tampa, Florida 33605  
Telephone: 813/272-5530

Palm Beach County Health Department  
901 Evernia Street  
Post Office Box 29  
West Palm Beach, Florida 33401  
Telephone: 561/355-3070

Pinellas County Department of Environmental Management  
300 South Garden Avenue  
Clearwater, Florida 33756  
Telephone: 727/464-4422

Sarasota County Natural Resources Department  
1301 Cattleman Road, Building A  
Sarasota, Florida 34232  
Telephone: 941/378-6128

The complete project file, which includes the application, technical evaluation, Draft air construction permit, and the information submitted by the applicant, exclusive of confidential records under Section 403.111, F.S., is available in the office of the permitting authority in Tallahassee. Interested persons may contact William Leffler, P.E., project engineer, at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 850/921-9522, for additional information.



TECHNICAL EVALUATION  
AND  
PRELIMINARY DETERMINATION

Samsula Recycling, Inc.

Relocatable Concrete, Asphalt, and Construction Debris Crushing Facility

Eagle Ultra Max Model 1200-25  
Statewide Operation

Draft Air Construction Permit No.: 7775112-001-AC  
Facility ID No.: 7775112  
Relocatable Facility

Department of Environmental Protection  
Division of Air Resources Management  
Bureau of Air Regulation

**Best Available Copy**

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:  
Mr. Albert Elsworth Ford II  
505 Wekiva Springs Road  
Longwood, Florida 32770

4a. Article Number  
Z 333 638 228

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
8-25-00

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)  
*[Signature]*

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address  
2.  Restricted Delivery  
Consult postmaster for fee.

Thank you for using Return Receipt Service.

Z 333 638 228

**US Postal Service  
Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Sent to	Mr. Albert Elsworth Ford II
Street & Number	505 Wekiva Springs Road
Post Office, State, & ZIP Code	Longwood, Florida 32770
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:  
Mr. Doug Weaver  
Volusia County Attorney's Office  
123 W Indiana Avenue  
Deland, Florida 32720-4621

4a. Article Number  
Z 333 638 227

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
25 AUG 2000

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)  
*[Signature]*

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address  
2.  Restricted Delivery  
Consult postmaster for fee.

Thank you for using Return Receipt Service.

Z 333 638 227

**US Postal Service  
Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Sent to	Mr. Doug Weaver
Street & Number	123 W Indiana Avenue
Post Office, State, & ZIP Code	Deland, Florida 32720-4621
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:  
Mr. Michael Stokes, President  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

4a. Article Number  
Z 333 638 226

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
8-28-00

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)  
*[Signature]*

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address  
2.  Restricted Delivery  
Consult postmaster for fee.

Thank you for using Return Receipt Service.

Z 333 638 226

**US Postal Service  
Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Sent to	Mr. Michael Stokes
Street & Number	363 State Road 415
Post Office, State, & ZIP Code	New Smyrna Beach, FL
Postage	\$ 321.68
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	

**1. APPLICATION INFORMATION****1.1. Applicant's Name and Address**

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

Attn: Mr. Michael Stokes

**1.2. Reviewing and Processing Schedule**

- March 22, 2000: Date of receipt of application
- April 20, 2000: Department's request for additional information
- May 30, 2000: Applicant's response to request for additional information
- August 24, 2000: Day 90

**2. FACILITY INFORMATION****2.1 Description**

The facility is a relocatable concrete, asphalt, and construction debris material crushing facility. The permittee seeks an air construction permit to be allowed to publish the Public Notice for the ability to construct/install the crusher facility, conduct performance tests, and to support an application for an air operation permit or air operation permit amendment.

**2.2. Standard Industrial Classification Code (SIC)**

Major Group No.	17	Construction – Special Trade Contractors
Group No.	1795	Wrecking and Demolition Work

**2.3. Facility Classification**

The relocatable crusher operation emits particulate matter from the handling and crushing of the concrete, asphalt, and construction debris material. The associated diesel engine will be used to drive the crushing unit and the electric generator, which will provide power to the associated conveyors, screens and water-spray pump, and emit the normal products of combustion from the diesel fuel burned.

The facility is classified as a minor air pollutant emitting facility. All air pollutant emissions are less than 100 TPY of any single criteria air pollutant, with the highest potential emissions estimated to be from nitrogen oxides at 27 tons per year. The unconfined fugitive particulate matter emissions from the facility's operation are less than 10 tons per year as PM<sub>10</sub>.

This facility is not on the list of the 28 Major Facility Categories, Table 62-212.400-1, F.A.C.

**3. PROJECT DESCRIPTION**

3.1. This permit addresses the following emissions units/activities:

EMISSION UNIT/ACTIVITY NO.	DESCRIPTION
001	250 TPH Eagle Ultra Max Model 1200-25; Serial No. 1206; mfg in 1996; with associated feeder; classifier screens, and conveyors; and, is presently outfitted with 1/2 and 3/8 inch screens.
002	305 HP Cummins diesel engine; Serial No. 11822539; with a belt drive to the crusher; and, with a belt drive to the electric generator that provides power to the conveyors, screens, and water-spray pump.
003	Tractor and truck loading and unloading operations.
004	Unconfined fugitive particulate matter emissions from roads, work-yard, and stockpiles.

**4. PROCESS DESCRIPTION**

4.1. General Information

Rock, concrete, asphalt paving material or construction rubble is fed to the crusher and reduced in size. The crushed material is screened and stored in piles in an open area. The feed material is loaded and unloaded from trucks or excavated near the site of the crusher by front end loaders or other construction machinery. The crusher is presently configured with 1/2 and 3/8 inch classifier screens for the production of small concrete and recycled asphalt pavement (RAP) aggregate. The unit is capable of substantially higher hourly production of larger aggregates, if fitted with coarser classifier screens. There is an oversize stone return conveyor, which returns the stone retained on the top screen to the crusher. The oversize stone return conveyor is fed by a cross screen conveyor, which could be reversed, or bypassed, and the stone not passing the first screen could be diverted to a third stockpile. While diversion of the oversize stone would create a separate product pile and conveyor drop, the effective throughput of the crusher would be increased by the 'return fraction' from the screens without increasing facility emissions, because the crusher would not be re-crushing the rejected fraction.

4.2. Dust Suppression by Water Spray

Unconfined fugitive particulate matter emissions (dust) from the crushing of the rocks will be controlled by water spray suppression using nozzles or spray bars at the crusher's feeder, classifier screens, and at conveyor transfer points. At least one front end loader is required to feed the crusher and to work the stockpiles. The largest portion of unconfined fugitive particulate matter emissions associated with this project comes from the truck loading and unloading and the tractor work, rather than from the crusher operation. Non-process unconfined fugitive particulate matter emissions will be controlled by watering or by the application of some effective dust suppressant(s) to the roadways, work-yard and stockpiles.

#### 4.3. Diesel Engine and Fuel

Power for the crusher operation comes from a single diesel engine, which burns a maximum of 15 gallons per hour of new No. 2 fuel oil, or better. This engine directly drives the crusher and powers a generator, which provides electrical power to drive conveyors and auxiliary machinery, including the water-spray pump. The diesel engine is subject to the provision of Rule 62-210.300, F.A.C., *Permits Required*. There is no unit specific source regulatory requirements that apply. Its potential emissions are such that the facility is considered a minor source. Its potential emissions are limited by a federally enforceable restriction on the allowable hours of operation and upon the firing of new No. 2 fuel oil, or better. No regular testing of the diesel engine is required. If the Department has reason to believe that a violation of the facility-wide visible emissions limit has occurred, a special compliance test can be ordered.

#### 4.4. Capacity

The manufacturer's rated capacity of the portable crusher assembly with the 1/2 and 3/8 inch classifier screens is 120 tons per hour (TPH). The Eagle Ultra Max Model 1200-25 impact crusher is capable of handling as much as 250 TPH in the production of larger aggregates. For this reason, the crusher and associated equipment are subject to the requirements of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

#### 4.5. Determination of Process Rate

The crusher assembly does not contain a continuous product weighing cell on the radial stacking conveyors nor has the applicant agreed to accept a limitation to use only the 1/2 and 3/8 inch classifier screens. These screens are readily interchangeable for various aggregate gradations and may result in a significant increase in aggregate production without materially increasing fuel consumption or power requirements. For the purpose of evaluating the potential pollutant emissions in this application, the PTE was based on the crusher "nameplate" capacity.

### 5. RULE APPLICABILITY

The proposed project is subject to pre-construction review requirements under the provisions of Chapter 403, Florida Statutes, and Chapters 62-4, 62-204, 62-210, and 62-212, Florida Administrative Code (F.A.C.).

The proposed project is not subject to new source review under Rule 62-212.400(5), F.A.C., Prevention of Significant Deterioration (PSD), because it is a minor facility. A determination of Best Available Control Technology (BACT) is not required. No analysis of the air quality impact of the proposed project on soils, vegetation and visibility, along with ambient air quality and increment consumption impacts, is required for a minor facility. Therefore, this facility may operate in any county in Florida without concern of ambient air quality or increment consumption violations.

The emission units/activities affected by this permit are subject to the following regulations:

Chapter 62-4	Permits
Rule 62-4.160(14)(a)	Records Retention
Rule 62-210.300	Permits Required
Rule 62-204.340	Designation of Attainment, Nonattainment and Maintenance Areas
Rule 62-204.800	Federal Regulations Adopted by Reference
Rule 62-204.370	Reports
Rule 62-210.300	Permits Required
Rule 62-210.370	Reports

TECHNICAL EVALUATION AND PRELIMINARY DETERMINATION

Rule 62-210.700	Excess Emissions
Rule 62-210.900	Forms and Instructions
Rule 62-212.300	General Preconstruction Review Requirements
Rule 62-296.320	General Pollutant Emission Limiting Standards
Rule 62-296.320(b)	General Visible Emissions Standard
Rule 62-296.320(c)	Unconfined Emissions of Particulate Matter
Rule 62-297.310	General Test Requirements
Rule 62-297.310(4)	Applicable Test Procedures
Rule 62-297.310(7)(a)	Frequency of Compliance Tests: General Compliance Testing
Rules 62-297.310(8)(b) & (c)	Test Reports
Rule 62-297.400	EPA Methods Adopted by Reference
Rule 62-297.401	EPA Test Procedures
Chapter 62-257	Asbestos Program
Rule 62-701.520	Special Waste Handling: Asbestos
40 CFR 60, Subpart A	Standards of Performance for New Stationary Sources
40 CFR 60, Subpart OOO	Standards of Performance for Non Metallic Mineral Processing Plants
40 CFR 61, Subpart M	Asbestos NESHAP
HCEPC Rule 1-3.61	Hillsborough County EPC (Particulate RACT)
JEPB Rule 2.8201	City of Jacksonville/Duval County (Particulate RACT)

The maximum allowable visible emissions limits for the various emission points/activities are:

Emissions Unit	Emission Point/Activity	Visible Emissions Limit (% Opacity) exclusive of PM maintenance areas and subject to 40CFR60, Subpart OOO	Visible Emissions Limit (% Opacity) within PM maintenance areas
001	Receiving Hopper/Grizzly Feeder	10	5
001	Crusher	15*	5
001	Portable Belt Conveyor(s)	10**	5
001	Screen(s)	10	5
003	Truck Loading/Unloading	<20	5

- \* This limit applies since no capture system is used.
- \*\* This limit applies to transfer points onto conveyor belts only.

The PM RACT regulations apply in areas designated maintenance for particulate matter as well as parts of the "areas of influence" related to those areas that are not exempted by rule. When subject to both limits, the more stringent limit takes precedence. The description of the maintenance areas and their "areas of influence" and their visible emission limits are listed below:

**Hillsborough County:**

That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U. S. 41 South and State Road 60 and a radius of 12 kilometers.

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).  
**[Rule 62-204.340, F.A.C.; and, Rule 1-3.61, Rules of EPCHC]**

**City of Jacksonville/Duval County:**

The downtown Jacksonville area in Duval County located within the following boundary lines: south and then west along the St. Johns River from its confluence with Long

Branch Creek, to Main Street; north along Main Street to Eighth Street; east along Eighth Street to Evergreen Avenue; north along Evergreen Avenue to Long Branch Creek; and east along Long Branch Creek to the St. Johns River; and, including any emissions unit of unconfined particulate matter which is located [at or within] five kilometers outside the boundary of a particulate matter air quality maintenance area.

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).  
[Rule 62-204.340, F.A.C.; and, Rule 2.8201, Jacksonville Environmental Protection Board]

## 6. SOURCE IMPACT ANALYSIS

### 6.1. Potential Emissions Summary

The proposed relocatable crusher unit operation (diesel engine and materials handling systems), is considered minor and will emit the following pollutants: particulate matter (PM/PM<sub>10</sub>), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC) and carbon monoxide (CO). The estimated potential pollutant emissions are summarized in the application and supplementary responses, which were based on the applicants request for 5824 hours per calendar year (16 hours/day and 364 days/calendar year) of operation and EPA approved emission factors.

Most of unconfined fugitive particulate emissions from the concrete and asphalt crushing operations arises from truck and tractor traffic, rather than from the operation of the crusher, screens and conveyors.

Small amounts of particulate, CO, SO<sub>2</sub>, NO<sub>x</sub> and VOC's, are produced by the diesel engine, which is associated with the crusher operation, and the tractor's diesel engine. The tractor is an unregulated source; and, the diesel engine associated with the crusher is customarily not subjected to any specific requirements, except for the requirement that it burn only new No. 2 diesel fuel, or better.

### 6.2. Control Technology Review

The crusher unit and associated conveyors are potential sources of unconfined fugitive particulate matter emissions. These emissions will be controlled by wetting the uncrushed concrete, asphalt, or construction debris, as it is transferred into the grizzly feeder and by providing fixed water sprayers at the entrance and exit of the crusher, the drop points onto the classifier screens, and at each conveyor drop point. Non-process unconfined fugitive particulate matter emissions from the material storage piles, work-yard and roadways, will be controlled by wetting and/or application of some effective dust suppressant(s).

The use of new diesel fuel, or better, will be used to minimize SO<sub>2</sub> emissions from the diesel engines powering the crusher operation.

As necessary, dust suppressants or other effective methods will be used to control unconfined fugitive particulate matter emissions.

At the permittee's request, the facility's potential emissions are being limited by imposing a federally enforceable restriction of 5824 hours per calendar year (16 hrs/day and 364 days/calendar year).

### 6.3. Prohibited Activities Processing Asbestos Containing Materials

The facility's operation is primarily employed in concrete aggregate salvage operations, wherein concrete debris from building and other structural demolition is reduced in size for reuse as concrete aggregate or otherwise as crushed stone or gravel. There is concern with the presence of asbestos products in building demolition debris. The Asbestos NESHAP requires the removal of asbestos containing material, which is, or may become regulated (friable) during demolition. The Asbestos

TECHNICAL EVALUATION AND PRELIMINARY DETERMINATION

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nature, are not a significant health hazard, if not crushed, abraded, or ground into powder. These materials are customarily buried at Construction Demolition Landfill Sites. The Asbestos NESHAP regulations expressly prohibit crushing, grinding, or abrading these materials. Care must be taken to assure that concrete materials processed through portable crushers do not contain adhered asbestos containing building materials such as vinyl floor tile, bituminous or asphalt roofing materials, or asbestos cement materials such as transite pipe, sheeting, ductwork or formwork.

#### 6.4. Air Quality Analysis

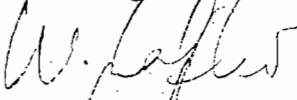
An air quality analysis was not conducted for this project because it is considered a minor emitting facility. The Department does not expect the low emissions from this operation to have a significant impact on the ambient air quality.

#### 7. CONCLUSION

Based on the technical evaluation of the application and supplementary information provided by the applicant, the Department has made a preliminary determination that the proposed project will comply with all applicable state and federal air pollution regulations provided the Department's requirements described in the Facility-wide and Specific Conditions of the proposed permit are met. The General, Facility-wide and Specific Conditions are listed in the attached permit.

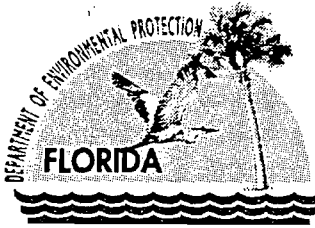
Because of past and pending alleged violations, Facility-wide Condition No. 15 was developed to provide reasonable assurance that the permittee will comply with the rules and regulations of the Department.

Permit Engineer: William Leffler, P.E.



0/22/2000





# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Strühs  
Secretary

## P.E. Certification Statement

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

DEP File No.: 7775112-001-AC  
Facility ID No.: 7775112

**Project:** Relocatable Air Construction Permit for Eagle Ultra Max Model 1200-25 Portable Concrete, Asphalt, and Construction Debris Crusher Facility

**I HEREBY CERTIFY** that the engineering features described in the above referenced application and related additional information submittals, if any, and subject to the proposed permit conditions, provide reasonable assurance of compliance with applicable provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Chapters 62-4, 62-204, 62-210, 62-296, 62-297 and analogous federal regulations. With the following exceptions:

**The co-location of this relocatable concrete, asphalt, and construction debris crusher and screening unit on another site with another stationary or relocatable air pollution source may cause emissions from such a site to exceed the 100 tons per year threshold of Title V of the Clean Air Act. It will be incumbent upon the permittee to coordinate with permitting authorities to avoid excessive emission contributions on a site otherwise classified as a minor facility.**

I have not evaluated, nor do I certify the compliance of this facility regarding any application beyond the scope of my discipline and training in air quality engineering (expressly excluding, but not limited to the electrical, mechanical, structural, personnel safety, hydrological, and geological features).

William Leffler, P.E.  
Registration Number: FLPE 41972

Date

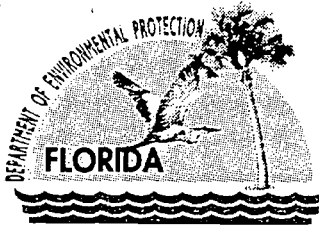
Permitting Authority:

Florida Department of Environmental Protection  
Division of Air Resources Management, Bureau of Air Regulation  
2600 Blair Stone Road, Mail Station #5505  
Tallahassee, Florida 32399-2400

Telephone: 850/921-9522  
Fax: 850/922-6979

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Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

## PERMITTEE:

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**FID No.:** 7775112

**Permit No.:** 7775112-001-AC

**SIC No.:** 1795

**Expiration Date:** September 18, 2005

**Project:** Diesel engine powered  
relocatable concrete, asphalt, and  
construction debris crushing plant  
designated as Eagle Ultra Max Model  
1200-25

## AUTHORIZED REPRESENTATIVE

Mr. Michael Stokes  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

## PROJECT

This permit allows the applicant to construct/install a diesel engine powered relocatable concrete, asphalt, and construction debris crushing plant, designated as Eagle Ultra Max Model 1200-25 Crushing Plant, together with associated crusher feeder, classifier screens, conveyors, and electric generator.

## STATEMENT OF BASIS

This air construction permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and the Florida Administrative Code (F.A.C.) Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297. The above named permittee is authorized to construct/install the facility in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department of Environmental Protection (Department).

## APPENDICES

The attached appendices are a part of this permit:

Appendix GC - General Permit Conditions  
Appendix PC - Permitted Counties

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Howard L. Rhodes, Director  
Division of Air Resources  
Management

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## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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### FACILITY DESCRIPTION

This facility consists of a 250 tons per hour (TPH) Eagle Ultra Max Model 1200-25 impact crusher facility with associated crusher feeder, classifier screens and conveyors, and powered by a 305 hp Cummins diesel engine, all of which are mounted on a transportable chassis. The diesel engine also drives an electric generator to provide power to the various feeders, classifier screens and conveyors, and the water-spray pump. Process unconfined fugitive particulate matter emissions from the crushing operation, specifically the feeders, screen classifiers and conveyor transfer points, shall be controlled by a water-spray suppression system. Non-process unconfined fugitive particulate matter emissions from the roadways, stockpiles and work-yard, shall be controlled by watering and/or by application of some effective dust suppressant(s).

### REGULATORY CLASSIFICATION

The facility is subject to the regulations of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants. The generator portion of the facility is regulated under Rule 62-210.300, F.A.C., Permits Required, since there are no unit specific regulatory requirements that apply.

### RELEVANT DOCUMENTS

The documents listed below are the basis of the permit. They are specifically related to this permitting action. These documents are on file with the Department.

- Consent Order, OGC FILE No. 00-0210, dated February 22, 2000
- Application received (Central District) March 22, 2000
- Requests for additional information dated April 20, 2000
- Response to request for additional information received May 26, 2000
- Request for information by Volusia County received May 1, 2000
- Department's response to request for information by Volusia County dated May 26, 2000

### PERMITTED COUNTIES

Please see Appendix PC, Permitted Counties, for a list of counties in which the facility will be able to operate once Public Notice has been published, the performance testing has been completed satisfactorily, and the air operation permit has been issued or amended after proper relocation notification. As proof of publication is received by the Department, the publication date shall be inserted into Appendix PC.

### OPERATING LOCATION

The facility will be based at 363 State Road 415, New Smyrna Beach Florida (midway between Samsula and Alamana), in Volusia County. The UTM coordinates for that site are Zone 17; 255.526 km E; and, 3367.127 km North.

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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The following facility-wide conditions apply to all emissions units at this facility.

### ADMINISTRATIVE

1. Regulating Agencies: All documents relating to the initial application for a permit to operate and all initial compliance tests shall be submitted to the Department's Bureau of Air Regulation in Tallahassee. Subsequent applications for permit renewals, reports, tests, minor modifications, and notifications shall be submitted to the district office or local program that has permitting/compliance jurisdiction over the current or proposed operating location.

2. General Conditions: In addition to the specific conditions of this permit, the owner and operator are subject to and shall operate under the General Permit Conditions G.1 through G.15, contained in the attached Appendix GC - General Permit Conditions of this permit. General Permit Conditions are binding and enforceable pursuant to Chapter 403, F.S.

[Rule 62-4.160, F.A.C.]

3. Terminology: The terms used in this permit have specific meanings as defined in the corresponding chapters of the Florida Administrative Code.

4. Forms and Application Procedures: The permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C., and follow the application procedures in Chapter 62-4, F.A.C.

[Rule 62-210.900, F.A.C.]

5. Extension of Expiration Date: The permittee may, for good cause, request that this construction permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation prior to 60 days before the expiration of the permit.

[Rules 62-210.300(1), 62-4.070(4) and 62-4.210, F.A.C.]

6. Notification of Intent to Relocate: An air permit for a relocatable facility shall be amended upon each change of location of the facility. The owner or operator of the facility must submit a Notification of Intent to Relocate Air Pollutant Emitting Facility [DEP Form No. 62-210.900(6)] to the Department's District office and/or, if appropriate, the local program office, at least seven (7) days prior to the change, if the facility would be relocated to a county in which public notice of the proposed operation of the facility had been given within the previous five years pursuant to Rule 62-210.350(1), F.A.C., or otherwise thirty (30) days prior to the change. A separate form shall be submitted for each facility in the case of the relocation of multiple facilities which are jointly owned or operated.

The notification shall be submitted to the Department's District office and any approved local program office using DEP Form No. 62-210.900(6), along with the appropriate processing fee, and a USGS topographic map showing all potential sites in such county.

[Rule 62-210.370(1), F.A.C.]

7. Operation Permit Required: This permit authorizes construction/installation of the facility and initial operation for testing purposes in order to determine compliance with the applicable rules and standards. An operation permit is required for continued commercial operation of the facility. The owner or operator shall apply for and receive an operation permit prior to expiration of this permit. To apply for an operation permit, the applicant shall submit the appropriate application fee and, in quadruplicate, the appropriate application form, a certification that construction was completed with a notation of any deviations from the conditions in the construction permit, compliance test results, and such additional information as the Department may by law require. A copy of the compliance test results must be submitted to The Department's Tallahassee office as well as the district office or local program office that has compliance jurisdiction over the location where the performance test took place.

[Rules 62-4.030, 62-4.050, 62-4.220 and 62-210.300(2), F.A.C.]

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

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## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT No.: 7775112-001-AC

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8. Applicable Regulations: Unless otherwise indicated in this permit, the construction / installation and operation of the facility shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of Chapter 403, F.S.; Chapters 62-4, 62-204, 62-210, 62-296 and 62-297, F.A.C.; and, the Code of Federal Regulations Title 40, Parts 60 and 61, adopted by reference in Chapter 62-204, F.A.C. Issuance of this permit does not relieve the facility owner or operator from compliance with any applicable federal, state, or local regulations.

[Rules 62-204.800 and 62-210.300, F.A.C.]

### EMISSION LIMITING STANDARDS

9. General Visible Emissions Standard: Except for emissions units that are subject to a particulate matter or opacity limit set forth or established by rule and reflected by conditions elsewhere in this permit, no person shall cause, let, permit, suffer, or allow to be discharged into the atmosphere the emissions of air pollutants from any activity, the density of which is equal to or greater than that designated as Number 1 on the Ringelmann Chart (20% opacity). If a special compliance test is required (see specific condition 21), the test method for visible emissions shall be EPA Method 9, incorporated and adopted by reference in Chapter 62-297, F.A.C.

[Rules 62-296.320(4)(b)1. & 4., F.A.C.]

10. Unconfined Emissions of Particulate Matter:

- (a) No person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities such as loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions.
- (b) Any permit issued to a facility with emissions of unconfined particulate matter shall specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.
- (c) Reasonable precautions committed to by the permittee:
  - Unconfined fugitive particulate matter emissions that might be generated from various emission points throughout the crushing operation shall be controlled by a water suppression system with spray bars located at the various emissions points of the operation including, but not limited to, the Grizzly feeder, the entrance and exit of the impact crusher, the classifier screens and conveyor drop points.
  - All stockpiles, roadways and work-yard, where this crushing operation is located, shall apply water (by water trucks equipped with spray bars) and/or an effective dust suppressant(s) on a regular basis to control any unconfined fugitive particulate matter emissions that may be generated by vehicular traffic or prevailing winds.
- (d) In determining what constitutes reasonable precautions for a particular source, the Department shall consider the cost of the control technique or work practice, the environmental impacts of the technique or practice, and the degree of reduction of emissions expected from a particular technique or practice.

[Rule 62-296.320(4)©, F.A.C. ; and, application received 3/22/2000]

11. General Pollutant Emission Limiting Standards:

a. No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems deemed necessary and ordered by the Department.

{Permitting note: No vapor control device was deemed necessary at the time of issuance of this permit.}

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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b. No person shall cause, suffer, allow or permit the discharge of air pollutants, which cause or contribute to an objectionable odor.

{Permitting note: An objectionable odor is defined in Rule 62-210.200(198), F.A.C., as any odor present in the outdoor atmosphere which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance.]

[Rules 62-296.320(1)(a) and (2), F.A.C.]

### OPERATIONAL REQUIREMENTS

12. Modifications: No emissions unit or facility shall be constructed or modified without obtaining an air construction permit from the Department. Such permit must be obtained prior to the beginning of construction or modification.

[Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

13. Plant Operation - Problems: If temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department's district office and, if applicable, appropriate local program. The notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules.

[Rule 62-4.130, F.A.C.]

14. Circumvention: No person shall circumvent any air pollution control device or allow the emission of air pollutants without the applicable air pollution control device operating properly.

[Rule 62-210.650, F.A.C.]

### MISCELLANEOUS

15. Prior to application for an air operating permit and prior to commercial operation, the permittee shall:

- a. Resolve and bring to closure all pending violations and penalties with the Department;
- b. Train each operator on the equipment and document the training;
- c. Make sure each operator is knowledgeable of all of the operational requirements established in this permit; and,
- d. Provide a written corporate environmental policy to the Department.

[Rule 62-4.070(3), F.A.C.]

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

**Subsection A.**

The emissions units/activities contained in this subsection and their descriptions are as follows:

EMISSIONS UNIT/ACTIVITY NO.	DESCRIPTION
001	250 TPH Eagle Ultra Max Model 1200-25 Impactor Crusher; S/N: 1206; Mfg 1996; with associated feeder, classifier screens, and conveyors.
002	300 HP Cummins diesel engine; S/N: 11822539; with direct drives to the crusher and the electric generator, which powers the conveyors and classifier and the water-spray pump.

Emissions unit 001 is subject to the requirements of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR 60.670 - 60.676) and 40 CFR 60, Subpart A. The diesel engine is required to be permitted pursuant to Rule 62-210.300(1), F.A.C., Permits Required.

The following specific conditions apply to the above referenced emissions units after construction:

**ESSENTIAL POTENTIAL TO EMIT (PTE) PARAMETERS**

- Hours of Operation: The emissions units/activities are allowed to operate a maximum of 16 hours/day, 364 days/calendar year, for a total of 5824 hours/calendar year.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]
- Permitted Capacity: The maximum crusher operation process throughput of materials is 250 TPH.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]

**EMISSION LIMITATIONS AND PERFORMANCE STANDARDS**

- Visible Emissions: The following emission points/activities are subject to the visible emission limits in Table 1.

**Table 1**

Emission Point/Activity	Visible Emissions Limit (% Opacity) if operating in a PM maintenance area	Visible Emissions Limit (% Opacity) if <u>not</u> operating in a PM maintenance area and subject to 40CFR60, Subpart OOO
Receiving Hopper and Grizzly Feeder	5	10
Crusher	5	15*
Portable Belt Conveyor(s)	5	10**
Screen(s)	5	10
Truck Loading/Unloading	5	<20

- \* This limit applies since no capture system is used.
- \*\* This limit applies to transfer points onto conveyor belts only.

Hillsborough County and the City of Jacksonville/Duval County Particulate Maintenance Areas:

The particulate RACT regulations apply in areas designated maintenance for particulate, as well as parts of the "areas of influence" related to those areas that are not exempted by rule. When subject to both limits, the more stringent limit takes precedence. The description of the maintenance areas and their visible emissions limits are listed below:

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

**Hillsborough County**

That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U. S. 41 South and State Road 60 and a radius of 12 kilometers.

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).

[Rule 62-204.340, F.A.C.; and, Rule 1-3.61, Rules of the Environmental Protection Commission of Hillsborough County]

**City of Jacksonville/Duval County**

The downtown Jacksonville area in Duval County located within the following boundary lines: south and then west along the St. Johns River from its confluence with Long Branch Creek, to Main Street; north along Main Street to Eighth Street; east along Eighth Street to Evergreen Avenue; north along Evergreen Avenue to Long Branch Creek; and east along Long Branch Creek to the St. Johns River; and, including any emissions unit of unconfined particulate matter which is located [at or within] five kilometers outside the boundary of a particulate matter air quality maintenance area.

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).

[Rule 62-204.340, F.A.C.; and, Rule 2.8201, Jacksonville Environmental Protection Board]

4. No Visible Emissions - Saturated Materials: No owner or operator shall cause to be discharged into the atmosphere any visible emissions from:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.672(h)(1) & (2)]

5. Excess Emissions: The following excess emissions provisions cannot be used to vary any NSPS requirements from any subpart of 40 CFR 60:

- a. Excess emissions resulting from start-up, shutdown or malfunction of any emissions units shall be permitted providing (1) best operational practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized, but in no case exceed two hours in any 24 hour period unless specifically authorized by the Department for longer duration.

[Rule 62-210.700(1), F.A.C.]

- b. Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during start-up, shutdown, or malfunction shall be prohibited.

[Rule 62-210.700(4), F.A.C.]

**COMPLIANCE MONITORING AND TESTING REQUIREMENTS**

6. Test Frequency:

- a. Prior to obtaining an operation permit for this facility, the owner or operator shall conduct a visible emissions compliance test to demonstrate compliance with the standards of this permit.

[Rule 62-297.310(7)(a)1., F.A.C.]

- b. The owner or operator of the facility shall conduct visible emissions tests annually for all emission points/activities subject to a visible emission standard.

[Rule 62-297.310(7)(a)4.a., F.A.C.]



## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

7. Operating Rate During Testing: Unless otherwise stated in the applicable emission limiting standard rule, testing of emissions shall be conducted with the emissions unit operating 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 (i.e., at less than 90 percent of the maximum operation rate allowed by the permit); in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted provided however, operations do not exceed 100 percent of the maximum operation rate allowed by the permit. 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.]

8. Test Procedures shall meet all applicable requirements of Rule 62-297.310(4), F.A.C.

[Rule 62-297.310(4), F.A.C.]

9. Determination of Process Variables:

a. Required Equipment. The owner or operator of an emissions unit for which compliance tests are required shall install, operate, and maintain equipment or instruments necessary to determine process variables, such as process weight input or heat input, when such data are needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

b. Accuracy of Equipment. Equipment or instruments used to directly or indirectly determine process variables, including devices such as belt scales, weight hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value.

[Rule 62-297.310(5), F.A.C.]

10. Test Notification: The owner or operator shall notify the Department's district office and/or, if applicable, appropriate local program, at least 15 days prior to the date on which each formal compliance test is to begin. Notification shall include the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator.

[Rule 62-297.310(7)(a)9., F.A.C.; and, 40 CFR 60.8]

[Permitting note: The federal requirements of 40 CFR 60.8 require 30 days notice of the initial test and any tests required under section 114 of the Clean Air Act, but the Department rules require 15 days notice for the annual compliance tests. Unless otherwise advised by the Department, provide 15 days notice prior to conducting annual tests, except for the initial test when 30 days notice is required.]

11. Visible Emissions Test Method: In determining compliance with the standards in 40 CFR 60.672 (b) and (c), the owner or operator shall use EPA Method 9 and the procedures in 40 CFR 60.11, with the following additions:

a. The minimum distance between the observer and the emissions source shall be 4.57 meters (15 feet).

b. The observer shall, when possible, select a position that minimizes interference from other fugitive emissions units (e.g., road dust). The required observer position relative to the sun (Method 9, Section 2.1) must be followed.

c. For affected emissions units using wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of emissions is to be made at a point in the plume where the mist is no longer visible.

[40 CFR 60.675(c)(1)(i), (ii) & (iii)]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

12. When determining compliance with the fugitive emissions standard for any affected facility described under 40 CFR 60.672(b), the duration of the EPA Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

- a. There are no individual readings greater than 10 percent opacity; and
- b. There are no more than 3 readings of 10 percent for the 1-hour period.

[40 CFR 60.675(c)(3)(i) & (ii)]

13. When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under 40 CFR 60.672(c), the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

- a. There are no individual readings greater than 15 percent opacity; and
- b. There are no more than 3 readings of 15 percent for the 1-hour period.

[40 CFR 60.675(c)(4)(i) & (ii)]

14. Visible Emissions Test - Emissions Interference: For the method and procedure of 40 CFR 60.675(c), if emissions from two or more emissions units continuously interfere so that the opacity of fugitive emissions from an individual affected emissions unit cannot be read, either of the following procedures may be used:

- a. Use for the combined emission stream the highest fugitive opacity standard applicable to any of the individual affected emissions units contributing to the emissions stream
- b. Separate the emissions so that the opacity of emissions from each affected emissions unit can be read.

[40 CFR 60.675(e)(1)(i) & (ii)]

15. No Tests Required - Saturated Materials: Method 9 performance tests under 40 CFR 60.11 and 40 CFR 60.675 are not required for:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.675(h)(1) & (2)]

16. Special Compliance Tests: When the Department, after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained in a Department rule or in a permit issued pursuant to those rules is being violated, it shall require the owner or operator of the facility to conduct compliance tests which identify the nature and quantity of pollutant emissions from the emissions units and to provide a report on the results of said tests to the Department.

[Rule 62-297.310(7)(b), F.A.C.]

#### REPORTING AND RECORDKEEPING REQUIREMENTS

17. Log: The permittee shall maintain a daily log showing at a minimum, the following information:

- (a) The location and production rate.
- (b) The hours of operation of the crusher system.
- (c) Maintenance and repair logs for any work performed on the permitted emissions units.
  - (a) The use of wetting agents to control unconfined fugitive dust.
  - (b) Fuel consumption

This data shall be made available to the Department or county upon request.

[Rule 62-4.070(3), F.A.C.]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

18. Operation and Maintenance (O&M) Plan and Log: The permittee shall keep an O&M plan and a daily log for the air pollution control equipment with the facility. The log shall include the list of the parameters being monitored, the frequency of the check/maintenance, observations, and comments.  
[Rule 62-4.070(3), F.A.C.]

19. Test Reports: The owner or operator shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in 40 CFR 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with 40 CFR 60.672(b) and 40 CFR 60.672(c).

(b) The required test report shall be filed with the Department as soon as practical but no later than 45 days after the last sampling run of each test is completed.

(c) The test report shall provide sufficient detail on the emissions unit tested and the test procedures used to allow the Department to determine if the test was properly conducted and the test results properly computed. As a minimum, the test report, other than for an EPA Method 9 test, shall provide the following information:

1. The type, location, and designation of the emissions unit tested.
2. The facility at which the emissions unit is located.
3. The owner or operator of the emissions unit.
4. The normal type and amount of fuels used and materials processed, and the types and amounts of fuels used and material processed during each test run.
5. The method, raw data and computations used to determine the amount of fuels used and materials processed, if necessary to determine compliance with an applicable emission limiting standard.
6. The type of air pollution control devices installed on the emissions unit, its general condition, their normal operating parameters (pressure drops, total operating current and GPM scrubber water), and their operating parameters during each test run.

[40 CFR 60.676(f); and, Rules 62-297.310(8)(b) and (c)1. - 6., F.A.C.]

20. Change From Saturated to Unsaturated Material: The owner or operator of any screening operation, bucket elevator, or belt conveyor that processes saturated material and is subject to 40 CFR 60.672(h) and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the 10 percent opacity limit in 40 CFR 60.672(b) and the emission test requirements of 40 CFR 60.11 and subpart OOO. Likewise a screening operation, bucket elevator, or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the no visible emission limit in 40 CFR 60.672(h).

[40 CFR 60.676(g)]

21. Records Retention: This facility shall maintain a central file containing all measurements, records, and other data that are required to be collected pursuant to the various specific conditions of this permit.

[Rule 62-4.160(14)(a), F.A.C.]

22. Duration of Recordkeeping: Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These records shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

[Rule 62-4.160(14)(b), F.A.C.]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

23. Excess Emissions Report: If excess emissions occur, the owner or operator shall notify the Department within one working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident. Pursuant to the Standards of Performance for New Stationary Sources, excess emissions shall also be reported in accordance with 40 CFR 60.7.

[Rule 62-4.130, F.A.C.; and, 40 CFR 60.7]

24. Excess Emissions Report - Malfunctions: In case of excess emissions resulting from malfunctions, each owner or operator shall notify the Department or the appropriate local program in accordance with Rule 62-4.130, F.A.C. A full written report on the malfunctions shall be submitted in a quarterly report if requested by the Department.

[Rule 62-210.700(6), F.A.C.]

**NSPS GENERAL PROVISIONS**

[**Note**: The numbering of the original rules in the following conditions has been preserved for ease of reference. In cases where the state requirements are more restrictive than the NSPS general requirements, the state requirements shall prevail.]

25. Notification And Recordkeeping:

(a) Any owner or operator subject to the provisions of 40 CFR 60 shall furnish the Administrator written notification as follows:

(4) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(b) The owner or operator subject to the provisions of 40 CFR 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(f) The owner or operator subject to the provisions of 40 CFR 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least three years following the date of such measurements, maintenance, reports, and records.

[40 CFR 60.7]

26. Performance Tests:

(a) Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, (3) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance, (4) waives the

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard, or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

(d) The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present.

**[40 CFR 60.8]****27. Compliance With Standards And Maintenance Requirements:**

(a) Compliance with standards in 40 CFR 60, other than opacity standards, shall be determined only by performance tests established by 40 CFR 60.8, unless otherwise specified in the applicable standard.

(b) Compliance with opacity standards in 40 CFR 60.11 shall be determined by conducting observations in accordance with Reference Method 9 in appendix A of 40 CFR 60.11, any alternative method that is approved by the Administrator, or as provided in 40 CFR 60.11(e)(5). [Under certain conditions (40 CFR 60.675(c)(3)&(4)), Method 9 observation time may be reduced from 3 hours to 1 hour. Some affected facilities are exempted from Method 9 tests (40 CFR 60.675 (h)).]

(c) The opacity standards set forth in 40 CFR 60.11 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(g) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, nothing in this part shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

**[40 CFR 60.11]**

28. Circumvention: No owner or operator subject to the provisions of 40 CFR 60.12 shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

**[40 CFR 60.12]**

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

29. General Notification and Reporting Requirements:

(a) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[40 CFR 60.19]

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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30. **Prohibited Operations: Asbestos Containing Materials, 40 CFR 61, Subpart M:** This facility shall **not** process Asbestos Containing Materials (ACM), whether regulated asbestos containing material (RACM), category I or category II, and whether friable or nonfriable when received at the facility.

(1) "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite and includes trade acronyms products such as amosite.

(2) "Asbestos-containing materials", ACM, means any materials which contain more than one percent asbestos as determined by Polarized Light Microscopy. Based on a representative composite sample.

(3) "Asbestos removal project" means renovation or demolition operation in a facility that involves the removal of a threshold amount of regulated asbestos-containing material.

(4) "Category I Nonfriable Asbestos-Containing Material (ACM)" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(5) "Category II Nonfriable ACM" means any material, excluding Category I Nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

[40 CFR 61, Subpart M; Chapter 62-257, F.A.C.; and, Rules 62-730.300 and 62-701.520, F.A.C.]

31. **Restricted/Prohibited Activities: Co-location at Existing Stationary Source Facilities:** This relocatable crusher facility is not authorized to operate on the premises of, or adjacent to, any other permitted air pollution facility, unless the permit for such stationary source includes this crushing unit as an emission unit within such facility's air construction and air operation permits.

**MISCELLANEOUS**

32. The diesel engine is allowed to fire new No. 2 fuel oil, or better.

[Rules 62-4.070(3) and 62-210.200, Definitions - PTE, F.A.C.]

The following general conditions apply to all permits pursuant to Rule 62-4.160, F.A.C.:

- G.1 The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "Permit Conditions" and are binding and enforceable pursuant to Sections 403.161, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
- G.2 This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings or exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
- G.3 As provided in Subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit is not a waiver or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.
- G.4 This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
- G.5 This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
- G.6 The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
- G.7 The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at a reasonable time, access to the premises, where the permitted activity is located or conducted to:
- (a) Have access to and copy and records that must be kept under the conditions of the permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit, and,
  - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.



SECTION IV. APPENDIX GC - GENERAL CONDITIONS

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- G.8 If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
- (a) A description of and cause of non-compliance; and
  - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

- G.9 In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
- G.10 The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance, provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
- G.11 This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
- G.12 This permit or a copy thereof shall be kept at the work site of the permitted activity.
- G.13 This permit also constitutes:
- (a) Determination of Best Available Control Technology ( )
  - (b) Determination of Prevention of Significant Deterioration ( ) ; and
  - (c) Compliance with New Source Performance Standards (X).

G.14 The permittee shall comply with the following:

- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- (c) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application or this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- (d) Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements;
  - 2. The person responsible for performing the sampling or measurements;
  - 3. The dates analyses were performed;
  - 4. The person responsible for performing the analyses;
  - 5. The analytical techniques or methods used; and
  - 6. The results of such analyses.

G.15 When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

**SECTION V. APPENDIX PC – PERMITTED COUNTIES**

The permittee is authorized to operate in the following counties where public notice has been published:

<b>Permitted Counties:</b>	<b>Date of Publication:</b>	<b>Permitted Counties:</b>	<b>Date of Publication:</b>	<b>Permitted Counties:</b>	<b>Date of Publication:</b>
Alachua		Hamilton		Okeechobee	
Baker		Hardee		Orange	
Bay		Hendry		Osceola	
Bradford		Hernando		Palm Beach	
Brevard		Highlands		Pasco	
Broward		Hillsborough		Pinellas	
Calhoun		Holmes		Polk	
Charlotte		Indian River		Putnam	
Citrus		Jackson		St. Johns	
Clay		Jefferson		St. Lucie	
Collier		Lafayette		Santa Rosa	
Columbia		Lake		Sarasota	
Dade		Lee		Seminole	
DeSoto		Leon		Sumter	
Dixie		Levy		Suwannee	
Duval		Liberty		Taylor	
Escambia		Madison		Union	
Flagler		Manatee		Volusia	
Franklin		Marion		Wakulla	
Gasden		Martin		Walton	
Gilchrist		Monroe		Washington	
Glades		Nassau			
Gulf		Okaloosa			

**State of Florida**  
**Department of Environmental Protection**

**Memo**

TO	Clair Fancy
THRU	Bruce Mitchell <i>BM</i>
FROM	William Leffler, P.E. <i>WAL</i>
DATE	August 22, 2000
SUBJECT	Intent to Issue Package Draft Air Construction Permit No.: 7775112-001-AC Samsula Recycling, Inc. Relocatable Concrete, Asphalt, and Construction Debris Crushing Facility Eagle Ultra Max Model 1200-25
Day 90	August 24, 2000

This Draft air construction permit is for the construction/installation of a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The air construction permit will allow the permittee to advertise in counties for the purpose of construction/installation, performance testing, and to support an application for an air operating permit or subsequent air operating permit amendments when relocating notification is received.

The application history is as follows:

- Consent Order, OGC File No. 00-0210, dated February 22, 2000
- Application for air construction permit received on March 22, 2000 (received by Central District)
- Request for additional information dated April 20, 2000
- Response to request for additional information received May 26, 2000
- Request for information from Volusia County dated May 1, 2000
- Department's response to request for information by Volusia County dated May 26, 2000

The relocatable concrete, asphalt, and construction debris crusher is a minor facility. Unconfined fugitive particulate matter emissions from the process will be controlled by a water suppression system, and unconfined fugitive non-process particulate emissions from roadways, stockpiles and work-yard, will be controlled by watering and/or application of some effective dust suppressant(s).



# Department of INTEROFFICE MEMORANDUM Environmental Protection

Date: 11-Aug-2000 01:12pm

Twin Towers Office Building John B. Turner ORL 407/894-755  
2600 Blair Stone Road TURNER\_JB@a1.deporl.dep.state.fl.us  
Tallahassee, Florida 32399-2400 David B. Suhs  
Secretary

Jeb Bush  
Governor

Tel No:

- To: Bruce Mitchell TAL ( MITCHELL\_B@A1 )
- CC: Caroline Shine ORL ( SHINE\_C@a1.deporl.dep.state.fl.us )
- CC: William Leffler TAL ( LEFFLER\_W@A1 )
- CC: Clair Fancy TAL ( FANCY\_C@A1 )
- CC: Leonard Kozlov ORL ( KOZLOV\_L@a1.deporl.dep.state.fl.us )

**Subject:** Samsula Rock Crusher

I will mail you copies of relevant compliance and enforcement info. found in files of solid waste and ERP, along with their contact names and numbers. It will go in interoffice mail today.

- RFC-822-headers:

Received: from epic50.dep.state.fl.us ([199.73.169.50])  
by mail.epic1.dep.state.fl.us (PMDF V5.2-33 #37976)  
with ESMTP id <01JSUFJCL3AO0015Z8@mail.epic1.dep.state.fl.us>; Fri,  
11 Aug 2000 13:12:16 EDT

Received: from deporl.dep.state.fl.us ([199.73.202.11])  
by mail.epic50.dep.state.fl.us (PMDF V5.2-32 #31508)  
with ESMTP id <01JSUFJ9ELIC001YXS@mail.epic50.dep.state.fl.us>; Fri,  
11 Aug 2000 13:12:11 -0400 (EDT)

Received: from a1.deporl.dep.state.fl.us by mail.deporl.dep.state.fl.us  
(PMDF V5.2-33 #37974) id <01JSUFJ5KGAM000517@mail.deporl.dep.state.fl.us>;  
Fri, 11 Aug 2000 13:12:06 -0400 (EDT)

DEP CERTIFIED MAIL NO.:

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	CENTRAL DISTRICT
	)	
Complainant,	)	
	)	
vs.	)	OGC FILE NO: 00-0210
	)	
SAMSULA LANDFILL, INC., and	)	
YANCEY'S LAND CLEARING, INC.,	)	
	)	
Respondents .	)	
	)	

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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 Lobolly 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.

\_\_\_\_\_  
Date

Done and ordered this \_\_\_\_\_ day of \_\_\_\_\_, 2000 in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

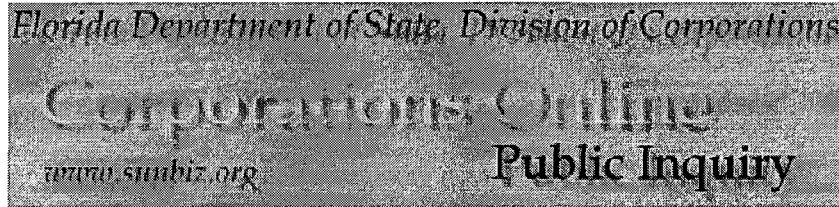
\_\_\_\_\_  
Vivian F. Garfein  
Director of District Management  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

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

\_\_\_\_\_  
Date

cc: Larry Morgan



**Florida Profit**

**SAMSULA RECYCLING, INC.**

**PRINCIPAL ADDRESS**

363 STATE ROAD 415  
NEW SMYRNA BEACH FL 32168

**MAILING ADDRESS**

363 STATE ROAD 415  
NEW SMYRNA BEACH FL 32168

**Document Number**  
P99000087738

**FEI Number**  
593613117

**Date Filed**  
10/04/1999

**State**  
FL

**Status**  
ACTIVE

**Effective Date**  
NONE

**Registered Agent**

Name & Address
FRIEBIS, DANIEL S 3890 TURTLE CREEK DRIVE SUITE B-1 PORT ORANGE FL 32127

**Officer/Director Detail**

Name & Address	Title
MCDONALD, CHARLES Y 363 STATE ROAD 415 NEW SMYRNA BEACH FL 32168	D
MCDONALD, JANET K 363 STATE ROAD 415 NEW SMYRNA BEACH FL 32168	D

**Annual Reports**

Report Year	Filed Date	Intangible Tax
2000	03/21/2000	

P99000087738



THE UNITED STATES CORPORATION COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 392064 7138741

AUTHORIZATION : Patricia Pijoto

COST LIMIT : \$ 70

ORDER DATE : September 29, 1999

ORDER TIME : 10:50 AM

ORDER NO. : 392064-005

CUSTOMER NO: 7138741

100003004831--7

CUSTOMER: Mr. Daniel S. Friebis
MR. DANIEL S. FRIEBIS
MR. DANIEL S. FRIEBIS
Suite B-1
3890 Turtle Creek Drive
Port Orange, FL 32127

DOMESTIC FILING

NAME: SAMSULA RECYCLING, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION
CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

CERTIFIED COPY
XX PLAIN STAMPED COPY
CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christine Lillich

EXAMINER'S INITIALS:

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RECEIVED 99 OCT 10 11:31 AM STATE SECRETARY OF CORPORATIONS FLORIDA

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SECRETARY OF STATE  
DIVISION OF CORPORATIONS

99 OCT -4 AM 10:46

ARTICLES OF INCORPORATION

OF

SAMSULA RECYCLING, INC.

The undersigned incorporator hereby forms a corporation under Chapter 607 of the laws of the State of Florida.

ARTICLE I. NAME

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The address of the principal office of this corporation shall be 363 State Road 415, New Smyrna Beach, Florida 32168, and the mailing address of the corporation shall be the same.

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This corporation may engage or transact in any or all lawful activities or business permitted under the laws of the United States, the State of Florida or any other state, country, territory or nation.

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The maximum number of shares of stock that this corporation is authorized to have outstanding at any one time is 1,000 shares of common stock having no par value per share.

ARTICLE IV. REGISTERED AGENT

The street address of the initial registered office of the corporation shall be 3890 Turtle Creek Drive, Suite B-1, Port Orange, Florida 32127, and the name of the initial registered agent of the corporation at that address is Daniel S. Friebis.

ARTICLE V. TERM OF EXISTENCE

This corporation is to exist perpetually.

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All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of its Board of Directors, subject to any limitation set forth in these Articles of Incorporation. This corporation shall have two Directors, initially. The names and addresses of the initial members of the Board of Directors are:


Charles Y. McDonald Dir.	363 State Road 415 New Smyrna Beach, Florida 32168
Janet K. McDonald Dir.	363 State Road 415 New Smyrna Beach, Florida 32168

ARTICLE VII. INCORPORATOR

The name and street address of the incorporator to these Articles of Incorporation:

The Company Corporation  
1013 Centre Road  
Wilmington, Delaware 19805

The undersigned incorporator has executed these Articles of Incorporation on October 4, 1999.

  
\_\_\_\_\_  
Its Agent, Laura R. Dunlap

crl

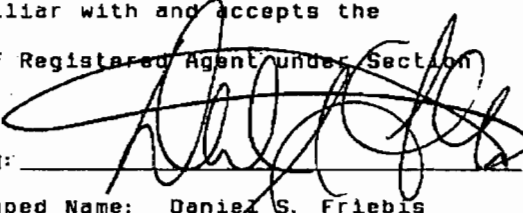
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DIVISION OF CORPORATIONS  
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Daniel S. Friebis is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

By:   
Typed Name: Daniel S. Friebis

P99000087738



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Suite B-1  
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Port Orange, FL 32127

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TALLAHASSEE, FLORIDA



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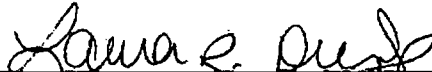
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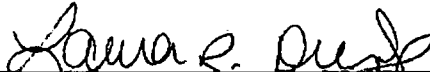
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Mr. William Leffler  
Page 1  
July 12, 2000

J. A. Jurgens	<b>J. A. JURGENS, P.A.</b> Attorneys at Law 505 Wekiva Springs Road Suite 500	Of Counsel: Brickleyer Smolker & Bolves, P.A.
Scott M. Price	Longwood, Florida 32779 Telephone: (407) 772-2277	500 E. Kennedy Blvd.
Albert E. Ford II	Facsimile (407) 772-2278	Suite 200 Tampa, Florida 33602

---

July 13, 2000

**VIA FEDERAL EXPRESS W/ ENCLOSURES**  
**VIA FACSIMILE W/OUT ENCLOSURES**  
**850-922-6979**

William Leffler, P.E.  
Professional Engineer II  
Florida Department of Environmental  
Protection  
Air Resource Management  
2600 Blair Stone Road  
MS 5500  
Tallahassee, FL 32399

**Re: Application of Samsula Recycling, Inc.-Relocatable, Concrete and Construction  
Debris Crusher**

Dear Mr. Leffler:

As you know, this firm represents Arthur Drewry, Robert H. and Zeta M. Baker, and William D. and Georgia M. Towner, homeowners and property owners on State Road 415, New Smyrna Beach, Florida 32168, adjacent to the proposed location of the subject crusher. Based on the following comments and concerns, the Department is urged to issue a Notice of Intent to Deny to Samsula Recycling, Inc. in response to their permit application.

**I. Applicant=s History of Violation of Department Rules and Standards.**

As you know Rule 62-4.070, FAC, requires the Department to issue a permit Aonly if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate]

Department standards or rules. Rule 62-4.070 (5), FAC, further requires that the Department take into consideration a permit applicant's violation of any Department rules at any installation when making its reasonable assurance determination. Given the applicant's long history of repeated violations of Department rules and standards, the Department must conclude that the applicant has failed to provide reasonable assurances to the Department as required for issuance of the permit.

The applicant, Samsula Recycling, Inc., Samsula Landfill, Inc. and Yancey's Land Clearing, Inc. are companies with the same principal, Charles Yancey McDonald, and manager, Michael Stokes. Thus, for purposes of Rule 62-4.070 (5), FAC, Department administrative precedent requires that the Department consider the violations of Yancey's Land Clearing, Inc., Samsula Landfill, Inc., and those of Charles Yancey McDonald as though they were those of the applicant, Samsula Recycling, Inc. This precedent was established by DEP in the Suwannee American Cement Company, Inc. record of decision for an air permit application, wherein the Department denied Suwannee American's permit application based on the poor environmental record of Anderson Columbia, Inc. because the two companies' principals were the same.

The environmental records of Yancey McDonald and the companies of which he is a principal contain a litany of violations of DEP rules, all of which are a matter of record of DEP. On January 17, 2000, a Verified Complaint filed with the Department against Yancey's Land Clearing, Inc. and Samsula Landfill, Inc. by this firm on behalf of Drewry, Bakers and Towners details a lengthy history of environmental violations by Yancey McDonald and his companies. The Department's response to this Verified Complaint was the entry of a Consent Order on February 22, 2000 with Samsula Landfill, Inc. and Yancey's Land Clearing, Inc., wherein the Department made specific findings of fact that numerous significant violations of Department rules and statutes had been committed by Yancey McDonald's companies and related entities, corporate and personal.

Moreover, as documented by the attached correspondence and documents from the Department, in less than sixty days of entering into the Consent Order, Samsula Landfill,

Inc., directly violated the Consent Order by moving the rock crusher to another county without informing the Department and operating and continuing to operate it without first obtaining a Department Air Permit as required by paragraph twelve of the Consent Order. Even after receiving a Department Warning Letter, Samsula Landfill, Inc. continued its unpermitted operation of the crusher, offering as an excuse only an undated and meaningless lease proposal from an individual that does not even have a permit for the specific crusher at issue, copy attached. Yesterday, it was established by DEP inspector Tom Mulligan that the applicant again surreptitiously moved the crusher to a new location in a third county and then attempted to dismantle and remove the crusher to conceal the unpermitted operation in expectation of a Department inspection. These most recent willful violations coupled with a long history of similar types of violations of DEP rules and other agencies demonstrates that the applicant has not provided reasonable assurances to the Department for the issuance of the applied for permit.

## **II. Industrial Wastewater Permit Requirement.**

Rule 62-620.300 (2), FAC, prohibits any industrial wastewater facility or activity which will reasonably be expected to be a source of water pollution, from being operated constructed or modified without a DEP Industrial Wastewater Permit. Heavy reliance is placed on the use of water suppression equipment to control the emissions of particulate matter (APM) throughout the subject application and response to the RAI. See, e.g., paragraphs three and four, Page 1-1 of permit application. The wastewater resulting from this proposed industrial activity will reasonably be expected be a source of water pollution in the form of significant changes in the pH, BOD, DO and total suspended solids of the contact water. Thus, an industrial wastewater permit from the Department should be required for this proposed industrial activity. By failing to address this issue, the applicant has failed to provide the Department reasonable assurances that the proposed activity can be conducted without violating Department standards and rules.

## **III. Particulate Matter Emission Limits.**

The applicants assurance that they will be able to control the PM emissions is highly

suspect at best. The Bakers who are immediately adjacent to the former location of the operation of the crusher, and their neighbors, the Towners, have been inundated and, at times, overwhelmed by the PM generated by the operation of the rock crusher. As part of the Verified Complaint, Mr. Towner provided the Department photographic evidence documenting large plumes of PM emitted from the crusher leaving the facility and settling onto the Bakers= and Towners= property. We will be glad to provide you a copy of the video tape for your review. The misery of the Bakers and Towners caused by this uncontrolled particulate matter generated by the operation of the rock crusher contrasts with the statement that ASamsula Recycling, Inc. operates the crushing activity relatively dust free@ (Page 6 paragraph 1 of the permit application), which is wholly inaccurate.

Moreover, there is no mention in the response to the Department=s RAI that the applicant will be able to achieve compliance with the PM standard of 0.05 g/dscm as required by 40 CFR Section 60.672 (a)(1). Given the failure to address this issue and the long history of unconfined PM emissions, the applicant has failed to provide reasonable assurance that it can operate the crusher without violating this air pollution standard.

#### **IV. Noise.**

We respectfully must take issue with the statement in paragraph three of your letter to Mr. Barry Appleby of Volusia County concerning the Department=s regulation of noise. While it is recognized that noise regulation has at times been an issue with the Department, the Department clearly has the authority to impose permit conditions related to noise. This authority is derived from the definition of Apollution@ found in Section 403.031 (7), F.S., and the definition of Air pollution@ found in Rules 62- 204.200 (3) and 62-210.200 (22), FAC. Specifically Anoise@ is defined as a pollutant by Section 403.021 (7), F.S. Further, Rules 62-204.200 (3) and 62-210.200 (2), FAC, define Air pollution@ to include the presence of Apollutants@, which includes noise pursuant to Section 403.031 (7), F.S., in quantities which are or may be harmful to human health or welfare, animal or plant lives or property, or unreasonably interfere with the enjoyment of life or property, including outdoor

recreation. The fact that these definitions of air pollution contained in these rules tracks verbatim that of Section 403.031 (7), F.S., further supports the conclusion that noise is clearly included within the definition of air pollution. In fact, the Palm Beach County circuit court has previously determined that noise is a form of pollution governed under Chapter 403, as specifically referenced in the Verified Complaint under 403.412 against Palm Beach County International Airport. Therefore, the Department has the authority to impose limitations regarding noise within the subject permit application process. It would be recommended under the circumstances that the Department recognize that a violation of Volusia County's Noise Ordinance would be injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with enjoyment of life or property, including outdoor recreation, and, therefore, require compliance with same.

If it is the Department's position that it does not have standards for the regulation of noise, then this is a violation of Section 403.061 (11), F.S., which clearly requires that the Department promulgate standards for the abatement of excessive and unnecessary noise. Thus, the Department's choice in this instance seems clear. Either interpret its own air pollution control rules to include the control of excessive and unnecessary noise or immediately initiate rule making in order to comply with the requirements of Section 403.061 (11), F.S.

**V. Other Emissions.**

Exception is taken regarding statements made in a response to the RAI in items 8 and 10. There the applicant claims that the loader is not operated continuously to feed the crusher and should not be considered as part of the crusher operation and not included in the permit conditions. To the contrary, the loader must be considered as part of the crusher operation because 40 CFR Section 60.972 (a) provides that discharges to the atmosphere from any transfer point on a belt conveyor is subject to the PM and opacity standards contained in that section. Clearly, there will be discharges into the atmosphere from the transfer point on belt conveyors from the loader unloading concrete debris onto the conveyor point. Therefore, the discharges from these transfers are subject to the standards contained



Mr. William Leffler  
Page 6  
July 12, 2000

in the referenced section. Applicant's failure to indicate how or whether these transfers will comply with this requirement indicates that the applicant has failed to provide reasonable assurances that the operation can be conducted in compliance with applicable Department standards. Furthermore, it has been the experience of the Bakers and Towners that the operation of this loader and the associated unloading into the rock crusher has been a highly significant source of PM and this issue must be addressed by the Department.

Thank you for the opportunity to provide comments on this permit application. On behalf of Arthur Drewry, Robert H. and Zeta M. Baker and William D. and Georgia M. Towner, we look forward to your response.

Sincerely yours,

J.A. JURGENS, P.A.

J.A. Jurgens, Esquire

enclosures

JAJ/aer

cc: Douglas Weaver, Esquire, County Attorney's Office, Volusia County  
Mr. Arthur Drewry  
Mr. & Mrs. Baker  
Mr. & Mrs. Towner  
Keith W. Brickleyer, Esquire  
Mr. James Bradner, FDEP, Central District

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MR. DANIEL S. FRIEBIS  
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DOMESTIC FILING

NAME: SAMSULA RECYCLING, INC.

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       CERTIFIED COPY  
XX PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christine Lillich

EXAMINER'S INITIALS:

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
99 OCT -4 AM 10:46

99 OCT 10 PM 3:11  
RECEIVED  
STATE  
SECRETARY OF CORPORATIONS  
TALLAHASSEE FLORIDA

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
99 OCT -4 AM 10:46

ARTICLES OF INCORPORATION  
OF  
SAMSULA RECYCLING, INC.

The undersigned incorporator hereby forms a corporation under Chapter 607 of the laws of the State of Florida.

ARTICLE I. NAME

The name of the corporation shall be:

SAMSULA RECYCLING, INC.

The address of the principal office of this corporation shall be 363 State Road 415, New Smyrna Beach, Florida 32168, and the mailing address of the corporation shall be the same.

ARTICLE II. NATURE OF BUSINESS

This corporation may engage or transact in any or all lawful activities or business permitted under the laws of the United States, the State of Florida or any other state, country, territory or nation.

ARTICLE III. CAPITAL STOCK

The maximum number of shares of stock that this corporation is authorized to have outstanding at any one time is 1,000 shares of common stock having no par value per share.

ARTICLE IV. REGISTERED AGENT

The street address of the initial registered office of the corporation shall be 3890 Turtle Creek Drive, Suite B-1, Port Orange, Florida 32127, and the name of the initial registered agent of the corporation at that address is Daniel S. Friebis.

ARTICLE V. TERM OF EXISTENCE

This corporation is to exist perpetually.

ARTICLE VI. DIRECTORS

All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of its Board of Directors, subject to any limitation set forth in these Articles of Incorporation. This corporation shall have two Directors, initially. The names and addresses of the initial members of the Board of Directors are:

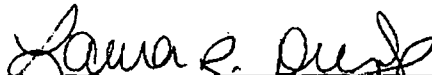
Charles Y. McDonald Dir.	363 State Road 415 New Smyrna Beach, Florida 32168
Janet K. McDonald Dir.	363 State Road 415 New Smyrna Beach, Florida 32168

ARTICLE VII. INCORPORATOR

The name and street address of the incorporator to these Articles of Incorporation:

The Company Corporation  
1013 Centre Road  
Wilmington, Delaware 19805

The undersigned incorporator has executed these Articles of Incorporation on October 4, 1999.

  
\_\_\_\_\_  
Its Agent, Laura R. Dunlap

crl

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
99 OCT -4 AM 10:46

ACCEPTANCE OF REGISTERED AGENT  
DESIGNATED IN THE ARTICLES OF INCORPORATION

Daniel S. Friebis, an individual residing in this state, having a business office identical with the registered office of the corporation named below, and having been designated as the Registered Agent in the above and foregoing Articles of Incorporation of:

SAMSULA RECYCLING, INC.

Daniel S. Friebis is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

By: 

Typed Name: Daniel S. Friebis

P99000087738



THE UNITED STATES CORPORATION COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 392064 7138741

AUTHORIZATION : Patricia Pizeto

COST LIMIT : \$ 70

ORDER DATE : September 29, 1999

ORDER TIME : 10:50 AM

ORDER NO. : 392064-005

CUSTOMER NO: 7138741

100003004831--7

CUSTOMER: Mr. Daniel S. Friebis
MR. DANIEL S. FRIEBIS
MR. DANIEL S. FRIEBIS
Suite B-1
3890 Turtle Creek Drive
Port Orange, FL 32127

DOMESTIC FILING

NAME: SAMSULA RECYCLING, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION
CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

CERTIFIED COPY
XX PLAIN STAMPED COPY
CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christine Lillich

EXAMINER'S INITIALS:

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 OCT -4 AM 10:46

RECEIVED
99 OCT 10 PM 3:11
STATE
CORPORATIONS
FLORIDA

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
99 OCT -4 AM 10:46

ARTICLES OF INCORPORATION

OF

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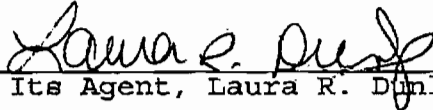
Charles Y. McDonald Dir.	363 State Road 415 New Smyrna Beach, Florida 32168
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crl

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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SAMSULA RECYCLING, INC.

Daniel S. Friebis is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

By: 

Typed Name: Daniel S. Friebis

*Sue  
ERP*

**Florida Department of  
Environmental Protection**

Memorandum

CENTRAL DISTRICT

**RECEIVED**  
AUG 14 2000  
BUREAU OF AIR REGULATION

TO: Vivian F. Garfein  
Director of District Management

FROM: L. T. Kozlov, P. E. *LTK*  
Program Administrator  
Air Resources Management

DATE: February 18, 2000

SUBJECT: Samsula Landfill and Yancey's Landclearing  
OGC FILE NO. 00-0210

The information and allegations set forth in the subject Consent Order have been reviewed with respect to the requirements of Chapter 403, Florida Statutes, and Florida Administrative Code Chapter 62.

The information contained within is complete and accurate to the best of my knowledge, information, and belief.

Received DEP  
FEB 24 2000  
Central Dist. ERP

*W*  
LTK/cs  
Attachment

COPY

DEP CERTIFIED MAIL NO.: P 248 041 823

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	CENTRAL DISTRICT
	)	
Complainant,	)	
	)	
vs.	)	OGC FILE NO: 00-0210
	)	
SAMSULA LANDFILL, INC., and	)	
YANCEY'S LAND CLEARING, INC.,	)	
	)	
Respondents .	)	
	)	

-----  
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 Lobolly 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.

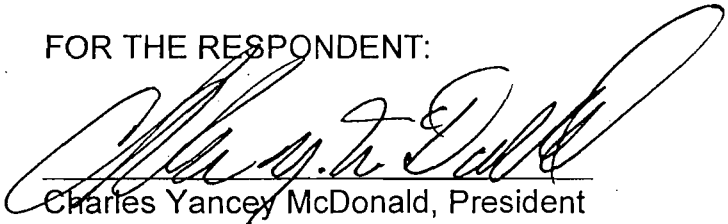
28. In the event of a sale or conveyance of the facility or of the property upon which the facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondents shall, at least 30 days prior to a sale or conveyance of the property or facility, (1) notify the 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:

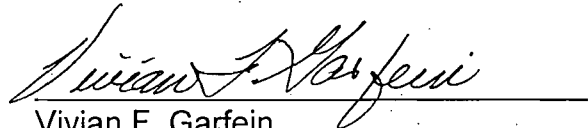


Charles Yancey McDonald, President  
Yancey's Land Clearing, Inc.  
Samsula Landfill, Inc.

2-18-00  
Date

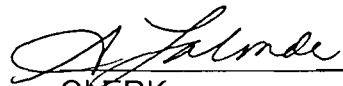
Done and ordered this 22nd day of February, 2000 in Orange County, Florida.

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

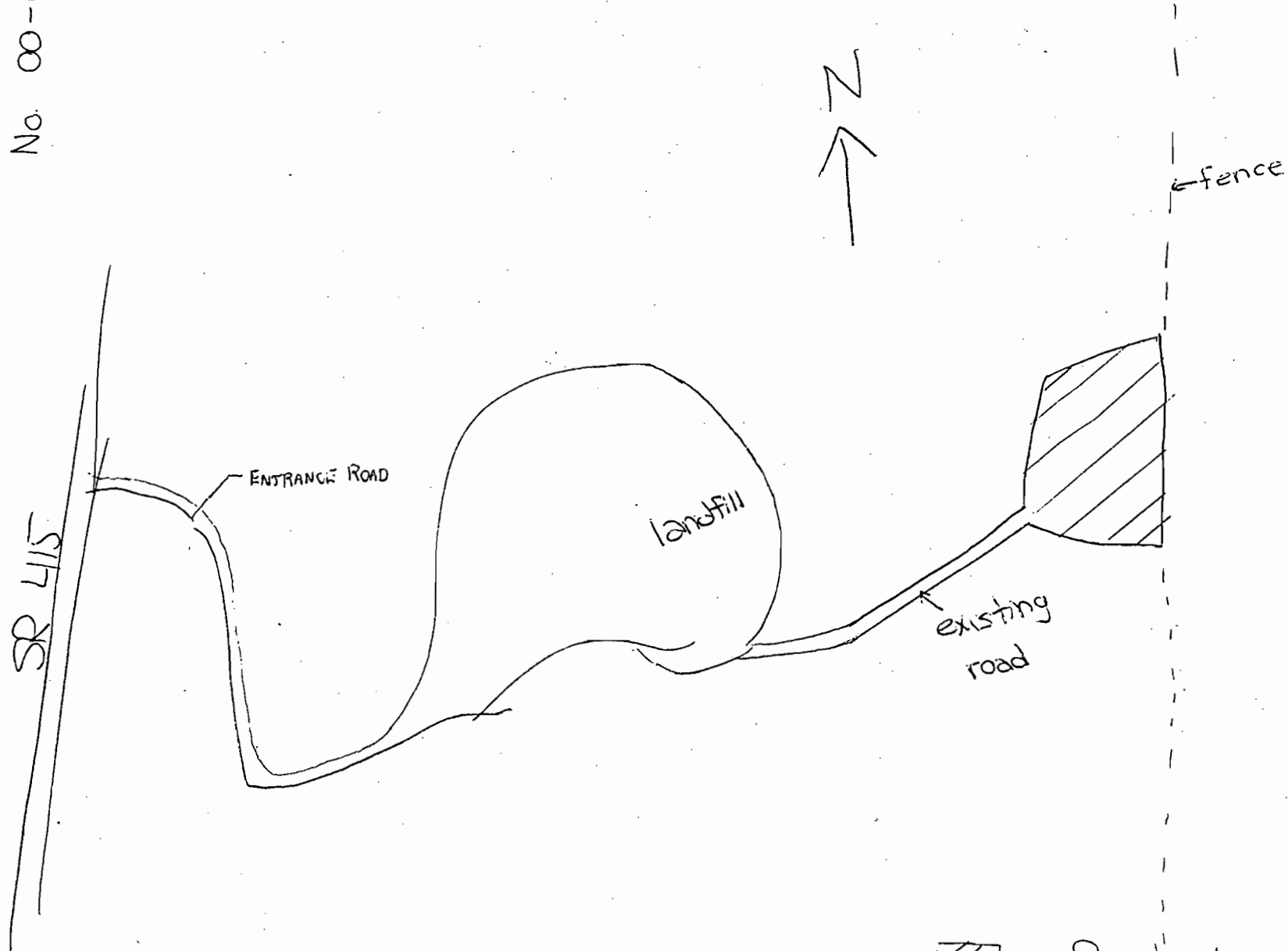
Samsula Landfill

OCC File

No. 00-0210

exhibit A.

SR 415



 = Restoration Area  
APPROX SIZE: 1.7 ACRES

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





AAB → S.L. → F.L.

# Department of Environmental Protection

Received DEP  
FEB 11 2000  
Central Dist. ERP

Jeb Bush  
Governor  
**CERTIFIED LETTER**  
P 248 041 851

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

David B. Struhs  
Secretary

OWL-AP-00-468

Charles Yancey McDonald, President  
Samsula Landfill, Inc.  
2455 Tomoka Farms Road  
Daytona Beach, Florida 32124

Volusia County - AP  
Air Curtain Incinerator and Rock Crusher

Dear Mr. Yancey:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A Department field inspection and file review of your facility located at 363 SR 44, New Smyrna Beach, Volusia County, Florida indicates that violations of Florida Statutes and Rules may exist at the above described facility. The following was observed:

The Department has determined the rock crusher located at your facility should have Department Air permit for operation.

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

Section 403.087(1), Florida Statutes, provides that no stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the Department, unless exempted by Department rules.

Rule 62-4.030, Florida Administrative Code, General Prohibition, provides that any stationery installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permit issued by the Department, unless the source is exempted by Department rule.

Rule 62-210.300, F.A.C. Permits Required provides: The owner or operator of any emissions unit which emits or can reasonably be expected to emit any air pollutant shall

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

# RECORD OF TELEPHONE COMMUNICATION



PERSON CALLING: \_\_\_\_\_ PHONE: \_\_\_\_\_  
PERSON CONTACTED: *Mike Stokes* \_\_\_\_\_ PHONE: *(904) 423-6769* \_\_\_\_\_  
FILE/CASE NAME/#: *Sansulla Landfill* \_\_\_\_\_ COUNTY: *Volusia* \_\_\_\_\_  
TIME From: *0950* \_\_\_\_\_ To: *1005* \_\_\_\_\_ DATE: *15 Feb 00* \_\_\_\_\_

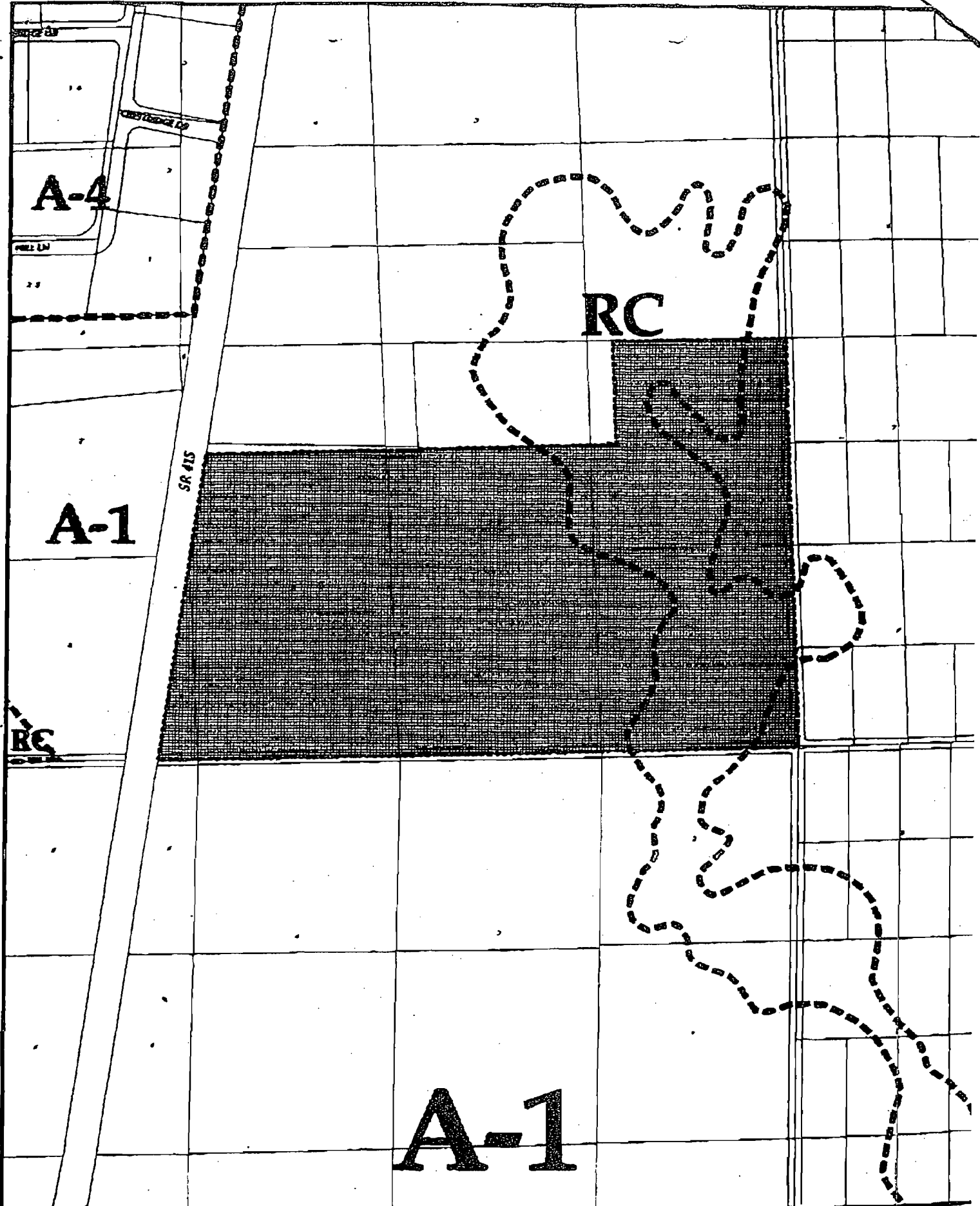
**SUMMARY** : Called Mike to review the language we were writing into the consent order. Mike was concerned with the use of the word "wetland" and wanted to replant with "Slash Pines." I read the consent order language Sue had typed to Mike. The Language included wetland and we had included among, others "Pond Pine" as a FACW choice option for him. Mike seemed delighted with the choices and did not object to the use of wetlands as per the conversation to date. I did however remind him that the county could be more constraining and he would have to work the them. I offered help and or assistance in the future. At the close of the conversation Mike seemed pleased and willing to sign the consent order as read to him this date.

**ACTION REQUIRED** Send the approved language of the consent order (CO) to Caroline Shine (Air Section) for inclusion into the final draft of the CO to be signed on Thursday.

CC: \_\_\_\_\_  
\_\_\_\_\_

SIGNED: *Mark Bond* DATE: *15 FEB 00*





**SPECIAL EXCEPTION**

FROM: A-1 & RC  
TO: N/A



**REQUEST AREA**



**CASE NUMBER**  
S-99-095

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.

---

**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.

*Bill Bowen*  
*278-5738*  
*s/c*

## 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 403.037, 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 17<sup>th</sup> 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  
AHDW

Before me this 17<sup>th</sup> day of January, 2000, appeared, Robert H. Baker, Zetta M. Baker, William D. Towner, Georgia M. Towner, and ~~Andrew~~ 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.

# Samsula Landfill, Inc.

363 State Road 415

New Smyrna Beach, Fl 32168

Phone: 904/423-6769

Fax: 904/423-1436



## FAX COVER SHEET

DATE: 8-11-00

TOTAL NUMBER OF PAGES: 2

SEND TO: FDEP

ATTENTION: Mr. Leffler

FAX NUMBER: 850-922-6979

FROM: M. Ke Stokes

COMMENTS:

Here's the letter! Maybe it won't get intercepted.

Thank You

Mike

**WICKERSHAM & BOWERS**  
ATTORNEYS AND COUNSELLORS AT LAW

501 NORTH GRANDVIEW AVENUE, SUITE 115  
SUNTRUST EXECUTIVE CENTER

DAYTONA BEACH, FLORIDA 32118

MAILING ADDRESS: POST OFFICE DRAWER 2250  
DAYTONA BEACH, FLORIDA 32115-2250

(904) 252-3000

FAX (904) 239-5133

E-MAIL: wickersham@msn.com

CHRISTOPHER W. WICKERSHAM, SR.

ADMITTED IN:

FLORIDA

DISTRICT OF COLUMBIA

CERTIFIED MEDIATOR:

FAMILY LAW

CIVIL CIRCUIT

COUNTY COURT

LLOYD BOWERS

ADMITTED IN:

FLORIDA

LOUISIANA

TEXAS

CERTIFIED MEDIATOR:

FAMILY LAW

August 1, 2000

Mr. William Leffler, P.E.  
Department of Environmental Protection  
Twin Towers Office Buildings  
2600 Blairstone Road  
Tallahassee, FL 32399-2400

RECEIVED

AUG 03 2000

BUREAU OF AIR REGULATION

**Re: Samsula Recycling Incorporated  
Application for Air Permit**

Dear Mr Leffler:

Please be advised that I represent Samsula Recycling Incorporated. As I know you are aware, my client submitted an application for an air permit (Non-titled V Source) on or about March 22, 2000. Subsequent to their application, you requested additional information. This additional information was provided to you per a letter to you from a Mr. James E. Colella, P.E., dated May 25, 2000.

It appears that my client is entitled to the permit and has submitted all the necessary information which you have requested. I would appreciate receiving information from you as to why my client's permit has not been issued. Additionally, we would like to receive from you information concerning when our client's permit will be issued.

As a result of the delays that my client has experienced in obtaining the permit, he is suffering and on-going business loss and we would like to do everything possible to expedite the issuance of the permit.

I look forward to hearing from you, and remain,

Very truly yours,



CHRISTOPHER W. WICKERSHAM, SR.

CWW/lbw

cc: Yancey McDonald  
Mike Stokes

Best Available Copy

e-mail

To: Clair Fancy

Thru: Jim Pennington

From: Dennis Tober

Subject: Samsula

Date: 7/31/00

Please find attached summary of air compliance violations as result of letter of July 13, 2000 from J.A. Jurgens, P.A., Attorneys at Law requesting the Department to issue a Notice of Intent to Deny to Samsula Recycling, Inc. in response to their permit application.

Samsula Recycling, Inc. is affiliated with Samsula Landfill, Inc. and Yancey's Landclearing, Inc. Therefore, all three are included in the summary. The summary contains data related to their air compliance history only.

This report summarizes a compliance incident associated with the Rock Crusher operation located at Samsula Recycling, Inc. Airs ID#: 7775112 and a compliance incident associated with the Air Curtain Incinerator located at Samsula Landfill, Inc. Airs ID: 1270154. There is not an air permit associated with the operation known as Yancey's Landclearing, Inc. All compliance and enforcement actions to date have been initiated and are presently conducted for resolve by the DEP Central District Office.

**Summary of Air Compliance History  
for  
Samsula Recycling, Inc.  
Samsula Landfill, Inc.  
Yancy's Land Clearing, Inc.**

Samsula Recycling, Inc. Airs ID: 7775112 ( ARMS Database)

Office	Activity	Activity Notes	Date Done	Description	Compliance Status
CD	Complaint Inspection	Rock Crusher was dismantled at Time of Inspection (operated for about 1 month)	7/13/00	Facility Wide	MNC  Being Resolved with Incident of 4/17/00
CD	Warning Letter Issued		6/20/00		
CD	Complaint Inspection	Evidence of Crusher Operation Obtained	4/17/00	Facility Wide	MNC

Summary: Two (2) violations occurring on 4/17/00 and 7/13/00 regarding the rock crusher resulting in a violation code MNC which is presently under resolve.

Samsula Landfill, Inc. Airs.ID: 1270154 ( ARMS Database)

Office	Activity	Activity Notes	Date Done	Description	Compliance Status
CD	Consent Order Executed	Consent order for Air/Wetland Violation	2/22/00		No Penalty entered Into ARMS
CD	Complaint Inspection	No Notes Entered Into ARMS	11/10/99	Air Curtain Incinerator	MNC

Summary: One (1) violation related to Air Curtain Incinerator resulting in a violation code MNC

Yancey's Landclearing Inc.

Summary: No separate air permit for Yancey's Landclearing, Inc. Yancey's Landclearing, Inc. listed under Samsula Recycling, Inc Airs ID: 7775112 and Samsula Landfill, Inc. Airs ID: 1270154

Complaint Record

There are 6 complaints listed in the ARMS database from 12/01/98 to 7/11/00 related to air curtain incinerator and the rock crusher

Asbestos Violations

The Bureau of Air Monitoring and Mobile Sources reports that there are no violations on record for asbestos related issues

## Air Compliance Chronology

### Samsula Recycling, Samsula Landfill, Inc.

As Submitted by DEP Central District Office

#### Samsula Chronology

1. December 3, 1998 Department inspection. Construction and operation of an AC incinerator without a permit, and improperly designed.
2. January 17, 1999 Enforcement Meeting
3. February 23, 1999 Enforcement Meeting \$750.00 fine. Source not to operate the AC without repairing and permit. The company to conduct VE immediately upon operation. The purpose was to insure the repairs were properly made.
4. April 4, 1999 Construction permit issued. Expiration date 3/31/2004. Operation application required within a 180 days of permit. Permit states a VE is due within 30 days of operation.
5. November 9, 1999 Third party attorney advised the Department of violation. No application for operation permit and an unpermitted rock crusher on site.
6. November 10, 1999 DEP inspection. Alan Zahm consulted by Compliance Section as to whether a permit is needed for the Crusher. Zahm states he doesn't interpret it to be subject to Subpart 000.
7. December 2, 1999 Letter from Volusia County representative stating he spoke with John Turner that permit may be required if the particulates exceeded a certain level.
8. Warning Letter sent for failure to comply with the terms of the consent order.



9. December 20, 1999 Meeting held with Samsula representative. Discussion held with the company to pay a fine and apply for an operation permit or surrender permit. Company stated that it plans to move the incinerator 1500 feet. Shine requested of permitting supervisor the construction permit was still alive, and the answer was yes, but the company is in noncompliance with the application condition. Company records indicated the AC ceased operation on 6-5-99. Old Consent Order still alive. Company can not operate the source without repairs and testing.

10. January 24, 2000 Demand letter sent for stipulated penalties of \$1250.00 for failure to comply with the terms of the Consent Order.

11. January 27, 2000 Site inspection. Design capacity of the crusher obtained. According to the report the crusher has not been operated since June 1999.

12. February 4, 2000 Monies paid. Administrator advised that permit is needed and the company is subject to Subpart 000, and to initiate enforcement.

13. Warning letter drafted on 2-7-2000, and meeting is scheduled for Friday 2-11-2000 at 11AM.

14. DEP representatives met with Samsula representatives On February 11, 2000 in regard to the air curtain incinerator, rock crusher, solid waste and wetland issues. According to Samsula representatives informed the air curtain incinerator has been completely dismantled. Samsula agreed to submit an application and not operate rock crusher without a permit. Samsula signs consent order.

## Portable 1200-25CC



The most portable, closed-circuit plant with the largest production on the market today, the UltraMax 1200-25 is totally self-contained.

On-plant, double-deck screening means big profit potential for the large, custom-crushing operation through high-volume, multiple-product production, precise product sizing and the ability to change product specifications rapidly.



### Plant Specs:

**Crusher Size:** 3-Stage, UltraMax 25 (32,500 lbs.)

**Rotor Diameter & Width:** 47" x 47"

**Crusher Feed Opening:** 48" x 34"

**Feed Hopper:** 17 cubic yds./23 tons

**Vibrating Grizzly Feeder:** 16' x 45 1/2' with 5' tapered step grizzly

**Integral Double-Deck Vibrating Screen:** 5' x 16'

**Discharge System:** 42" to double-deck screen

**On-Plant Power Supply:** 305 HP diesel and 100 Kw generator; plant-mounted electrical panel

**Fast Hydraulic Lift/Leveling System:** Standard on-board, gas-powered; also used for secondary curtain settings & crusher access

**Travel Height:** 13' 6"

**Weight:** 122,500 lbs.

### Recycle

UltraMax 1400-45

**UltraMax 1200-25CC**

Plant Features

UltraMax 1000-15CV

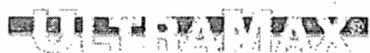
UltraMax 1000-15CC

UltraMax 500-05CV

UltraMax Impactor

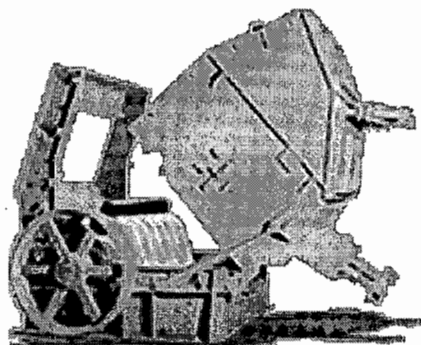


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### **Portability Means Profitability**

In the recycle business, mobility is everything. To make money, you've got to ditch the multi-day setups and tear downs - and the added labor. The UltraMax Series is quick in/quick out.



All models are self-contained, easy-to-transport, and outfitted with a standard, built-in, hydraulic lift and leveling system that allows relocation in a fraction of the setup and teardown time.

### **Ultra-High Reduction Ratio**

A 3-stage crushing action results in uniform cubical product, high crush count, a reduction ratio in excess of 24 to 1 and cubicity necessary to meet Superpave specs. When you need a variety of marketable products at lower costs per ton - choose the UltraMax.

### **The Industry's Most Aggressive & Dependable Solid-Steel Rotor Backed By Team Eagle's 5-Year Rotor Replacement Guarantee**

This sculptured, solid-steel rotor is the industry's heaviest. It absorbs the shock of huge, slabby, reinforced concrete with ease. That's why we back it with a 5-year rotor guarantee that our competitors won't offer.

### **Primary And Secondary Curtains Are Designed For Maximum Wear Life**

The UltraMax Series features a simple, reversible, one-piece primary curtain that's gravity-hung and fully adjustable for maximum wear life. A hydraulically-adjustable secondary curtain has interchangeable liners for optimum product sizing and wear life. The massive weight of the curtains allows the gap settings to be constantly maintained to ensure uniform product size.

### **Sculptured Solid-Steel 3-Bar Rotor Design For Optimum Rotor Penetration, Less Wear & Increased Profitability**

The UltraMax is able to achieve higher reduction ratios, production rates and highly cubical Superpave specs. Team Eagle's extensive investment in wear metal alloy research and development has resulted in a blow bar that will far outlast the

### **Recycle**

[UltraMax 1400-45](#)

[UltraMax 1200-25CC](#)

[UltraMax 1000-15CV](#)

[UltraMax 1000-15CC](#)

[UltraMax 500-05CV](#)

### **UltraMax Impactor**

[Look Inside!](#)

competition and in the end, will enhance your profitability.

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Code	Description 2/3/4
1611	HEAVY CONSTRUCTION OTHER THAN BLDG CONSTR-CONTRACT HIGHWAY & STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAY AND STREET CONSTRUCTION
1622	HEAVY CONSTRUCTION OTHER THAN BLDG CONSTR-CONTRACT HEAVY CONSTRUCTION, EXCEPT HIGHWAY AND STREET BRIDGE, TUNNEL, & ELEVATED HIGHWAY
1623	HEAVY CONSTRUCTION OTHER THAN BLDG CONSTR-CONTRACT HEAVY CONSTRUCTION, EXCEPT HIGHWAY AND STREET WATER, SEWER, AND UTILITY LINES
1629	HEAVY CONSTRUCTION OTHER THAN BLDG CONSTR-CONTRACT HEAVY CONSTRUCTION, EXCEPT HIGHWAY AND STREET HEAVY CONSTRUCTION, NEC

Enter SIC Code

Count: \*4

&lt;Replace&gt;



**New Mexico Clay**

Ceramic King [Table of contents](#) [Text search](#)

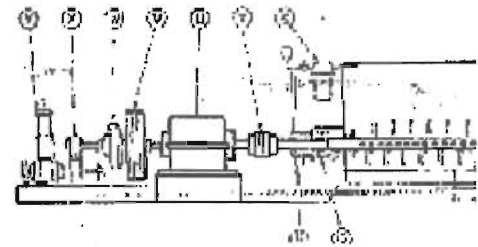
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## Large Pugmill



This extruder began life as a Vac Air, it has been massively altered by Professional Equipment Repair and Mfg. of Albuquerque NM. It has been used to produce clay for potters for many years.

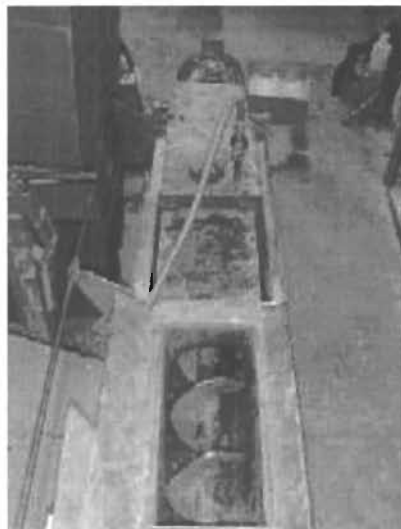


Old Vac air pug mill.

It is very Large! it could be used for extruding tile with the proper die. Die on it now is 5 3/4" square. 13' long 25hp motor. 240v 3 phase.

\$5,000.00

1 1/2 HP vacuum pump \$1,200.



J. A. JURGENS, P.A.  
Attorneys at Law  
505 Welkiva Springs Road  
Suite 500  
Longwood, Florida 32779  
Telephone: (407) 772-2277  
Facsimile (407) 772-2278

J. A. Jurgens  
Scott M. Price  
Albert E. Ford II

Of Counsel:  
Brickleymyer Smolker  
& Bolves, P.A.  
500 E. Kennedy Blvd.  
Suite 200  
Tampa, Florida 33602

---

July 13, 2000

**VIA FEDERAL EXPRESS W/ ENCLOSURES**  
**VIA FACSIMILE W/OUT ENCLOSURES**  
**850-922-6979**

William Leffler, P.E.  
Professional Engineer II  
Florida Department of Environmental  
Protection  
Air Resource Management  
2600 Blair Stone Road  
MS 5500  
Tallahassee, FL 32399

**RECEIVED**

**JUL 17 2000**

**BUREAU OF AIR REGULATION**

**Re: Application of Samsula Recycling, Inc.-Relocatable, Concrete and Construction  
Debris Crusher**

Dear Mr. Leffler:

As you know, this firm represents Arthur Drewry, Robert H. and Zeta M. Baker, and William D. and Georgia M. Towner, homeowners and property owners on State Road 415, New Smyrna Beach, Florida 32168, adjacent to the proposed location of the subject crusher. Based on the following comments and concerns, the Department is urged to issue a Notice of Intent to Deny to Samsula Recycling, Inc. in response to their permit application.

**I. Applicant's History of Violation of Department Rules and Standards.**

As you know Rule 62-4.070, FAC, requires the Department to issue a permit "only if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate] Department standards or rules." Rule 62-4.070 (5), FAC, further requires that the Department "take into consideration a permit applicants violation of any Department rules



at any installation” when making its reasonable assurance determination. Given the applicants long history of repeated violations of Department rules and standards, the Department must conclude that the applicant has failed to provide reasonable assurances to the Department as required for issuance of the permit.

The applicant, Samsula Recycling, Inc. , Samsula Landfill, Inc. and Yancey’s Land Clearing, Inc. are companies with the same principal, Charles Yancey McDonald, and manager, Michael Stokes. Thus, for purposes of Rule 62-4.070 (5), FAC, Department administrative precedent requires that the Department consider the violations of Yancey’s Land Clearing, Inc., Samsula Landfill, Inc., and those of Charles Yancey McDonald as though they were those of the applicant, Samsula Recycling, Inc. This precedent was established by DEP in the Suwannee American Cement Company, Inc. record of decision for an air permit application, wherein the Department denied Suwannee American’s permit application based on the poor environmental record of Anderson Columbia, Inc. because the two companies’ principals were the same.

The environmental records of Yancey McDonald and the companies of which he is a principal contain a litany of violations of DEP rules, all of which are a matter of record of DEP. On January 17, 2000, a Verified Complaint filed with the Department against Yancey’s Land Clearing, Inc. and Samsula Landfill, Inc. by this firm on behalf of Drewry, Bakers and Towners details a lengthy history of environmental violations by Yancey McDonald and his companies. The Department’s response to this Verified Complaint was the entry of a Consent Order on February 22, 2000 with Samsula Landfill, Inc. and Yancey’s Land Clearing, Inc., wherein the Department made specific findings of fact that numerous significant violations of Department rules and statutes had been committed by Yancey McDonald’s companies and related entities, corporate and personal.

Moreover, as documented by the attached correspondence and documents from the Department, in less than sixty days of entering into the Consent Order, Samsula Landfill, Inc., directly violated the Consent Order by moving the rock crusher to another county without informing the Department and operating and continuing to operate it without first

obtaining a Department Air Permit as required by paragraph twelve of the Consent Order. Even after receiving a Department Warning Letter, Samsula Landfill, Inc. continued its unpermitted operation of the crusher, offering as an excuse only an undated and meaningless lease proposal from an individual that does not even have a permit for the specific crusher at issue, copy attached. Yesterday, it was established by DEP inspector Tom Mulligan that the applicant again surreptitiously moved the crusher to a new location in a third county and then attempted to dismantle and remove the crusher to conceal the unpermitted operation in expectation of a Department inspection. These most recent willful violations coupled with a long history of similar types of violations of DEP rules and other agencies demonstrates that the applicant has not provided reasonable assurances to the Department for the issuance of the applied for permit.

## **II. Industrial Wastewater Permit Requirement.**

Rule 62-620.300 (2), FAC, prohibits any industrial wastewater facility or activity “which will reasonably be expected to be a source of water pollution, from being operated constructed or modified without a DEP Industrial Wastewater Permit.” Heavy reliance is placed on the use of “water suppression equipment” to control the emissions of particulate matter (“PM”) throughout the subject application and response to the RAI. See, e.g., paragraphs three and four, Page 1-1 of permit application. The wastewater resulting from this proposed industrial activity will reasonably be expected be a source of water pollution in the form of significant changes in the pH, BOD, DO and total suspended solids of the contact water. Thus, an industrial wastewater permit from the Department should be required for this proposed industrial activity. By failing to address this issue, the applicant has failed to provide the Department reasonable assurances that the proposed activity can be conducted without violating Department standards and rules.

## **III. Particulate Matter Emission Limits.**

The applicants assurance that they will be able to control the PM emissions is highly suspect at best. The Bakers who are immediately adjacent to the former location of the operation of the crusher, and their neighbors, the Towners, have been inundated and, at

times, overwhelmed by the PM generated by the operation of the rock crusher. As part of the Verified Complaint, Mr. Towner provided the Department photographic evidence documenting large plumes of PM emitted from the crusher leaving the facility and settling onto the Bakers' and Towners' property. We will be glad to provide you a copy of the video tape for your review. The misery of the Bakers and Towners caused by this uncontrolled particulate matter generated by the operation of the rock crusher contrasts with the statement that "Samsula Recycling, Inc. operates the crushing activity relatively dust free" (Page 6 paragraph 1 of the permit application), which is wholly inaccurate.

Moreover, there is no mention in the response to the Department's RAI that the applicant will be able to achieve compliance with the PM standard of 0.05 g/dscm as required by 40 CFR Section 60.672 (a)(1). Given the failure to address this issue and the long history of unconfined PM emissions, the applicant has failed to provide reasonable assurance that it can operate the crusher without violating this air pollution standard.

#### **IV. Noise.**

We respectfully must take issue with the statement in paragraph three of your letter to Mr. Barry Appleby of Volusia County concerning the Department's regulation of noise. While it is recognized that noise regulation has at times been an issue with the Department, the Department clearly has the authority to impose permit conditions related to noise. This authority is derived from the definition of "pollution" found in Section 403.031 (7), F.S., and the definition of "air pollution" found in Rules 62-204.200 (3) and 62-210.200 (22), FAC. Specifically "noise" is defined as a pollutant by Section 403.021 (7), F.S. Further, Rules 62-204.200 (3) and 62-210.200 (2), FAC, define "air pollution" to include the presence of "pollutants", which includes noise pursuant to Section 403.031 (7), F.S., "in quantities which are or may be harmful to human health or welfare, animal or plant lives or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation." The fact that these definitions of air pollution contained in these rules tracks verbatim that of Section 403.031 (7), F.S., further supports the conclusion that noise is

clearly included within the definition of air pollution. In fact, the Palm Beach County circuit court has previously determined that noise is a form of pollution governed under Chapter 403, as specifically referenced in the Verified Complaint under 403.412 against Palm Beach County International Airport. Therefore, the Department has the authority to impose limitations regarding noise within the subject permit application process. It would be recommended under the circumstances that the Department recognize that a violation of Volusia County's Noise Ordinance "would be injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with enjoyment of life or property, including outdoor recreation", and, therefore, require compliance with same.

If it is the Department's position that it does not have standards for the regulation of noise, then this is a violation of Section 403.061 (11), F.S., which clearly requires that the Department promulgate standards for the abatement of excessive and unnecessary noise. Thus, the Department's choice in this instance seems clear. Either interpret it's own air pollution control rules to include the control of excessive and unnecessary noise or immediately initiate rule making in order to comply with the requirements of Section 403.061 (11), F.S.

**V. Other Emissions.**

Exception is taken regarding statements made in a response to the RAI in items 8 and 10. There the applicant claims that the "the loader is not operated continuously to feed the crusher and should not be considered as part of the crusher operation and not included in the permit conditions." To the contrary, the loader must be considered as part of the crusher operation because 40 CFR Section 60.972 (a) provides that discharges to the atmosphere "from any transfer point on a belt conveyor" is subject to the PM and opacity standards contained in that section. Clearly, there will be discharges into the atmosphere from the transfer point on belt conveyors from the loader unloading concrete debris onto the conveyor point. Therefore, the discharges from these transfers are subject to the standards contained in the referenced section. Applicant's failure to indicate how or whether these transfers will comply with this requirement indicates that the applicant has failed to provide reasonable

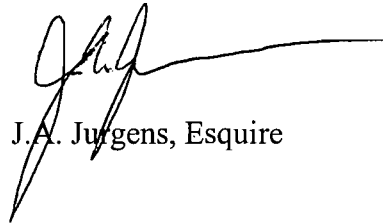
Mr. William Leffler  
Page 6  
July 12, 2000

assurances that the operation can be conducted in compliance with applicable Department standards. Furthermore, it has been the experience of the Bakers and Towners that the operation of this loader and the associated unloading into the rock crusher has been a highly significant source of PM and this issue must be addressed by the Department.

Thank you for the opportunity to provide comments on this permit application. On behalf of Arthur Drewry, Robert H. and Zeta M. Baker and William D. and Georgia M. Towner, we look forward to your response.

Sincerely yours,

J.A. JURGENS, P.A.

A handwritten signature in black ink, appearing to read 'J.A. Jurgens', with a long horizontal line extending to the right.

J.A. Jurgens, Esquire

enclosures

JAJ/aer

cc: Douglas Weaver, Esquire, County Attorney's Office, Volusia County  
Mr. Arthur Drewry  
Mr. & Mrs. Baker  
Mr. & Mrs. Towner  
Keith W. Bricklemyer, Esquire  
Mr. James Bradner, FDEP, Central District

**INSPECTION REPORT FORM  
AIR POLLUTION EMISSION SOURCES**

<b>FACILITY:</b> Samsula Landfill	<b>DISTRICT:</b> Central District
	<b>COUNTY:</b> Volusia

<b>ADDRESS:</b> 363 SR 44 New Smyrna Beach, FL	<b>CONTACT:</b> Lori Williams
(Chip's Dozer) Michael Grady (Plant Superintendent, Southdown Inc) Chuck McDonald (Crusher Operator, Yancey's)	

<b>ARMS#</b> 4859	<b>PERMIT #:</b> Permit Applied For	<b>EXPIRATION DATE:</b> N/A
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<b>SOURCE DESCRIPTION:</b> Portable Rock Crusher
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<b>INSPECTION DATE:</b> April 10 and 17, 2000	<b>AUDIT TYPE:</b>
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<b>Complaint Inspection</b>	<b>COMPLIANCE STATUS:</b> Non-Compliance
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<b>INSPECTION COMMENTS/RECOMMENDATIONS:</b> On April 10, 2000, Tom Mulligan of FDEP
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received a telephone call from Lori Williams of Chip's Dozer, an Ormond Beach business with a permit pending for a portable rock crusher unit. Ms. Williams stated that a portable rock crusher that was previously located at the Samsula Landfill site was not taken out of operation and dismantled pending an FDEP permit, as it was reported to FDEP by Samsula Landfill. Ms. Williams alleged that the portable rock crusher had been relocated from the Samsula Landfill site to a site somewhere in Seminole County where SR 415 meets SR 46. Ms. Williams alleged that the rock crusher was being operated from this site despite the lack of a permit issued to the Samsula Landfill by FDEP. Mr. Mulligan immediately drove to the area to investigate. Mr. Mulligan drove SR 46 from the Lake/Seminole County border to the Seminole/Volusia County border and drove SR 415 from SR 46 to the Seminole/Volusia County border. Mr. Mulligan stopped and investigated all sites where dump trucks were entering or exiting directly from or onto SR 46 or SR 415. Mr. Mulligan observed no evidence of a rock crusher at that time. Mr. Mulligan returned to the Central District offices and telephoned Ms. Williams to request a more accurate location of the crusher. Ms. Williams stated that she did not have one, but would attempt to clarify the location and subsequently inform Mr. Mulligan. The location was obtained from Ms. Williams on April 13, 2000. The location of the crusher is on the grounds of the Southdown, Inc. Plant #59, located on 2490 Country Club Road in Sanford, Seminole County, Florida. Mr. Mulligan visited Plant #59 on April 17, 2000. Contact was made with Mr. Michael Grady, the plant superintendent for Southdown, Inc. Plant #59. Mr. Mulligan identified himself to Mr. Grady and asked Mr. Grady if the rock crusher located on the north end of his site was in operation on a regular basis. Mr. Grady confirmed that the rock crusher is operated regularly on the site. Mr. Mulligan asked Mr. Grady for permission to inspect the rock crusher, take photographs, and speak to the operator of the crusher. Mr. Grady granted Mr. Mulligan permission to conduct the aforementioned activities on his site. Mr. Mulligan then made contact with Mr. Chuck McDonald of Yancey's. Mr. McDonald was pointed out as the person in charge of the rock crusher by one of the employees present at the crusher. Mr. Mulligan identified himself to Mr. McDonald. Mr. Mulligan asked Mr. McDonald if the rock crusher on the Southdown site is the same crusher that had been located at the Samsula Landfill. Mr. McDonald confirmed that the crusher was previously located on the Samsula Landfill site. Mr. Mulligan informed Mr. McDonald that the crusher does not have a permit to operate from the FDEP. Mr. McDonald stated that Yancey's had been subcontracted by PatCo (Dave Richardson 813-246-5557), and that PatCo has a permit to operate a rock crusher. Mr. Mulligan then took four photographs of the rock crusher, including the aggregate piles that were made by crushing activities. The rock crusher was not operating at the time of inspection. The crusher was running, as evidenced by the diesel smoke coming from the exhaust of the running engine on the crusher. The engine was turned off by one of the employees after Mr. Mulligan identified himself.

<b>INSPECTOR(S) NAME(S):</b> Thomas J. Mulligan
---

<b>SIGNATURE(S):</b> Original signed by T. Mulligan 4/17/00	<b>DATE:</b>
---	--------------

April 17, 2000

PERM FORM NO. 85-1

**Subject: Re: SAMSULA LANDFILL**

**Date: Thu, 27 Apr 2000 13:18:52 -0500 (EST)**

**From: Tom Mulligan ORL 407/894-7555 <Tom.Mulligan@dep.state.fl.us>**

**To: Lori Williams <chipsdoz@bellsouth.net>**

PatCo has a permit to operate the crusher owned by PatCo. Permits are not transferable and apply only to the crusher that was listed on the permit application. The operator I spoke to at the Southdown site admitted to me that the crusher on site was previously at Samsula Landfill. Therefore, it is being operated without a permit.

**INSPECTION REPORT FORM  
AIR POLLUTION EMISSION SOURCES**

FACILITY: Samsula Landfill		DISTRICT: Central District	
		COUNTY: Volusia	
ADDRESS:	363 SR 44 New Smyrna Beach, FL	CONTACT:	Lori Williams
(Chip's Dozer) Michael Grady (Plant Superintendent, Southdown Inc)			
ARMS# 4859	PERMIT #: Permit Applied For	EXPIRATION DATE: N/A	
SOURCE DESCRIPTION: Portable Rock Crusher			
INSPECTION DATE: April 25, 2000		AUDIT TYPE:	
Follow-up Inspection		COMPLIANCE STATUS: Non-Compliance	
INSPECTION COMMENTS/RECOMMENDATIONS: On April 25, 2000, Lori Williams of Chip's Dozer contacted Tom Mulligan of FDEP and informed him that the rock crusher formerly located at the Samsula Landfill site was in operation at the moment in Sanford. Mr. Mulligan immediately drove to the Southdown, Inc. Plant #59 located at 2490 Country Club Road in Sanford, Seminole County, Florida. Contact was made with Mr. Michael Grady, Plant Superintendent. Mr. Mulligan asked, and was granted, permission to enter the site to photograph the rock crusher, which was in operation at the time. Mr. Mulligan attempted to photograph the crusher in operation, but a camera malfunction prevented the capture of any photographic evidence. Mr. Mulligan did confirm that the crusher was in operation at the time of the site visit. The crusher does not have an operating permit issued by FDEP.			
INSPECTOR(S) NAME(S): Thomas J. Mulligan			
SIGNATURE(S): Original signed by T. Mulligan 4/25/00			DATE:

April 25, 2000  
PERM FORM NO. 85-1



**Subject: Re: YANCEY MCDONALD**

**Date:** Fri, 23 Jun 2000 08:26:25 -0400 (EDT)

**From:** Caroline Shine ORL 407/893-3336 <Caroline.Shine@dep.state.fl.us>

**To:** Lori Williams <chipsdoz@bellsouth.net>, JOHN TURNER <John.B.Turner@dep.state.fl.us>, CAROLINE SHINE <Caroline.Shine@dep.state.fl.us>, TOM MULLIGAN <TOM.MULLIGAN@dep.state.fl.us>

**CC:** Leonard Kozlov ORL <Leonard.Kozlov@dep.state.fl.us>

Lori;

The Department has issued the letter to Samsula to come into office. At this point, the Department is gathering information about the number of days the company has run without the permit, and Demand Letter for the penalties will issued.

If you have any documentation that can assist in determining the numbers of days, please mail to my attention.

Caroline Shine

**Subject: Re: FWD: YANCEY**

**Date:** Mon, 15 May 2000 15:37:08 -0400 (EDT)

**From:** Caroline Shine ORL 407/893-3336 <Caroline.Shine@dep.state.fl.us>

**To:** Tom Mulligan ORL 407/894-7555 <Tom.Mulligan@dep.state.fl.us>, CHIPSDOZ@BELLSOUTH.NET, "John B. Turner ORL" <John.B.Turner@dep.state.fl.us>

**CC:** Leonard Kozlov ORL <Leonard.Kozlov@dep.state.fl.us>

LORI:

TOM ASKED ME TO RESPOND TO YOUR INQUIRY. TOM HAS VISITED THE SITE IN RESPONSE TO YOUR COMPLAINT TO SEE IF THE CRUSHER WAS OPERATING, AND THE NUMBER OF THE DAYS IT HAS BEEN OPERATING. HE DID VERIFY THAT IT WAS OPERATING BUT HAS BEEN UNABLE TO ASCERTAIN THE NUMBER OF DAYS OF OPERATION.

THE PREVIOUS CONSENT ORDER SIGNED BY THIS COMPANY HAS STIPULATED PENALTIES FOR EACH DAY OF OPERATION WITHOUT A PERMIT, AND A PENALTY WILL BE ASSESSED VIA A DEMAND LETTER.

JOHN TURNER, TOM'S SUPERVISOR HAS ASKED ME TO ASCERTAIN THE NUMBER OF THE DAY BY REQUESTING A COPY OF OPERATION RECORDS SINCE THE RECORDS WERE NOT AVAILABLE IN THE FIELD. WHEN THE TOTAL NUMBER OF DAYS ARE DETERMINED, ENFORCEMENT WILL PROCEED TO COLLECT THE APPROPRIATE PENALTIES.



# Department of Environmental Protection

Jeb Bush  
Governor

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

David B. Struhs  
Secretary

## CERTIFIED LETTER

7099 3400 0006 1320 1665

## WARNING LETTER

OWL-AP-00-489

Charles Yancey McDonald, President  
Samsula Landfill, Inc.  
2455 Tomoka Farms Road  
Daytona Beach, Florida 32124

Volusia County - AP  
Unpermitted Rock Crusher

Dear Mr. McDonald:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. Department inspections conducted on April 10, 17, and 25, 2000 of your rock crusher located at 2490 Country Club Road, Sanford, Seminole County, Florida County, Florida indicates that violations of Florida Statutes and Rules may exist at the above described facility. The following was observed:

The rock crusher previously cited in OWL-AP-00-468 as operating without a permit has been relocated to another location and is currently being operated without a permit.

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

Section 403.087(1), Florida Statutes, provides that no stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the Department, unless exempted by Department rules.

Rule 62-4.030, Florida Administrative Code, General Prohibition, provides that any stationery installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permit issued by the Department, unless the source is exempted by Department rule.

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

*Printed on recycled paper.*

Charles Yancey McDonald  
OWL-AP-00-489  
Page Two

Rule 62-210.300, F.A.C. Permits Required provides: The owner or operator of any emissions unit which emits or can reasonably be expected to emit any air pollutant shall obtain an appropriate permit from the Department prior to beginning construction, modification, or initial or continued operation of the emissions unit unless exempted pursuant to Department rule or statute.

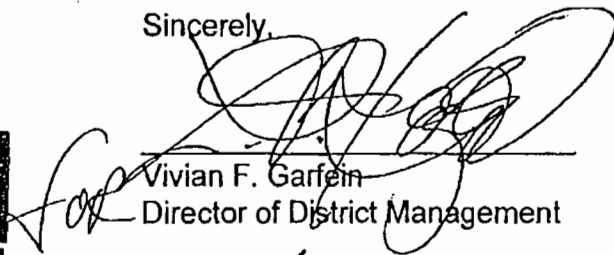
40 Code of Federal Regulation, Section 60.7 provides The owner or operator subject to the Provisions of this part shall furnish the Administrator written notification of the date construction of an affected facility is commenced postmarked not later than 30 days after such a date.

**Within fifteen (15) days receipt of this Warning Letter, please bring in work logs which identifies each day the crusher was in operation during calendar year 2000.**

The activities described in this letter, and any other activities at your facility that may be contributing to violations of the above described statutes or rules should be ceased. You are requested to contact Caroline Shine at 407-893-3336 or at the above address within fifteen (15) days receipt of this Warning Letter to arrange a meeting to discuss the matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve the matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein  
Director of District Management

Date 6-20-00

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:  
Charles Yancey McDonald

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here  
6/21

Name (Please Print Clearly) (to be completed by addressee)  
Charles Yancey McDonald OWL-00-489

Street, Apt. No., or PO Box No.  
Y.M. Co.

City, State, ZIP+4

PS Form 3800, July 1999

599T 02FT 9000 0NH F 44N1

Best Available Copy

Samsula Landfill, Inc.

363 S.R. 413  
New Smyrna Beach, FL 32168

Phone 904-423-6769  
Fax 904-423-1436

Mr. Darryl Hickling  
P.O. Box 1031  
New Smyrna Beach, FL 32168

Lease Agreement

Samsula Landfill, Inc. proposes to lease Darryl Hickling, one Eagle 1200 Crusher for a price of \$7,000.00 per month. Said equipment will be maintained by Samsula Landfill, Inc.'s mechanics. Lessee will be responsible for fuel and daily lubrication of the equipment. Any failure due to abuse or abnormal operation of the equipment will be the sole responsibility of the lessee to bring back to new condition. Leaser has the option to take roadbase in trade for the lease amount at the price of \$5.00 per cubic yard. Samsula will give Mr. Hickling a 15 days notice when lease is up in the event Hickling is not done with equipment.

  
\_\_\_\_\_  
Michael Stokes-Samsula Landfill, Inc.

  
\_\_\_\_\_  
Darryl Hickling

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.

---

**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 ("ACT") 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 17<sup>th</sup> 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

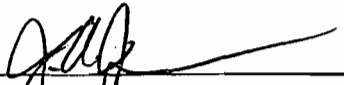
Andrew Drewry  
Andrew Drewry  
ARTHUR

Before me this 17<sup>th</sup> day of January, 2000, appeared, Robert H. Baker, Zetta M. Baker, William D. Towner, Georgia M. Towner, and 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

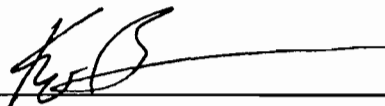


**LORI WILLIAMS**  
My Comm. Exp. 8/31/00  
Bonded By Service Ins  
No. CC567086  
 Personally Known [ ] Other I.D.



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J.A. Jurgens, Esquire  
Florida Bar No. 637165  
**J.A. Jurgens, P.A.**  
505 Wekiva Springs Road, Suite 500  
Longwood, FL 32779  
Phone: (407) 772-2277  
Fax (407) 772-2278  
Attorney for Plaintiffs



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Keith W. Bricklemyer, Esquire  
Florida Bar No. 363820  
**Bricklemyer Smolker & Bolves, P.A.**  
500 East Kennedy Boulevard, Suite 200  
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**

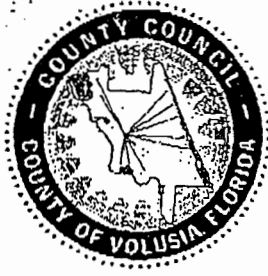
- 1.0 The landfill is open for operation between the hours of 7:00 a.m. to 5:30 p.m. Monday through Saturday. The landfill is closed to the public on Sunday.
- 2.0 Access is limited to one way into the facility and one way out of the facility. All vehicles enter through an entrance gate and are stopped 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

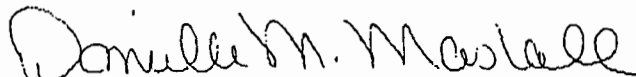
Reference: Follow-up letter

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.



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: 1270154  
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

Atten: Charles Y. McDonald,  
President

Expiration Date: March 31, 2004

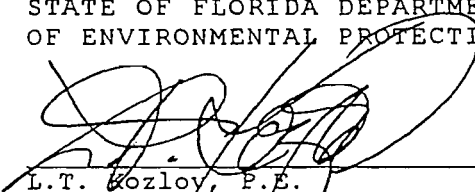
County: Volusia

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

Best Available Copy

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:

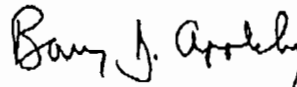
This Department is responsible for enforcement of Ordinance Number 83-22, as adopted by the Volusia County Council. As a result of an investigation conducted by staff from this office, I have reason to believe that you are presently violating certain provisions of this Ordinance as indicated on the attached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

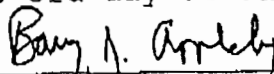
**6. ADDITIONAL EXPLANATION:**

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.

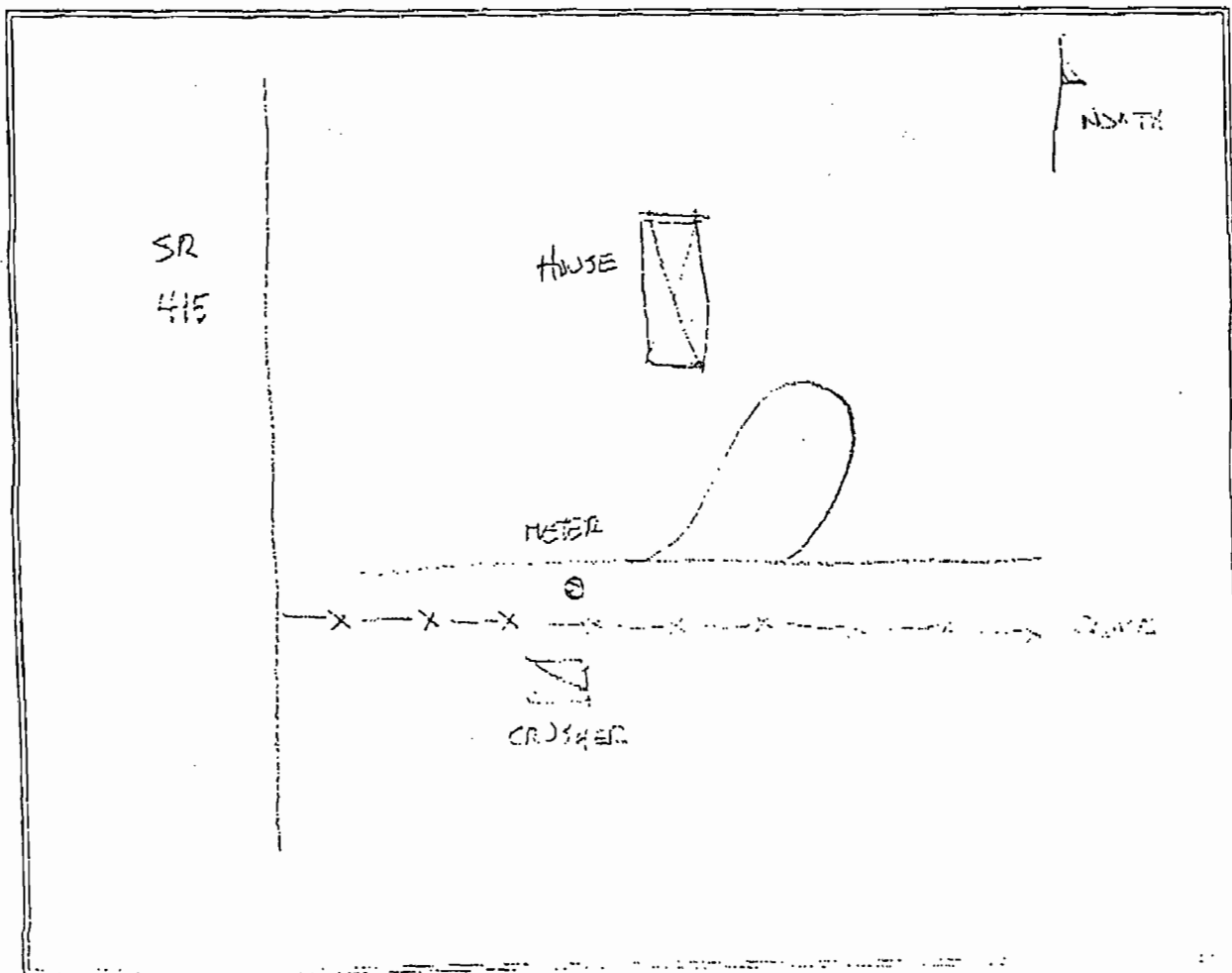
  
\_\_\_\_\_  
Environmental Management

NOISE MEASUREMENT FIELD DATA SHEET

DATE: 12/30/79 TIME: 10:10 AM TECHNICIAN: B. APPELBY  
COMPLAINANT INFORMATION: NAME: MS. ETTA RAUSE  
ADDRESS: 353 SOUTH SR 415 CITY: NEW BRUNSWICK BEACH  
TELEPHONE: 438-5882 OTHER: \_\_\_\_\_  
NOISE SOURCE: NAME: SAMSARA LANDFILL 412-6769  
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





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 Lobolly 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.

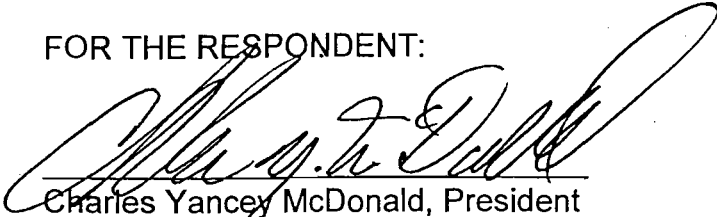
28. In the event of a sale or conveyance of the facility or of the property upon which the facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondents shall, at least 30 days prior to a sale or conveyance of the property or facility, (1) notify the 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:

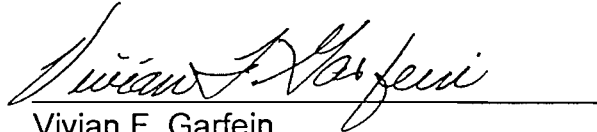


Charles Yancey McDonald, President  
Yancey's Land Clearing, Inc.  
Samsula Landfill, Inc.

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

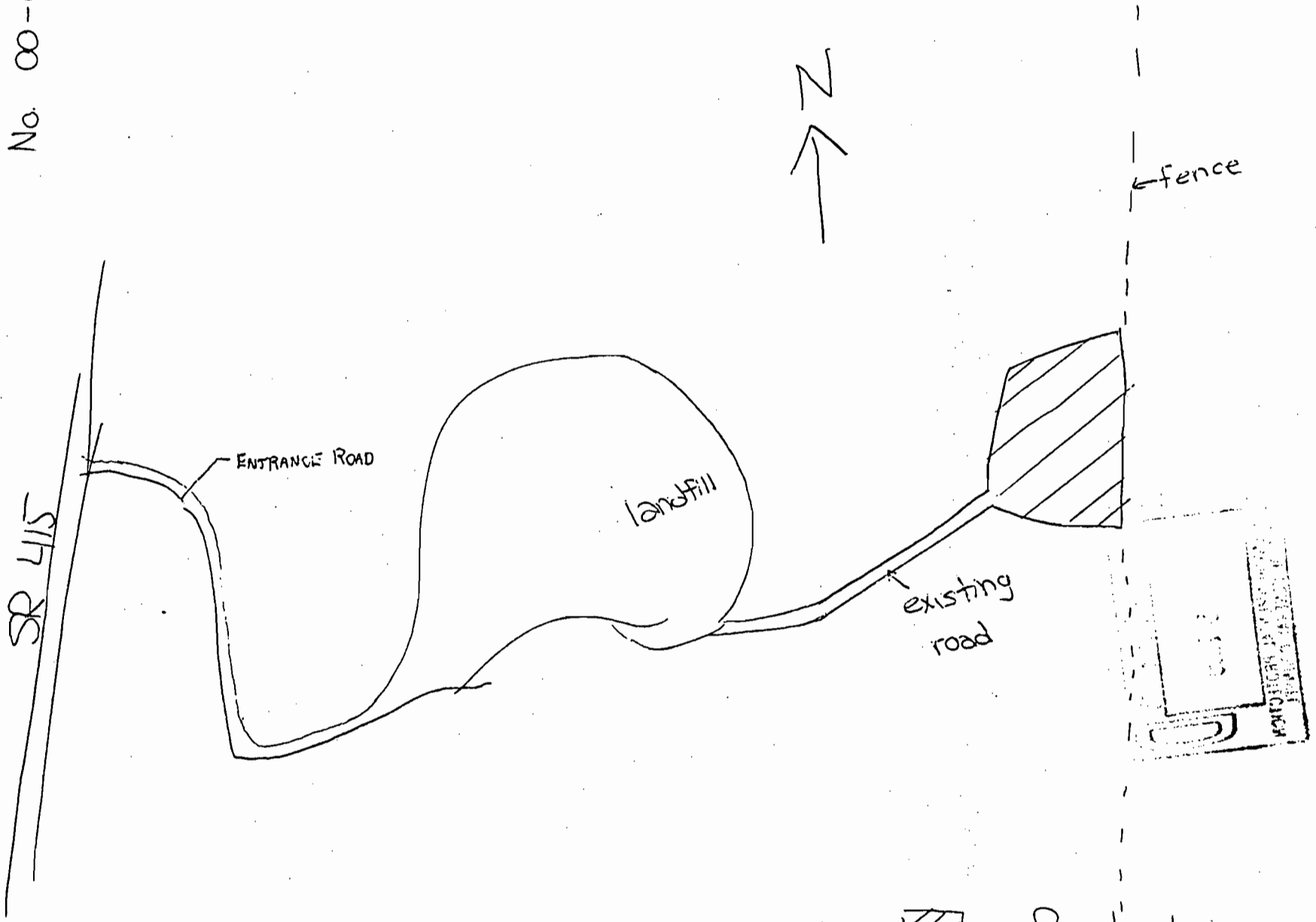
2/22/00  
Date

cc: Larry Morgan

Samsula Land Fill  
OGC File

No. 00-0210

exhibit A



 = Restoration Area  
APPROX SIZE: 1.4 ACRES

Not to scale - DIMENSIONS ESTIMATED FROM AERIAL PHOTO DATED 12/26/95

# INTEROFFICE MEMORANDUM

**Sensitivity:** COMPANY CONFIDENTIAL

**Date:** 14-Jul-2000 10:14am  
**From:** Caroline Shine ORL 407/893-333  
SHINE\_C@a1.deporl.dep.state.fl.us  
**Dept:**  
**Tel No:**

**To:** CHIPS DOZER ( chipsdoz@bellsouth.net )  
**To:** Leonard Kozlov ORL ( KOZLOV\_L@a1.deporl.dep.state.fl.us )  
**To:** Trina Blakemore TAL ( BLAKEMORE\_T@a1.epic6.dep.state.fl.us )  
**To:** William Leffler TAL ( LEFFLER\_W@a1 )

**Subject:** Re: SAMSULA LANDFILL

Lori:

We have spoken with your attorney Al Ford regarding this matter, and DEP is continuing to investigate the matter. Al Ford has also spoken with the DEP attorney and permitting staff. At the enforcement recent meeting, Mike Stokes stated he has leased the equipment, no documentation provided. Prior to the meeting we requested that he bring operation records, which he did not provide. The meeting was fruitless at this point and will have to be rescheduled after review of the document.

The crusher has been dismantled from the Orange County location and it is not known to me where it is at this point.

We have spoken with Bill Leffler and updated him on our actions. The matter remains open and the DEP will take appropriate actions.

CAROLINE,

I SPOKE TO OUR ATTORNEY TODAY AND HE SAID THAT WILLIAM LEFFLER IN TALLAHASSEE IS IN THE PROCESS OF ORDERING A INTENT TO ISSUE PERMIT. I DON'T UNDERSTAND HOW THIS CAN HAPPEN... YANCEY IS UNDER A CONSENT ORDER NOT TO OPERATE THAT CRUSHER AND HAS BEEN OPERATING IT SINCE APRIL 17, 2000. NOW HE HAS MOVED THE CRUSHER TO ANOTHER LOCATION AND RUNNING IT. HE IS SAYING THAT HE HAS IT LEASED TO PATCO. THAT DOES NOT MATTER, OUR CRUSHER PERMIT IS ONLY FOR OUR CRUSHER. IT IS NONTRANSFERABLE AND THE FACILITY LOCATION IS LISTED... PLEASE LET ME KNOW AS TO WHAT CAN BE DONE SO THAT HE CAN BE MADE TO STOP OPERATION OF HIS CRUSHER... WHEN YOU E-MAILED ME ON 6/23/00 YOU SAID THAT SAMSULA HAD BEEN ISSUED A LETTER TO COME INTO THE OFFICE. WHAT WAS THE OUTCOME OF THAT MEETING ? AS I STATED BEFORE WHEN WE HAD THE MEETING WITH YOU, WE FOLLOWED YOUR INSTRUCTIONS AND SHUT OUR CRUSHER DOWN UNTIL THE PERMIT WAS ISSUED. WHY DOESN'T HE HAVE TO DO THE SAME ?

THANKS,

# INTEROFFICE MEMORANDUM

**Sensitivity:** COMPANY CONFIDENTIAL

**Date:** 13-Jul-2000 03:57pm  
**From:** Leonard Kozlov ORL 407/894-755  
KOZLOV\_L@a1.depor1.dep.state.fl.us  
**Dept:**  
**Tel No:**

**To:** See Below  
**Subject:** Samsula Landfill Rock Crusher

Bruce,  
I understand that Bill Leffler has placed on your desk the statewide rock crusher permit for issuance. There is I think about forty days left on the clock. Presently we have preliminary enforcement action with these folks because they are now traveling around different places operating with out a permit. After having a meeting with Vivian about these folks and their violations, she would like to hold up or possibly deny the permit. The permit is under the name of Samsula Recycling, Inc. The AIRS ID is 7775112. Please call me on this. Thanks  
Len

**Distribution:**

<b>To:</b>	Bruce Mitchell TAL	( MITCHELL_B@A1 )
<b>CC:</b>	Alan Zahm ORL	( ZAHM_A@a1.depor1.dep.state.fl.us )
<b>CC:</b>	Caroline Shine ORL	( SHINE_C@a1.depor1.dep.state.fl.us )
<b>CC:</b>	William Leffler TAL	( LEFFLER_W@A1 )
<b>CC:</b>	Jonathan Holtom TAL	( HOLTOM_J@A1 )
<b>CC:</b>	Scott Sheplak TAL	( SHEPLAK_S@A1 )

**APPENDIX C - DUST SUPPRESSION PLAN**  
**SAMSULA RECYCLING, INC.**

1. **Crusher**
  - Crusher's spray bar and associated nozzles in the hopper will be maintained operational.
  - Water supply to be provided by tanker or hard piping to water supply prior to operating crusher.
  - Crusher will not operate if the spray bar/nozzles or other devices to apply water in the hopper are not functioning.
  - Water pressure to be maintained at least 135 psi to develop adequate misting and coverage.
  - Crusher operator will operate the crusher in a manner to minimize dust generation during crushing by controlling the flow of water to the spray bar/nozzles.
  
2. **Work Area**
  - A water truck or other water application system will apply water to the ground surface to minimize dust being generated from the delivery of concrete debris, from the loading of the crusher's hopper, from the conveying of processed materials, from stockpiling the processed materials, from loading the processed materials into trucks, and from the truck traffic hauling the processed materials.
  - Crusher operator will control the water application rate onto the ground surface to minimize dust generation from wind erosion and/or equipment traffic.
  - The crusher will not operate if dust suppression in the work area is not controlled.
  
3. **Processed Materials Conveyors**
  - Maintain the water spray equipment operational at the loading point of the processed material from the crusher onto the discharge conveyors (2).
  - Water supply to be provided by tanker or hard piping to water supply prior to operating crusher and conveyors.
  - Crusher will not operate if the spray bar/nozzles or other devices to apply water at the loading points of the discharge conveyors are not functioning.
  - Water pressure to be maintained at least 135 psi to develop adequate misting and coverage.
  - Crusher operator will control the flow of water to the spray bar/nozzles to maintain a relatively dust free working environment.
  
4. **Stockpiled Materials**
  - All stockpiles will be sprayed with water to minimize dust generation by wind erosion and/or the handling of the materials during loading operations.
  - Water supply to be provided by tanker or hard piping to water supply prior to operating crusher and conveyors.
  - Adequate spray heads will be provided for each stockpile and the water pressure will be maintained at least 135 psi to develop adequate misting and coverage.
  - Crusher operator will control the water application rate onto the stockpiles to minimize dust generation from wind erosion and/or loading operations.
  
5. **Exception**
  - Stockpiles and the work area watering can be suspended during rain events and subsequent to a rain event if dust is not being generated. Upon first notice of dust generation by wind erosion and/or equipment movement, water application will begin.



# Department of Environmental Protection

Jeb Bush  
Governor

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

David B. Struhs  
Secretary

AL FORD 407 772 2278

TO: Bill Leffler SC 2926979 DATE: 7/11/00

DEPT: \_\_\_\_\_ FAX#: \_\_\_\_\_

Number of Pages: 4 (including cover page)

FROM: Caroline Skene

PROGRAM: AIR RESOURCES MGMT SECTION \_\_\_\_\_

TELEPHONE # 407-893-3333, 3334  
SC 325-3333, 3334

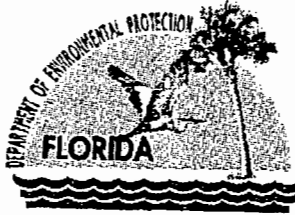
FAX #: 407-897-5963  
SC 342-5963

COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Printed on recycled paper.



Jeb Bush  
Governor

# Department of Environmental Protection

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

David B. Struhs  
Secretary

CERTIFIED LETTER  
7099 3400 0006 1320 1665

WARNING LETTER  
OWL-AP-00-489

Charles Yancey McDonald, President  
Samsula Landfill, Inc.  
2455 Tomoka Farms Road  
Daytona Beach, Florida 32124

Volusia County - AP  
Unpermitted Rock Crusher

Dear Mr. McDonald:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. Department inspections conducted on April 10, 17, and 25, 2000 of your rock crusher located at 2490 Country Club Road, Sanford, Seminole County, Florida County, Florida indicates that violations of Florida Statutes and Rules may exist at the above described facility. The following was observed:

The rock crusher previously cited in OWL-AP-00-468 as operating without a permit has been relocated to another location and is currently being operated without a permit.

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

Section 403.087(1), Florida Statutes, provides that no stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the Department, unless exempted by Department rules.

Rule 62-4.030, Florida Administrative Code, General Prohibition, provides that any stationery installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permit issued by the Department, unless the source is exempted by Department rule.

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

*Printed on recycled paper.*



Charles Yancey McDonald  
OWL-AP-00-489  
Page Two

Rule 62-210.300, F.A.C. Permits Required provides: The owner or operator of any emissions unit which emits or can reasonably be expected to emit any air pollutant shall obtain an appropriate permit from the Department prior to beginning construction, modification, or initial or continued operation of the emissions unit unless exempted pursuant to Department rule or statute.

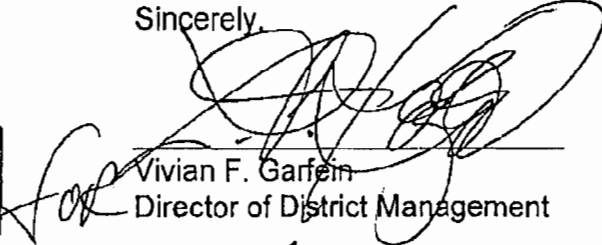
40 Code of Federal Regulation, Section 60.7 provides The owner or operator subject to the Provisions of this part shall furnish the Administrator written notification of the date construction of an affected facility is commenced postmarked not later than 30 days after such a date.

**Within fifteen (15) days receipt of this Warning Letter, please bring in work logs which identifies each day the crusher was in operation during calendar year 2000.**

The activities described in this letter, and any other activities at your facility that may be contributing to violations of the above described statutes or rules should be ceased. You are requested to contact Caroline Shine at 407-893-3336 or at the above address within fifteen (15) days receipt of this Warning Letter to arrange a meeting to discuss the matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve the matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfen  
Director of District Management

Date 6-20-00

599T 02FT 9000 CNHF 44N7

<b>U.S. Postal Service</b>	
<b>CERTIFIED MAIL RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
Article Sent To:	
<u>Charles Yancey McDonald</u>	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Name (Please Print Clearly; To be completed by mailer) <u>Samuel L. McDonald</u> OWL-00-489	
Street, Apt. No., or P.O. Box No. <u>Wal. Co.</u>	
City, State, ZIP+4	

Postmark  
Here  
6/21

**Samsula Landfill, Inc.**

363 S.R. 415  
New Smyrna Beach, FL 32168

Phone 904-423-6769  
Fax 904-423-1436

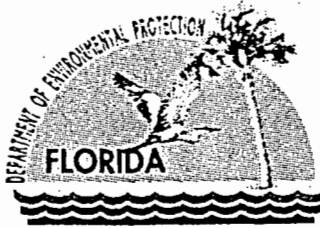
Mr. Darryl Hickling  
P.O. Box 1031  
New Smyrna Beach, FL 32168

**Lease Agreement**

Samsula Landfill, Inc. proposes to lease Darryl Hickling, one Eagle 1200 Crusher for a price of \$7,000.00 per month. Said equipment will be maintained by Samsula Landfill, Inc.'s mechanics. Lessee will be responsible for fuel and daily lubrication of the equipment. Any failure due to abuse or abnormal operation of the equipment will be the sole responsibility of the lessee to bring back to new condition. Leaser has the option to take roadbase in trade for the lease amount at the price of \$5.00 per cubic yard. Samsula will give Mr. Hickling a 15 days notice when lease is up in the event Hickling is not done with equipment.

  
\_\_\_\_\_  
Michael Stokes-Samsula Landfill, Inc.

  
\_\_\_\_\_  
Darryl Hickling



# Department of Environmental Protection

Jeb Bush  
Governor

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

David B. Struhs  
Secretary

Mr. Yancy McDonald  
363 State Road 415  
New Smyrna Beach, Florida 32168

OCD-SW-00-0270

Volusia County - SW  
Samsula Landfill  
Letter of Non-compliance

Dear Mr. McDonald:

On May 31, 2000, representatives of the Florida Department of Environmental Protection conducted a routine inspection at the above referenced facility to determine the status of compliance with the Department's solid waste regulations.

At the time of the inspection, the following deficiencies were observed.

- Unauthorized items that need to be removed for proper disposal include three mattresses, one large stuffed animal, one projector, several computer monitors, one television, one tire, one automobile seat, two rolls of carpet, one bicycle, a few bags of yard trash, one patio umbrella, one full paint can, and one full load of mixed Class III waste items.
- There was no spotter on the working face.
- The north side needs to be worked to a 3:1 slope.

Therefore, the facility did not appear to be in compliance. A copy of the inspection report is enclosed for your review.

As discussed with Scott Haskins, a follow up inspection will be performed approximately two weeks from this last inspection date.

If you have any questions, please contact Jennifer Deal at (407) 893-3328.

Sincerely,

  
James N. Bradner, P.E.  
Program Manager  
Solid Waste

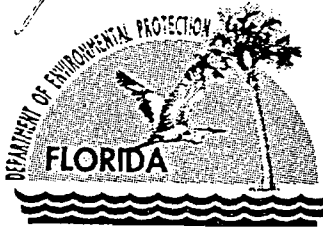
Date JUNE 8, 2000

JNB/jd  
Enclosure

cc: Danielle Marshall, Volusia County Environmental Management

"More Protection, Less Process"

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Jeb Bush  
Governor

# Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767  
April 13, 2000

David B. Struhs  
Secretary

Mr. Yancey McDonald  
363 State Road 415  
New Smyrna Beach, Florida 32168

OCD-SW-00-0180

Volusia County – SW  
Samsula C&D Landfill  
Letter of Non-Compliance

Dear Mr. McDonald:

On April 7, 2000, a representative of the Florida Department of Environmental Protection conducted a routine inspection at the above referenced facility to determine the status of compliance with the department's solid waste regulations. At the time of the inspection, the following were observed:

1. Water in the borrow pit used for waste disposal.
2. Three discarded boats in the disposal working face.

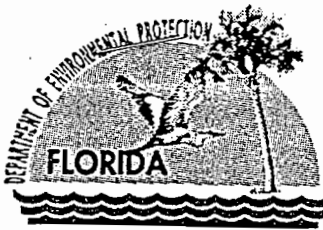
During a telephone conversation on April 10, 2000, Michael Stokes, the facility operator, informed us that the water was the result of a recent six-inch rainfall. He was informed that disposal of solid waste in water is prohibited, and that clean debris may be used as buffer between water and waste. Mr. Stokes agreed to remove the three boats for proper disposal.

A copy of the inspection report is enclosed for your review. We will appreciate your cooperation in promptly correcting the non-compliance items noted above. Please contact me at 407-893-3329 if you have questions or need further information.

Sincerely,

James N. Bradner, P.E.  
Solid Waste Program Manager

JNB/II  
Enclosure



Jeb Bush  
Governor

# Department of Environmental Protection

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

David B. Struhs  
Secretary

Mr. Yancy McDonald  
363 State Road 415  
New Smyrna Beach, Florida 32168

OCD-SW-00-0078

Volusia County - SW  
Samsula Landfill  
Letter of Non-compliance

Dear Mr. McDonald:

On January 6, 2000, representatives of the Florida Department of Environmental Protection conducted a routine inspection at the above referenced facility to determine the status of compliance with the Department's solid waste regulations.

At the time of the inspection, the following deficiencies were observed.

- Land clearing debris was being disposed in the filled dewatered pit. At the time of the inspection, the Department had not yet received a letter from Tom Bechtol stating that the ground elevation is now above the estimated maximum ground water elevation.
- Some Class III waste items were observed along the north slope of the landfill.
- Waste along the north slope needs to be pulled back to the proper limit, as indicated during the inspection.

Therefore, the facility did not appear to be in compliance. A copy of the inspection report is enclosed for your review.

If you have any questions pertaining to this matter, please contact Jennifer Deal at (407) 893-3328.

Sincerely,

James N. Bradner, P.E.  
Program Manager  
Solid Waste

Date 2/22/2000

JNB/jd  
Enclosure

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

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CERTIFIED:  
Z-461 771 748



BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE  
CENTRAL DISTRICT

Complainant,

OGC FILE NO.98-2907

vs.

YANCEY LANDCLEARING INC.

Respondent.

---

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Yancey Landclearing Inc., ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

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 Chapter 403, Florida Statutes ( F.S.), and the rules promulgated thereunder in Florida Administrative Code (F.A.C.) Title 62. The Department has jurisdiction over the matters addressed in the Consent Order.

2. Respondent, is a person within the meaning of Section 403.031 (5), Florida Statutes.

3. Respondent owns and operates a Construction and Demolition Debris Disposal Site ("facility"). The facility is located at 363 State Road 415, approximately 2.5 miles South of the intersection of State Road 44 and State Road 415. Section 26, Township 17 South, Range 32 East, Latitude 28° 59' 24'' North, Longitude 81° 43' 10'' West, Volusia County, Florida. The site encompasses an area of 50.67 acres of which 15.74 is designated for disposal ("disposal area"). The site is more specifically described as:

Tract 9 and 10, except the North 1/4 east of State Road 415; and Tract 12, except the East of State Road 415, all in Block 3.

4. On September 7, 1995 the General Permit #S064-275715 was approved by the Department and is due to expire on September 9, 2000. On December 23, 1996 Rule 62-701.730 F.A.C., became effective requiring all Construction and Demolition Debris (C&D) Disposal Sites, to modify their general permit to include financial assurance and a groundwater monitoring plan by April 1, 1998. Respondent submitted a "Notification of Intent to Modify a General Permit for Construction and Demolition Debris Disposal Site." This notification (Permit Application #S064-0138211-001) was approved on May 20, 1998 with the conditions that financial assurance arrangement for the facility was to be made within 30 days of receipt of the approval letter and that the groundwater

monitoring plan (Permit Application S064-0138211-002) remained under review.

5. On May 14, 1998 an inspection was conducted at the facility. During the course of the inspection the Department alleges that it observed landclearing debris being placed in a dewatered pit. Also, the Department alleges it observed that solid waste was disposed within 15 feet of wetlands on the east side of the disposal area.

6. On June 23, 1998, Respondent was notified by letter to cease disposal of the landclearing debris in the pit. On August 4, 1998, the Department alleges that a follow-up inspection at the facility indicated that the landclearing debris was again being disposed in the dewatered pit.

7. On August 19, 1998, a Warning Letter (OWL-SW-98-007) was issued to Respondent in which the Department alleged that Respondent had violated Rules 62-701.300 (2) (d) (f) and (g) by the disposal of landclearing debris in water and disposal of solid waste within 200 feet of a wetland.

8. Respondent and its representatives met with the Department on September 22, 1998, to discuss the above referenced Warning Letter and corrective actions.

9. THEREFORE, having reached a resolution of the matter Department and Respondent mutually agree and it is,  
ORDERED:

10. Subsequent to the meeting, an inspection conducted at the facility on January 18, 1999, indicated that the landclearing debris (solid waste) was removed from the dewatered pit which is



currently being filled with clean fill, consisting mainly of concrete. Respondent shall maintain a separation layer consisting of five feet of clean fill between the ground water and any solid waste placed in this area for disposal.

11. Immediately upon the effective date of this Consent Order and continuing thereafter, Respondent shall forthwith comply with all Department rules regarding solid waste management. Respondent shall implement the terms of this Consent Order within the time periods required below and shall thereafter remain in full compliance with all applicable rules in Chapter 62-701 F.A.C.

12. Respondent shall operate the facility according to the Department approved operations plan.

13. Within 30 days of the effective date of this Consent Order, Respondent shall submit a proposal addressing permanent leachate control methods on the east side of the disposal area adjacent to the wetlands in accordance with Rule 62-701.300(2)(g), F.A.C. The proposal ("Proposal") shall be prepared, signed, and sealed by a professional engineer, registered in Florida and shall demonstrate to the Department that permanent leachate control methods will result in compliance with water quality standards under Chapters 62-302 and 62-550, F.A.C.

14. Upon review of the Proposal the Department may request additional information. Any additional information shall be submitted to the Department within 30 days of receipt of the Department's written request. If additional information is not submitted in a timely manner, the Department will approve or deny

the proposal as submitted. Upon approval, the Proposal shall be incorporated herein and made part of this Consent Order and Respondent shall implement the conditions in the Proposal pursuant to the approved schedule.

15. If, upon review of the Proposal and any additional requested information, the Department determines that the objectives of Paragraph 13 have not been adequately addressed, the Department, at its option, may require Respondent to remove the waste a minimum distance of 200 feet from the edge of the wetlands.

2/15/99  
16. Within 30 days of the effective date of this Consent Order, Respondent shall submit proof of financial assurance issued in favor of the State of Florida, in the amount of the closing and long-term care cost estimates for the facility. Proof of financial assurance shall consist of one or more of the following instruments which, comply with the requirements of Rule 62-701.630(6) F.A.C.: trust fund, surety bonds guaranteeing payment; surety bonds guaranteeing performance; irrevocable letter of credit; insurance; and financial test and corporate guarantee.

17. Within 30 days of the effective date of the Consent Order, Respondent shall submit all information requested in the Department's April 27, 1998, incompleteness letter for the Permit Application, a true and correct copy of which is attached hereto as "Exhibit A". Upon review of the information, the Department may request additional information. Any additional information requested shall be submitted to the Department within 30 days of receipt of the Department's written request.

8/1/99  
18. Within 60 days of the approval of the groundwater monitoring plan, Respondent shall install the monitoring wells according to the approved plan.

8/11/99  
19. Within 70 days of the approval of the groundwater monitoring plan, Respondent shall conduct the first semi-annual sampling event, and shall submit the laboratory analytical report to the Department within 45 days of the first sampling event.

2/15/99 done  
20. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$2040 in settlement of matters addressed in this Consent Order. The amount includes \$1540.00 in settlement of alleged violations of Chapter 403, Florida Statutes, and of Chapter 62-701, F.A.C., and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Protection and shall include thereon the OGC No. 98-2907 assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund" (EMRTF). The payment shall be sent to the Department of Environmental Protection, Central District, 3319 Maguire Boulevard, Orlando, Florida 32803-3767.

21. Respondent agrees to pay the Department stipulated penalties in the amount of \$200.00 per day for each and every day Respondent fails to timely comply with any of the requirements of

paragraphs 12, 13, 16, 17, 19 and 20 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent 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." The 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. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 20 of this Consent Order.

22. Respondent will remain liable to the Department for any natural resource damages resulting from the violations alleged herein and for the correction, control, and abatement of any pollution emanating from Respondent's facility.

23. If any event occurs which causes delay, or the reasonable likelihood of delay, in complying with the requirements or deadlines of this Consent Order, Respondent shall have the burden of proving that the delay was, or will be, caused by the

circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request

an extension of time for compliance with the requirements or deadlines of this Consent Order.

24. 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 Section 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 60Q-2.010, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes.

Mediation is not available in this proceeding.

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

26. 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.

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

28. Respondent shall allow all authorized representatives of the Department access to the site at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

29. 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

Program Manager  
Solid Waste Section, Central District  
Florida Department of Environmental Protection,  
3319 Maguire Boulevard, Suite 232,  
Orlando, Florida 32803-3767.

30. 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 terms of this Consent Order.

31. Respondent waives its right to an administrative hearing afforded by Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

32. The Department, for and in consideration of the complete and timely performance by Respondent 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 Settlement Agreement. Respondent acknowledges but waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

33. Nothing herein shall be construed to limit the authority of the Department to undertake any action against any settling Respondent in response to or to recover the costs of responding to conditions at or from the site that require Department action to

abate an imminent hazard to public health, welfare or the environment.

34. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their 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.

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

36. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), Florida Statutes, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

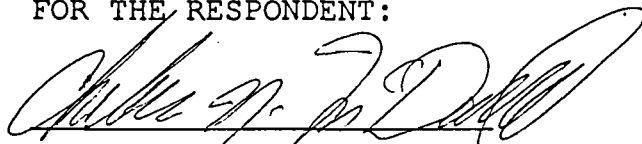
37. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.

38. 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:

DATE

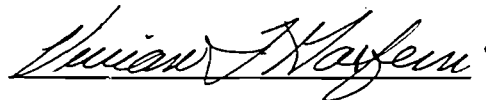
2-12-99



Yancey Landclearing, Inc.  
Yancey McDonald  
2455 Tomoka Farms Road  
Daytona Beach, Fl 32124

DONE AND ORDERED this 18th day of February, 1998<sup>9</sup>, in Orlando, 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 Section 120.52 F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

*A. Salardi*

CLERK

*2/18/99*

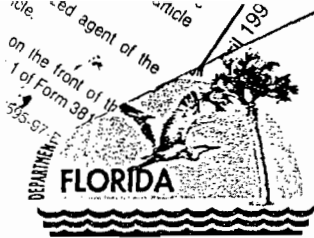
DATE

cc: Al Ford, Office of General Counsel, FDEP  
Robert Riggio, Attorney

Best Available Copy

Department of  
Environmental Protection

*fill*



Lawton Chiles  
Governor

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

Virginia B. Wetherell  
Secretary

CERTIFIED:

Z-470 718 137

Mr. Yancey McDonald  
2455 Tomoka Farms Road  
Daytona Beach, FL 32124

OWL-SW-98-0007

Volusia County - SW  
Samsula Landfill  
Warning Letter

Dear Mr. McDonald:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. Field inspections conducted on May 15, and August 5, 1998, at property located at 363 State Road 415, New Smyrna Beach Volusia County, Florida, 32168 indicated that violations of Chapter 403, Florida Statutes, and the rules promulgated thereunder, may exist at the above described location.

Department personnel observed the following at the above described location:

Disposal of land clearing debris, within a dewatered borrow pit.

Disposal of construction and demolition debris within 200 feet of a wetland area.

A review of the Department's files indicated that a request for additional information to process the groundwater monitoring plan has not been received as of this date.

It is a violation of Sections 403.161(1)(b), Florida Statutes, and Chapters 62-4 and 62-701, Florida Administrative Code, for any permittee to fail to comply with any permit issued by the Department.

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Further it is a violation to fail to comply with any rule or regulation adopted by the Department pursuant to its lawful authority.

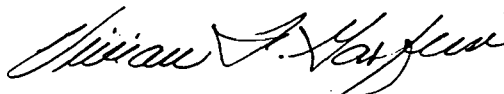
The activities observed during the Department's field inspection or any other activities at your facility that may be contributing to violations of the above described statues or rules, should be ceased.

You are requested to contact Ms. Gloria-Jean De Pradine of this office at (407) 893-3328, within 10 days of receipt of this Warning Letter, to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes.

We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein  
Director of District Management

Date: August 19, 1998



VFG/gd

Enclosures

cc: Danielle Marshall - Volusia County

ATTACHMENT I

List of Potential Violations and Suggested Corrective Actions

1. Section 403.161(1) (b) Florida Statutes, (F.S.) and Rules 62-701.300(2) (d) and (2) (f) Florida Administrative Code, (F.A.C).

Potential Violation: Disposal of landclearing debris in a dewatered pit.

During the inspection on May 14, 1998, landclearing debris (solid waste) was observed in a pit that was being dewatered. The manager of the facility was notified verbally and by letter to cease disposal of the debris in the pit. However, during a follow-up inspection on August 5, 1998, this unauthorized activity was again observed.

Suggested Corrective Actions: Owner/operator shall remove the landclearing debris from the pit. In order to dispose of the landclearing debris in the pit, the seasonal high water table must be determined and 5 feet of clean fill be placed as a separation layer between the water table and waste.

2. Rules 62-701.300(1) (b), Section 403.161(1) (b), F.S.

Potential Violation: Storage and/or disposal of solid waste in a manner and location that causes water quality standards or criteria of receiving water to be violated.

Solid waste is disposed within 200 feet of a wetland and in a dewatered pit.

3. Rule 62-701.300(2) (g) F.A.C.

Potential Violation: Unauthorized storage and/or disposal of solid waste within 200 feet of a wetland.

Landclearing debris disposed within 50 feet of a wetland. On June 7, 1995, supporting documentation for the permit renewal application stated that C&D debris was placed within the 200 feet of the wetland, and that the existing debris would be removed and a 200 foot buffer of natural vegetation be created. However, this has not been done.

Suggested Corrective Action (Items 2 & 3 above): All solid waste shall be removed to a distance of 200 feet from the edge of the wetland and a minimum 200 foot buffer shall be maintained at all times.

4. Rule 62-701.730 (3)(a) F.A.C. and Section 120.60(2), F.S.

**Potential Violation:** Failure to provide a timely response to the Department's request for additional information needed to continue and complete processing of the ground water monitoring plan. Failure to provide ground water monitoring plan within 90 days of April 1, 1998.

On April 27, 1998, the Department sent you a letter (OCD-SW-98-0142) listing deficiencies in the hydrogeological investigation and the proposed ground water monitoring plan. Records indicate that you received the letter on April 28, 1998, and have not responded with the required information. More than 90 days have elapsed since the requirement for ground water monitoring became effective.

**Suggested Corrective Action:** Provide the information requested in the Department's letter (OCD-SW-98-0142) within 15 days of receipt of this letter.

The owner/operator shall schedule a meeting with the Department to discuss the potential violations listed above. It is recommended that your engineer of record be included in this meeting.



# COLELLA & ASSOCIATES, INC.

Engineers / Scientists / Contractors Solving Environmental Issues

May 25, 2000

Mr. William Leffler, P. E.  
Air Resources Management  
Florida Department of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

RECEIVED

Project No.: 00-110

MAY 26 2000

BUREAU OF AIR REGULATION

Additional Information Submittal  
Air Construction Permit Application  
Relocatable Concrete Crusher  
Samsula Recycling, Inc.  
New Smyrna Beach, Volusia County, Florida

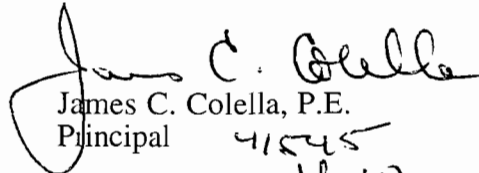
Dear Mr. Leffler:

Samsula Recycling, Inc. (Samsula) received and reviewed the February 21, 2000, letter from the Florida Department of Environmental Protection's (FDEP) requesting additional information to process the air construction permit application for the mobile crusher. Samsula directed Colella & Associates, Inc., to respond and provide the requested information. Per our conversation, each response is provided on a separate page. The FDEP letter is provided in Appendix A for reference as the FDEP requests will not be repeated herein. Tabs 1 through 13 provide the responses of the 13 FDEP questions.

Be advised that the mobile crusher when operating at the Samsula Landfill will be located in the southwest corner of the site as shown in Figure 1, at least 500-feet from any existing residential property.

If you have any questions or comments regarding the information presented herein, please call us at 904-322-9080.

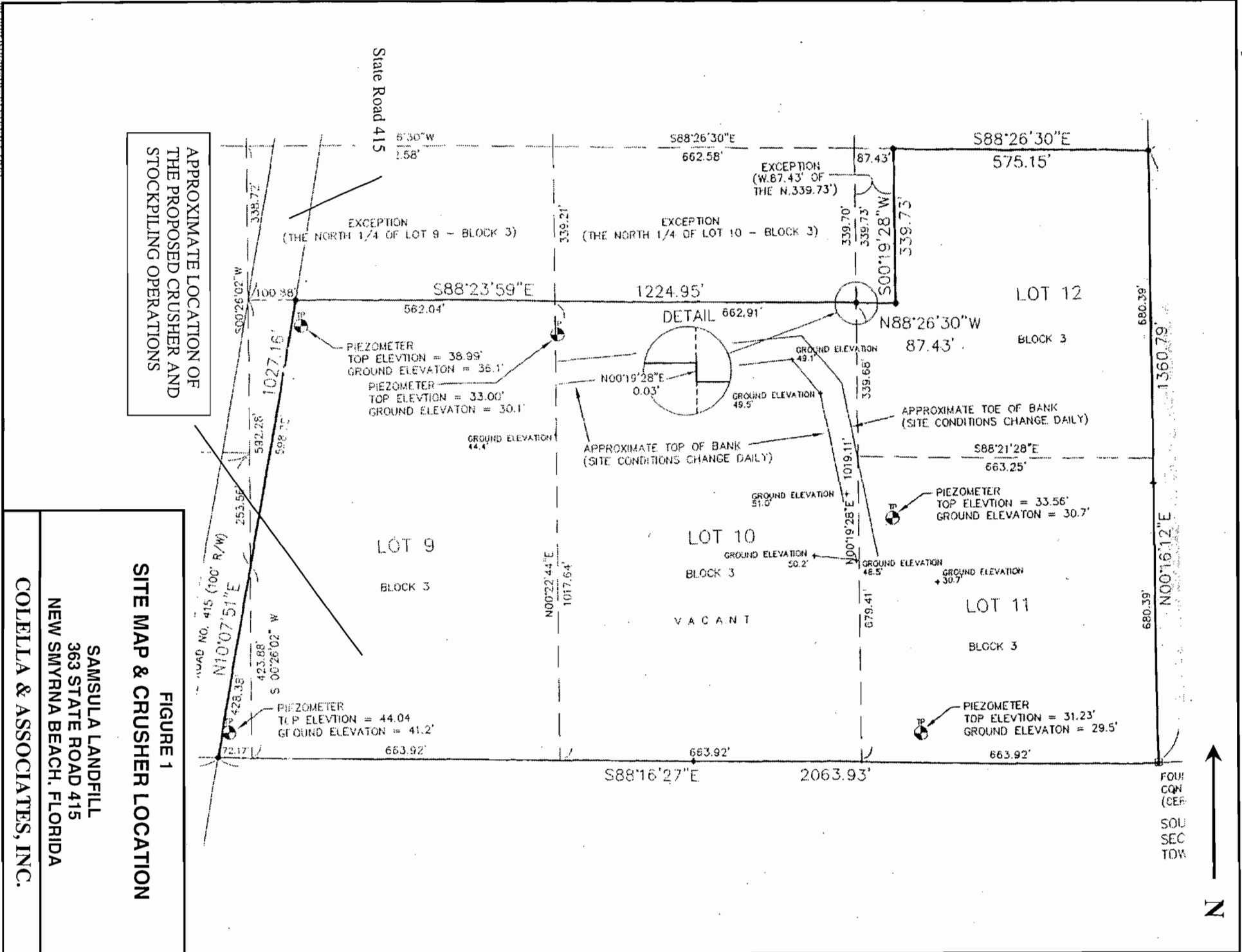
Respectfully yours,  
COLELLA & ASSOCIATES, INC.

  
James C. Colella, P.E.  
Principal 4/15/00  
2-0119-00

cc: Mr. Michael Stokes, Samsula Recycling, Inc.

ENCLOSURES

PROJECT NO. (M)-110



APPENDIX A  
FDEP FEBRUARY 21, 2000 LETTER

**1. 40 CFR 60, SUBPART OOO**

Samsula Recycling, Inc. (Samsula) has made the assertion that the Eagle UltraMax 1200-25 Model crusher was not subject to Subpart OOO based on the through-put capacity (120-tons per hour) of the unit with the screens in-place. Samsula's operation generates a crushed aggregate within a specified gradation which requires the screens to be in-place and thus reduces the capacity of the crusher as identified by the manufacturer in the previous submittal in Appendix B. The crushed aggregate is the product that Samsula sells, and as such they would not operate the crusher without the screens.

Subpart OOO regulations indicate that if the crusher was mobile and did not exceed a capacity of 150-ton-per hour, the associated regulations would not be applicable. Based on the discussions FDEP staff and reviewing EPA's interpretation, the capacity of the crusher is the maximum capacity of the crusher without out any controls. Samsula's Eagle UltraMax 1200-25 crusher has a maximum capacity of 250-tons per hour. Eventhough the crusher has the greater capacity, the business only operates the equipment to generate and sell smaller aggregate that requires the screens which reduces the through-put to 120-tons per hour.

Samsula has not contacted nor has received correspondence from the EPA that support the conclusion that Subpart OOO is not applicable. Accordingly, Samsula will operate the crusher to not exceed the fugitive emission standards in 40 CFR 60.672(b) for conveyor transfer points and (c) for crusher operations. The fugitive emissions shall not exceed 10 and 15 percent opacity for the conveyor transfer points and crusher operations, respectively.

**2. Eagle UltraMax 1200-25 Crusher Information**

- (i). Rated Capacity of the Existing Facility being Replaced, tons per hour - N/A
- (ii). Rated Capacity of the Replacement Equipment, tons per hour - Crusher is new and has a capacity of 250 tons per hour .
- (iii). Date of Manufacture of the Crusher - 1996 Model.
- (iv). Crusher Through-put Verses Breaker Bar Spacing/Aggregate Size - The manufacturer does not have the requested information. The maximum capacity with no screens and the maximum bar spacing is 250 tons per hour. With the screens in-place and the bar spacing at the desired spacing for the product being produced by Samsula Recycling, Inc., the capacity of the crusher is 120 tons per hour.
- (v). Horsepower Applied Verses the Through-put Passing Each Screen - The crusher's horsepower can range from 228 to 305, but is always operated at 305, generating 1,800 rpm, to produce the desired product.

**3. Eagle UltraMax 1200-25 Screen Information**

- (i). Total Surface Area of Each Screen - 160 square feet (total); 80 square feet each (2 screens)
- (ii). Date of Manufacture of the Screens - 1996

**4. Eagle UltraMax 1200-25 Screen Cross Conveyor**

The screen cross conveyor can be reversed to direct the +1/2 diameter aggregate to a stock-pile. However, Samsula plans to operate the cross screen conveyor to discharge to the crusher return conveyor and install a water spray bar to minimize the generation of dust at the transfer points; conveyor to conveyor and conveyor to crusher hopper.

Air Construction Permit Application  
Relocatable Crusher  
Samsula Recycling, Inc.

## **5. Performance Tests**

No performance tests have been performed to date. Upon receipt of the air construction permit, Samsula Recycling, Inc., will conduct the necessary performance test(s) to demonstrate compliance within the stipulated schedule.



## **6. Materials to be Crushed**

Materials delivered to the crusher location will be inspected by a Samsula Recycling, Inc. (Samsula), representative for acceptance and crushing to minimize the potential of asbestos containing materials being crushed. The materials that Samsula plans to crush include:

- Concrete construction debris.
- Concrete from roads and bridge supports/abutments.
- Rejects from concrete block plants.
- Asphalt pavement.

Materials not to be crushed by Samsula include:

- Concrete pipes.
- Painted concrete blocks.
- Siding from buildings and houses.

**7. Emissions from Internal Combustion Engine**

The following table summarizes the emissions (particulates, volatile organic compounds and carbon monoxide), using EPA Publication AP-42, 5th Edition, from the internal combustion engine operating the crusher.

- Emission Point -- Diesel Exhaust (S01, see figure in Tab 9)
- SCC -- 2-02-001-02 and 203-001-01
- Reference for Emission Factor -- AP-42, 5th edition, Chapter 3.3, Table 3.3-1

Emissions

A	B	C	D	E
Pollutant	Emission Factor (lb/hp-hr)	Annual Operation, Hours	Diesel Engine Horsepower	Annual Emissions, pounds (tons) (B x C x D)
NOx	0.031	5,824	305 at 1,800 rpm	55,066 (27.5)
CO	0.0068	5,824	305 at 1,800 rpm	12,080 (6.04)
SOx	0.00205	5,824	305 at 1,800 rpm	3,640 (1.8)
PM-10	0.0022	5,824	305 at 1,800 rpm	3,908 (1.95)
VOC	0.00247	5,824	305 at 1,800 rpm	4,388 (2.2)

**8. Eagle UltraMax 1200-25 Diesel Engine Fuel Consumption**

The permit application identified both diesel engines using a total of approximately 12-gallons of diesel. The loader also consumes approximately 6-gallons per hour No. 2 virgin diesel by actual measurements. The loader is not operated continuously to feed the crusher and should not be considered as part of the crusher operation and not included in the permit conditions.

The diesel engine of the crusher consumes approximately 6-gallons per hour of No. 2 virgin diesel (see specification sheet in Tab 11) by actual measurements.

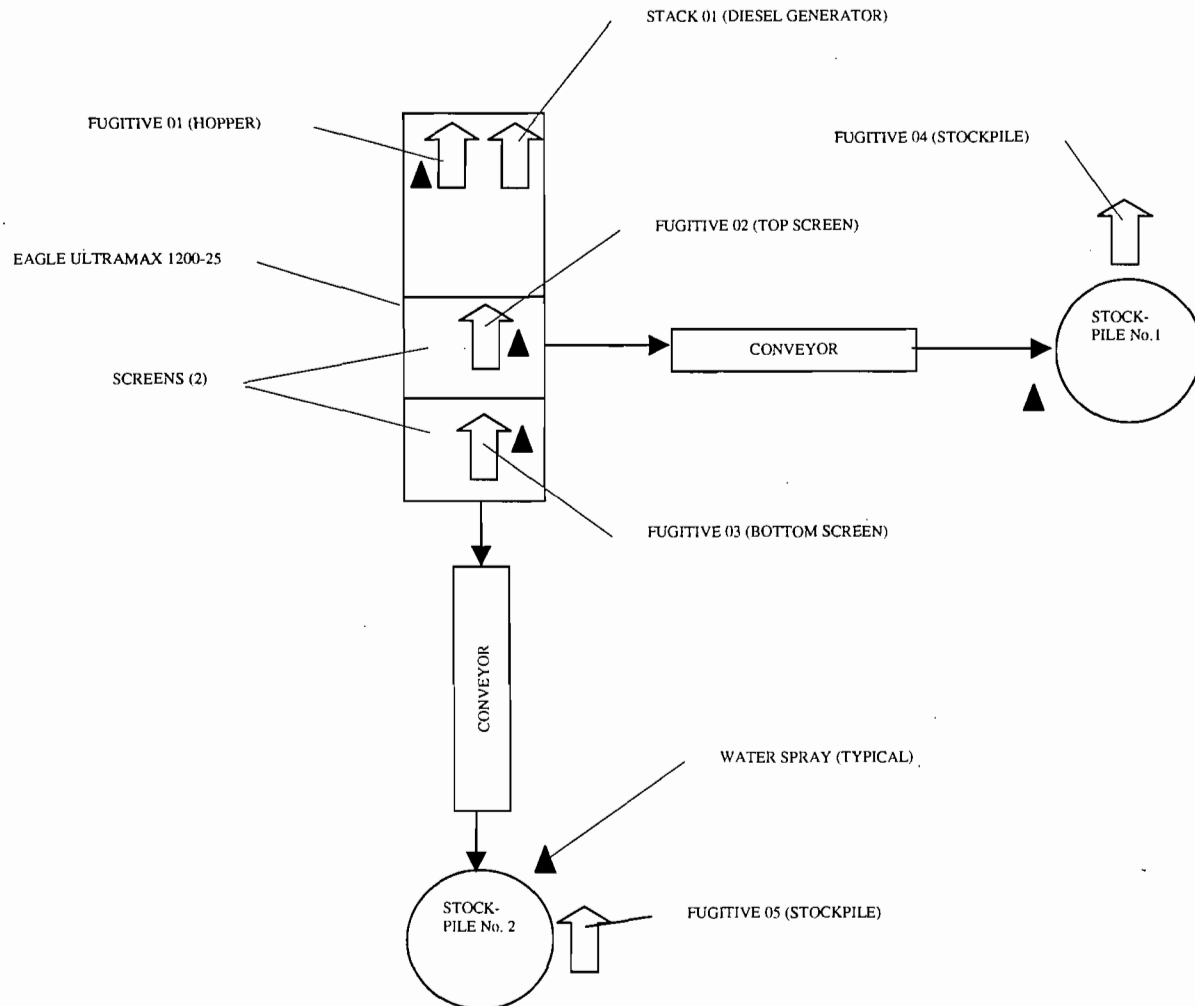
**9. Emissions from the Crusher**

The following table summarizes the particulate emissions, using EPA Publication AP-42, 5th Edition, from the operation of the crusher and conveyor transfer points.

- Emission Points -- Fugitive 01 through 03 (see figure in this tab)

**Crusher Operation (water suppression control provided at the hopper and at the two (2) conveyor transfer points)**

A	B	C	D	E	F	G
Emission Point	Location	SCC	AP-42, 5th Edition Emission Factor, pound/ton (Reference)	Production, tons/hour	Operation, hours/year	Emissions, pounds/year (tons/year) (D x E x F)
01	Crusher Hopper	3-05-020-01	0.0007 (Table 11.19.2-2)	250	5,824	1,020 (0.5)
02	Top Screen Conveyor	3-05-020-06	0.000048 (Table 11.19.2-2)	250	5,824	70 (0.035)
03	Bottom Screen Conveyor	3-05-020-06	0.000048 (Table 11.19.2-2)	250	5,824	70 (0.035)



**RESPONSE 9 FIGURE**  
**EMISSION POINTS & CONTROLS**  
**EAGLE ULTRAMAX 1200-25**  
**SAMSULA LANDFILL**  
**363 STATE ROAD 415**  
**NEW SMYRNA BEACH, FLORIDA**  
**COLELLA & ASSOCIATES, INC.**

### 10. Other Emissions

The following table summarizes the particulate emissions, using EPA Publication AP-42, 5th Edition, from the product stock piles. The emissions from the loader traffic and loader engine are insignificant as the loader will not be used continuously, only to feed the crusher hopper. In addition, the area surrounding the crusher operation will be maintained wet to minimize dust generation. See figure in Tab 9 for location of Fugitive Emission Points 04 and 05.

#### Stockpile (water suppression control)

A	B	C	D	E	F
Emission Point	Location	AP-42, 5th Edition Emission Factor, pound/ton (Reference)	Daily Stockpile, tons	Days of Stockpiling	Annual Emissions, pounds (tons) (C x D x E)
04	Stockpile No. 1	0.00137 (See 1. below)	4,000	365	2,000 (1)
05	Stockpile No. 2	0.00137 (See 1. below)	4,000	365	2,000 (1)

1. Chapter 13.2.4 of AP-42, 5th Edition. Equation (1) was used.

$$E = k (0.0032)(U/5)^{1.3}/(M/2)^{1.4}$$

where:

E = emission factor (pound per ton)

k = particle size multiplier (used 0.35 for 10 um)

U = mean wind speed (used 15 mph)

M = material moisture content (used 4.8 percent)



**AMERADA HESS CORPORATION  
#2 HEATING OIL  
SULFUR LIMITS BY STATE**

STATE	COUNTY or REGION	SULFUR LIMIT, Wt. %
CT	Statewide	0.3
DE	Statewide	0.3
FL	Statewide	0.5
GA	Statewide	0.5
MA	Statewide	0.3
MD	Statewide	0.3
MS	Statewide	4.5 (1,2)
NC	Statewide	0.5
NH	Statewide	0.4
NJ	Passaic, Bergen, Morris, Essex, Hudson, Union, Somerset, Middlesex, Monmouth, Mercer, Burlington, Camden & Gloucester	0.2
	Ocean, Atlantic, Cape May, Cumberland, Sussex, Warren, Hunterdon & Salem	0.3
NY	New York City	0.2
	Nassau, Rockland & Westchester	0.37
	Erie County, City of Lackawanna & So. Buffalo	1.1 (2)
	Suffolk County towns of Babylon, Brookhaven, Huntington, Islip & Smithtown	1.0 (2)
	Remainder of State	1.5 (2)
PA	City of Philadelphia	0.2
	Southeast PA Air Basin - inner zone	
	Southeast PA Air Basin - outer zone	0.3
	Allentown-Bethlehem-Easton, Erie, Harrisburg, Johnstown, Lancaster, Reading, Scranton-Wilkes-Barre, Upper Beaver Valley & York Air Basins	
	Allegheny County, Lower Beaver Valley & Monongahela Valley Air Basins: non-air basin areas	0.5
RI	Statewide	1.0 (2)
SC	Statewide	0.5
VA	Arlington, Fairfax, Loudoun, Prince William	1.0 (1,2)
	Remainder of State	2.5 (1,2)
VT	Statewide	2.0 (2)

(1) Equivalent fuel sulfur content based on SO<sub>2</sub> emission limits.

(2) ASTM D396 0.5% max. sulfur limit will govern.



**AMERADA HESS CORPORATION  
MARKETING SPECIFICATION  
#2 Heating Oil**

Test	ASTM Method	Typical	Minimum	Maximum
Gravity, API @ 60°F	D - 1298	31.0	30.0	-
Appearance (1)	-	Passes	Dyed red (1)	-
Corrosion, 3 hrs. @ 122°F	D-130	1	-	3
Flash Point, °F	D - 93	150	125	-
Water & Sediment, Vol.%	D - 1796	Nil	-	0.05
Cloud Point, °F	D - 2500	+15	-	+24
Pour Point, °F	D - 97	0	-	+10
Sulfur, Wt.%	D - 4294	0.14	-	See Table
Viscosity, cSts @ 40°C	D - 445	3.1	1.9	3.4
Viscosity, SSU @ 100°F	D - 88	37.0	32.6	37.9
CCR, 10% Btms, Wt.%	D - 4530	0.12	-	0.35
Ash, Wt.%	D - 482	<0.001	-	0.01
Distillation, °F	D - 86			
90% Recovered		630	540	640

This product will meet ASTM D-396 specifications for No. 2 Fuel Oil.

(1) Meets EPA and IRS requirements for red dye concentration.

Post-It® Fax Note	7871	Date	5/25/00	# of pages	2
To	Jim Colella	From			
Co./Dept.		Co.			
Phone #	904 322 - 9080	Phone #	800 437 7872		
Fax #	0068	Fax #			

Air Construction Permit Application  
Relocatable Crusher  
Samsula Recycling, Inc.

**11. Eagle UltraMax 1200-25 Internal Combustion Engine Fuel**

Virgin No. 2 diesel fuel will be used in the operation of the crusher diesel engine. See the enclosed fuel specification sheet.

## 12. Product Production

Samsula Recycling, Inc. (Samsula), expects to generally have a continuous production based on the current market, but production will be based on availability of material to crush and the need of crushed aggregate.

Samsula does not have or currently plan to incorporate a production weighing scale. Samsula plans to maintain a daily log of the following to demonstrate that the crusher is not operating beyond its capacity.

- Date and Hours of the Crusher Operation (start and stop).
- Total Hours of the Crusher Operation.
- Estimation of stockpiled crushed materials prior to operating crusher each day.
- Number of Trucks transporting crushed product from the site and an estimation of the respective tonnage.
- Estimation of stockpiled crushed materials at the of each day.
- Process Weight per Day -- [Stockpile (Startup) - Stockpile (Shutdown)] + Tonnage of Product Hauled off-site. If the stockpile tonnage results in a negative number for the day, the value will be added to the tonnage hauled to represent the actual tonnage processed. If the stockpile tonnage results in a positive number, the value will not be added to the tonnage hauled to represent the actual tonnage processed.
- Crusher Capacity - To verify that the crusher capacity of 250 tons per hour is not exceeded, the process weight per day will divided by the hours of crusher operation and logged.

Other operating information to be collected and maintained include:

- Water pressure to the spray heads.
- Daily fuel used by the crusher's engine.
- Water truck operation (hours of operation, start and stop times).
- Maintenance performed on crusher.
- Reason water truck was not operating.

Air Construction Permit Application  
Relocatable Crusher  
Samsula Recycling, Inc.

**13. Time Meter**

Samsula Recycling, Inc., has an electrical cumulative running hour meter on their Eagle UltraMax 1200-25 crusher.

## INTEROFFICE MEMORANDUM

**Date:** 08-May-2000 04:35pm  
**From:** James C Colella  
JCBJCOLELLA-CAI@prodigy.net  
**Dept:**  
**Tel No:**

**To:** William Leffler TAL 850/488-1344 22 ( William.Leffler@dep.state.fl.us )

**Subject:** Re: Samsula Recycling, Inc

Bill

Have not received copies of similar air construction permit applications for similar crushers as we discussed a week or so ago. Just a reminder. Thanks  
Jim Colella

----- Original Message -----

From: William Leffler TAL 850/488-1344 222-3146 (home)  
<William.Leffler@dep.state.fl.us>  
To: <jcbjcolella-cai@prodigy.net>  
Sent: Friday, April 21, 2000 2:22 PM  
Subject: Samsula Recycling, Inc

> Our request for additional information is attached. Mailed today.  
>

*copy of multiracks*



Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

May 15, 2000

James Colella PE  
Colella and Associates, Inc  
805 Smokerise Boulevard  
port Orange, Florida 32127

Re Samsula Recycling, Inc

Enclosed is a copy of a recently issued air construction permit for a concrete crusher similar to that owned by your client. We are constantly revising the language of these permits to better express the intent and limitations of the law and regulations currently in effect, so there may be some minor editorial changes.

I call to your attention the general conditions ( the last three pages of the permit) [The permit] does not authorize any injury to public or private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations (G3) these general conditions also leave your client with responsibility for any injury or harm to human health or welfare, animal or plant life...(G5).

I understand that you have nearly completed the request for additional information. When this information arrives, we will restart the clock and continue processing the application on its technical merits.

Should there be any futher questions please call me at 850 921 9522.

Sincerely,

William Leffler PE  
Permit Engineer

SAMSULA LANDFILL, INC.  
 363 S.R. 415  
 NEW SMYRNA BEACH, FL 32168  
 PHONE: 904-423-6769  
 FAX: 904-423-6769 (MUST CALL FIRST)



FAX COVER SHEET

DATE: 5-12-00 TOTAL NUMBER OF PAGES: 5

SEND TO: William Leffler

ATTENTION: \_\_\_\_\_

FAX NUMBER: 850-922-6979

FROM: Mike Stokes

COMMENTS:

Mr Leffler,  
Here's just a small amount of evidence of harassment  
from the County. It clearly shows how the violations  
started pouring in Aug. 98, when they found out we weren't  
going out of business from there rate decrease in Jan. 98.  
All violations are either dismissed or tied up in litigation.  
If I can help you with anything, give me a call.

Thanks,  
Mike Stokes

Best Available Copy

makers are embarking on a new legislative session — would impose a revenue waste issues. "I intend to hit the ground running," said Rooney, who is

The company was to have started service Jan. 1, but BFI balked because of unspecified

The contract was awarded to BFI Dec. 10, said Postal Service spokeswoman Diane Todd, but she could not provide details

not honor the deal, the incumbent contractor, Rutigliano Paper Stock Inc., had gone to court to block the award because

# WASTE NEWS™

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Reporting on solid waste management,

from product design to disposal and recovery

Volume 3, Issue 35

January 19, 1998

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## Enviro equity lawsuits target sites

Latino advocates sue USA, county

By Mary Greczyn

**Title VI complaints**  
(of Dec. 5, 1997)  
**The U.S. Environmental Protection Agency is investigating**

Federal decision focuses on site impact, not intent

By Mary Greczyn



...want in early Jan...  
 against the...  
 Clinton...  
 Authority, although the town...  
 she had thought to...  
 state the lawsuit if they...  
 don't reach a final agree...  
 ment by early February...  
 said Clinton Township Su...  
 pervisor James Sinnamon.

At the center of the dis...  
 pute is a 20-year-old waste...  
 to-energy plant in the...  
 township which the reuse...  
 authority said has become...  
 too expensive to operate...  
 The waste authority was...  
 losing up to \$70,000 per...  
 month on the plant, Sinni...  
 mon said.

The authority an...  
 nounced plans last fall to...  
 close the incinerator Jan...  
 10 and use the property as...  
 a waste transfer station...  
 That prompted the town...  
 ship lawsuit.

When the waste memo...  
 ator first was constructed...  
 vacant lots surrounded it.

All the vacant lots in...  
 the area are being built...  
 with new homes, Sinni...  
 mon said. "If you turn it...  
 into a transfer station...  
 you'll have a smell. The...  
 township Board felt these...  
 residents should not have...  
 to put up with a transfer...  
 station after having an in...  
 cinerator for 20 years.

The site is surrounded...  
 by homes ranging in value...  
 from \$160,000 to \$190,000...  
 Sinnamon said.

The disposal authority...  
 board said it will burn...  
 garbage through mid-Feb...  
 ruary while negotiating a...  
 contract with a trash...  
 hauler to take waste direc...  
 ly to area landfills.

"At the moment we want...  
 try to make it into a transfer...  
 station," said plant Genera...  
 l Manager Doug Taylor. ■

get figures from the Sanitation Department, said Arthur Kell, a senior analyst for NYPIRG and author of the study.

The group based its findings on the same methodology the Sanitation Department used to determine 1994 solid waste costs, Kell said. However, NYPIRG overstated how much money the city saved in refuse-collection costs with the addition of the recycling program, the Sanitation Department said.

costs avoided with a recycling program in-tact. NYPIRG's report found the city saved about \$23.7 million in disposal fees, based on export costs to landfills outside New York.

The city actually saved only \$3.5 million, because at that time it disposed of all of its waste at the Fresh Kills landfill, exporting no trash, said Lucian Chalfen, sanitation department spokesman.

NYPIRG's report used the cost to export

"The department acknowledged [the recy-cling police officers] spend half their time do-ing things that have nothing to do with recy-cling," Kell said. "So as I see here, their claim is speculation and can't be substantiated."

NYPIRG also underreported both the mon-ey spent on recycling outreach and public ed-ucation programs and the city's cost of col-lecting and delivering recyclables, the department said. ■

# Inland to increase recycling

By Jim Johnson

MILLWOOD, WASH. — Inland Empire Paper Co. expects to nearly double its newspaper recycling through the expansion of its plant in Millwood.

And the total could rise even further in years ahead.

Inland Empire, located near Spokane, Wash., expects to break ground in about a month on a \$102 million project that will more than double production capacity.

The plant produces more than 260 tons of newsprint each day,

The facility uses more than 100 tons of old newspapers daily. But that number is expected to in-crease to about 180 tons per day with the new machine.

Overall capacity is expected to increase to more than 600 tons per day once the project is com-pleted in late 2000. The company plans to produce 450 tons to 460 tons per day initially, said Wayne Andresen, president of Inland Empire.

The company originally planned to replace its paper-making machine, which can pro-duce sheets 142 inches wide,

with a new 225-inch machine.

But the firm is considering whether to keep the existing line — which Andresen describes as modern — as well as operate the new equipment.

Company officials could decide in about a year.

Keeping the second line means the plant also would increase its deinking capacity by another 250 tons per day beyond the anti-cipated 180 tons, Andresen said.

"Right now, we have a plant that recycles about 100 tons a day, primarily old newspapers. We use a little bit of old maga-

zines," he said.

Inland averages 32 percent to 35 percent recycled content but can boost that figure to 40 percent to satisfy recycled-content requirements for customers in California.

Inland Empire's overall recy-cled fiber content percentage should not drastically change as production expands.

Cowles Publishing Co., which owns the nearby Spokesman-Re-view in Spokane, also owns In-land Empire. The newspaper uses about 18 percent of the com-pany's production. ■

# Fla. county to cut C&D debris rate

By Jim Johnson

DAYTONA BEACH, FLA. — Volusia Coun-ty, Fla., is drastically cutting construction and demolition debris rates to gain a larger share of the disposal action.

Rates are dropping by 40 per-cent to attract more debris to the county landfill, about 2.5 miles south of Interstate 95 in unincor-porated Volusia County, south of Daytona Beach.

"We are an enterprise fund, and the loss of revenue was crunching us. It was that se-vere," said Jim Griffin, county di-rector of solid waste manage-

ment.

Griffin estimated 15 private facilities in the county accept construction and demolition debris. And the going rate is about \$3 per cubic yard, or about \$18 per ton, depending on the con-tent.

That compares to the \$30 per ton the county had charged to ac-cept construction and demolition debris until Jan. 12, when the new rates took effect.

"Primarily, we're just meeting the competition," Griffin said, as the county's new rate is \$18 per ton for construction and demoli-tion debris.

"We've had very limited C&D [debris] business, and I think a lot of it is we haven't been any-where near competitive," said Terence M. Henry, county direc-tor of public works.

Volusia County also expects to have an edge on competition as state regulations regarding con-struction and demolition debris tighten.

Some smaller, private opera-tors probably will not bother with the expense of adhering to the new regulations and instead will close, Griffin said.

New rules, which begin in April, include requiring monitor-

ing wells and creating more stringent permit requirements, Henry said.

"The nice thing is we have built our landfill, and we are in total compliance. So it's not going to be a problem for us," Henry said.

Volusia County is not experi-encing as much development as other portions of Florida, Griffin said. But plenty of construction, land clearing and urban renewal remain to produce a significant construction and demolition waste stream.

"We definitely expect revenue to increase," Griffin said. ■

## County of Volusia, Florida

Date: February 15, 2000

## AGENDA ITEM

Page 2 of 3

Subject: Yancey McDonald's Non-Conforming  
Landfill Report

Service Center/Group: GMES/Growth Mgmt.  
Activity: Administration  
File No: GM-ADM-00-021

## Part I Non-Conforming Status

- April 16, 1991 Mr. Clyde Hart requests confirmation of a non-conforming landfill on ±400 acres located on the east side of S.R. 415, approximately 1.25 miles south of S.R. 44 (Map 1).
- May 02, 1991 The County Zoning Enforcement Official (ZEO) makes a determination that the landfill is not a non-conforming use and is, therefore, in violation of Volusia County Zoning Ordinance.
- January, 1992 Code Board upholds ZEO determination.
- June 09, 1992 Judge McFerrin Smith rules that the ZEO applied an unconstitutional standard in considering Mr. Hart's application for a non-conforming use. The Judge ordered the ZEO to apply the competent and substantial evidence standard of proof in making a non-conforming determination. The ZEO applies the competent and substantial evidence standard of proof and determines that ±145 acres is a non-conforming landfill (Map 2). In addition the ZEO's determination includes the following stipulations:
- A 50-foot wide natural landscape buffer along the entire east boundary of the site.
  - A 100-foot wide natural landscape buffer located along the entire north boundary of the site.
  - The subject landfill can only receive materials currently authorized under the State Department of Environmental Regulation Notification of Intent.

## Part II Code Violation Status

- August 24, 1998 Mr. Yancey McDonald, owner of Yancey's Landfill (Map 3), was cited for a violation for constructing a building without permits and inspection approvals.
- November 18, 1998  
February 17, 1999  
April 21, 1999 Code Board continues case on these dates due to ongoing discussions with Mr. McDonald's attorney, Jim Morris, regarding the status of the nonconformity and options for coming into compliance.
- April 16, 1999 Mr. Morris submits a variance application for construction of the additional building. The application was not accepted by the ZEO. The ZEO determined it is not eligible for a variance because the County Zoning Ordinance, Section 600.02(c), prohibits the construction of a structure in conjunction with a nonconforming use and Section 1003.03 does not authorize variances for additional buildings in conjunction with non-conforming uses.
- June 16, 1999 Mr. Morris appeared before the Code Board and testified that he will apply for a Special Exception to legitimize the landfill.
- August 19, 1999 Mr. McDonald was cited for having an air-curtain incinerator without an approved Special Exception.

## County of Volusia, Florida

a: February 15, 2000

## AGENDA ITEM

Page 3 of 3

Subject: Yancey McDonald's Non-Conforming  
Landfill Report

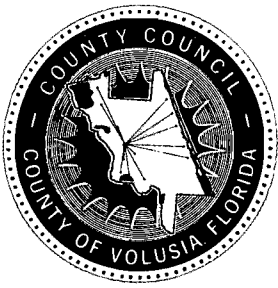
Service Center/Group: GMES/Growth Management  
Activity: Administration  
File No: GM-ADM-00-021

## Part II Continued

- September 15, 1999 Code Board cancels their meeting due to Hurricane Floyd and continues the case until October 6, 1999.
- September 20, 1999 Mr. Morris files a Special Exception application for a landfill and air curtain incinerator.
- November 09, 1999 Planning and Land Development Regulation Commission approves landfill Special Exception.
- November 11, 1999 Notice of Appeal filed on landfill Special Exception approval to County Council.
- December 05, 1999  
December 11, 1999  
January 19, 2000 Code Board continues case due to processing of the Special Exception appeal.
- January 03, 2000 Barry Appleby, County Environmental Manager, notifies Mr. McDonald that certain provisions of the County's Noise Ordinance may be violated and, if violation is not resolved, it will be referred to Code Board. Noise violations under review are the result of the use of a rock crusher.
- January 20, 2000 At County Council Appeal Hearing, Mr. Morris withdraws Special Exception application on behalf of his client, Mr. McDonald.
- February 02, 2000 Code Board hearing determines building to be in noncompliance for failure to obtain building permits and inspection approvals, and hearing to impose fines scheduled for March 15, 2000
- February 10, 2000 Randy Sleister, County Environmental Manager, refers wetland violation to Code Board.

DS:nab:cb

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# County of Volusia

Environmental Management Services Group  
123 West Indiana Avenue  
DeLand, Florida 32720

April 28, 2000

RECEIVED

MAY 01 2000

BUREAU OF AIR REGULATION

Mr. William Leffler, P.E.  
Air Permitting Engineer  
Department of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Mr. Leffler:

Volusia County staff have reviewed the Air Construction Permit Application for a mobile concrete crusher, operated by Samsula Recycling, Inc, prepared by Colella & Associates, Inc. Staff have a number of concerns regarding this equipment and would like to provide the following comments on the record for your consideration as part of the permitting process.

1. There has been no demonstration to the County that the crusher can legally be located at the proposed site. This landfill is designated a non-conforming use under the County Zoning Ordinance, which prohibits any expansion of the use at this site. You should not permit any facility that violates local land use regulations. The land use Issue should be resolved prior to any permitting decision by the state.
2. The permit application contained inaccurate information: the crusher was operational in December 1999, not February 2000 as stated. Our Environmental Office received a noise complaint from the Bakers on 12/29/99 and performed the first noise measurement on 12/30/99. A Notice of Violation went out 1/3/2000, since the equipment was in violation of our local noise regulation.
3. Nothing in the application addresses noise emissions or noise control measures. Although noise level is not considered an issue for the air permit, the State Constitution says that citizens are entitled to peace and quiet; that basic right, as excerpted from the Constitution below, should be addressed as part of the application.

**SECTION 7. Natural resources and scenic beauty.—**

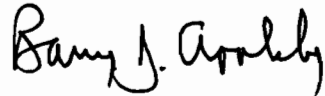
(a) It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.



4. The equipment is rated at 200 tons per hour, yet the application says it will only be operated at 120 tons per hour, thereby qualifying for an exemption from 40 CFR 60.670, which requires additional controls if 150 tons or more per hour are processed. How will the capacity be restricted to ensure the 120 tons per hour is not exceeded and how will it be enforced?
5. The stated hours of operation are excessive. The landfill itself is not open that number of hours. The hours should be reduced and the calculations for the various emissions re-done. Because of the likelihood of nuisance complaints, the crusher should operate only 8 hours per day, 5 days per week.
6. This equipment was in violation of the County's Noise Ordinance when it was located in the NW part of the landfill, in or adjacent to the landscape buffer and within 100 yards of the Baker property. The application should detail the specific site on the property where the crusher will be located and demonstrate compliance with the Noise Ordinance.
7. The permit should require all equipment to be operated in accordance with manufacturer's specifications, including exhaust controls, mufflers and safety provisions.
8. The permit should require engineered controls to address vibration problems generated by the operation of the crusher.
9. Since this is used equipment, DEP should perform an operational inspection on the equipment to verify that all components are present, in acceptable condition and functioning in accordance with specifications. This should include the dust suppression system and noise abatement measures, which the manufacturer says comes with the apparatus.
10. There are questions regarding this facility/equipment being designated portable as opposed to stationary. How often will it have to move to be considered portable and how long can it remain at one site to be considered portable. Who will track and enforce these requirements?
11. This landfill is currently under a consent order with DEP for violations. The landfill has existing violations before the County Code Enforcement Board. If an applicant has a history of violations and non-compliance with local and state rules, do you have the flexibility to deny the permit application based on a history of non-compliance?

We appreciate the opportunity to comment on this permit application. Please send a copy of your letter of intent when it is available, in case we decide to contest or pursue an administrative hearing to formulate permit stipulations. If additional information is desired, please let me know.

Sincerely yours,

A handwritten signature in black ink that reads "Barry J. Appleby". The signature is written in a cursive style with a large initial 'B'.

Barry J. Appleby, Manager  
Pollution Control Activity

cc: Legal Department  
Danielle Marshall

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 17<sup>th</sup> 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

Before me this 17<sup>th</sup> day of January, 2000, appeared, Robert H. Baker, Zetta M. Baker, William D. Towner, Georgia M. Towner, and ~~Andrew~~ 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.

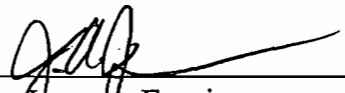
Notary Public Lori Williams

Commission Number: CC567086

My Commission expires: 8/31/00

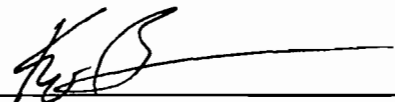


**LORI WILLIAMS**  
My Comm. Exp. 8/31/00  
Bonded By Service Ins  
No. CC567086  
 Personally Known |  Other I.D.



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J.A. Jurgens, Esquire  
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Attorney for Plaintiffs



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**Brickleymer Smolker & Bolves, P.A.**  
500 East Kennedy Boulevard, Suite 200  
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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"

Samsula 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

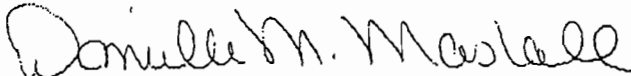
Reference: Follow-up letter

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



Jeb Bush  
Governor

# Department of Environmental Protection

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.

# Best Available Copy

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

## Best Available Copy

Permittee:  
Samsula Landfill, Inc.

Atten: Charles Y. McDonald,  
President

I.D. Number: 107154  
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.

Best Available Copy

Permittee:  
Samsula Landfill, Inc.

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

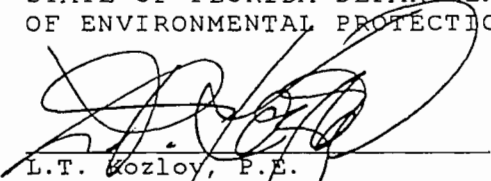
Atten: Charles Y. McDonald,  
President

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

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:

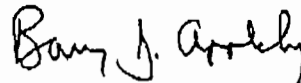
This Department is responsible for enforcement of Ordinance Number 83-22, as adopted by the Volusia County Council. As a result of an investigation conducted by staff from this office, I have reason to believe that you are presently violating certain provisions of this Ordinance as indicated on the attached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

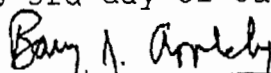
**6. ADDITIONAL EXPLANATION:**

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: APPELBY

COMPLAINANT INFORMATION: NAME: MS. ETTA RAUSE

ADDRESS: 353 SOUTH SR 415 CITY: NEW BRUNSWICK BEACH

TELEPHONE: 428-5882 OTHER:

NOISE SOURCE: NAME: SAMSONIA LANDFILL 428-6769

ADDRESS: SR 415 CONTACT:

METEOROLOGICAL CONDITIONS (ESTIMATED) WIND DIRECTION: N/A

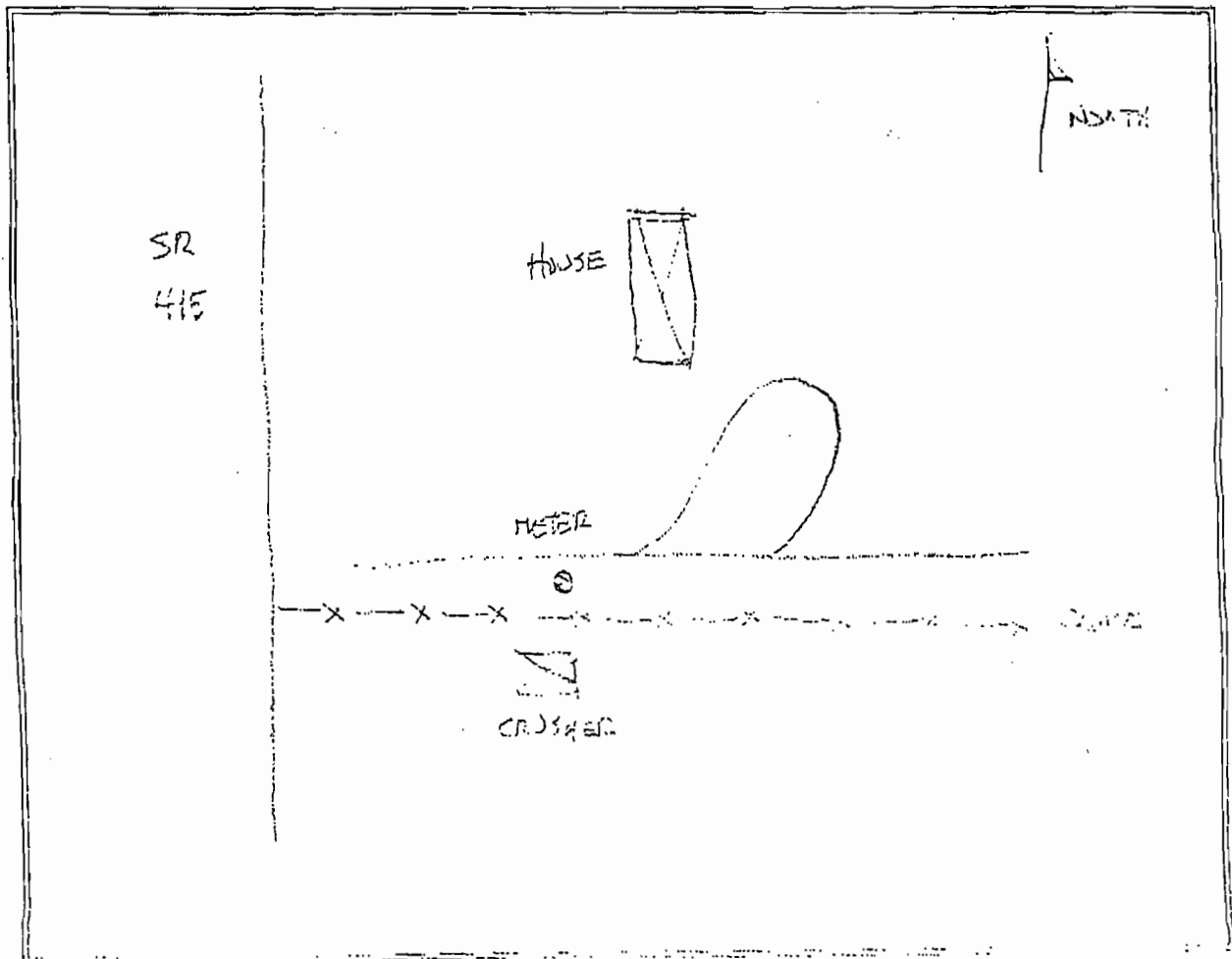
WIND SPEED: LT 5 TEMPERATURE: ~ 50 HUMIDITY: ~ 45

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	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	CENTRAL DISTRICT
	)	
Complainant,	)	
	)	
vs.	)	OGC FILE NO: 00-0210
	)	
SAMSULA LANDFILL, INC., and	)	
YANCEY'S LAND CLEARING, INC.,	)	
	)	
Respondents .	)	
	)	DEP 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 Lobolly 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.

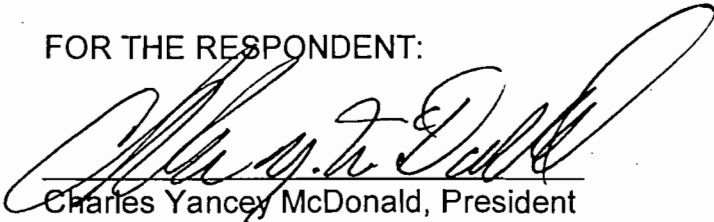
28. In the event of a sale or conveyance of the facility or of the property upon which the facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondents shall, at least 30 days prior to a sale or conveyance of the property or facility, (1) notify the 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:

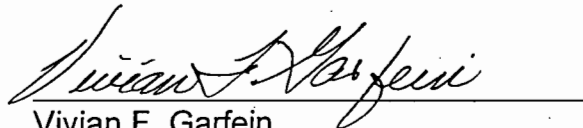


Charles Yancey McDonald, President  
Yancey's Land Clearing, Inc.  
Samsula Landfill, Inc.

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

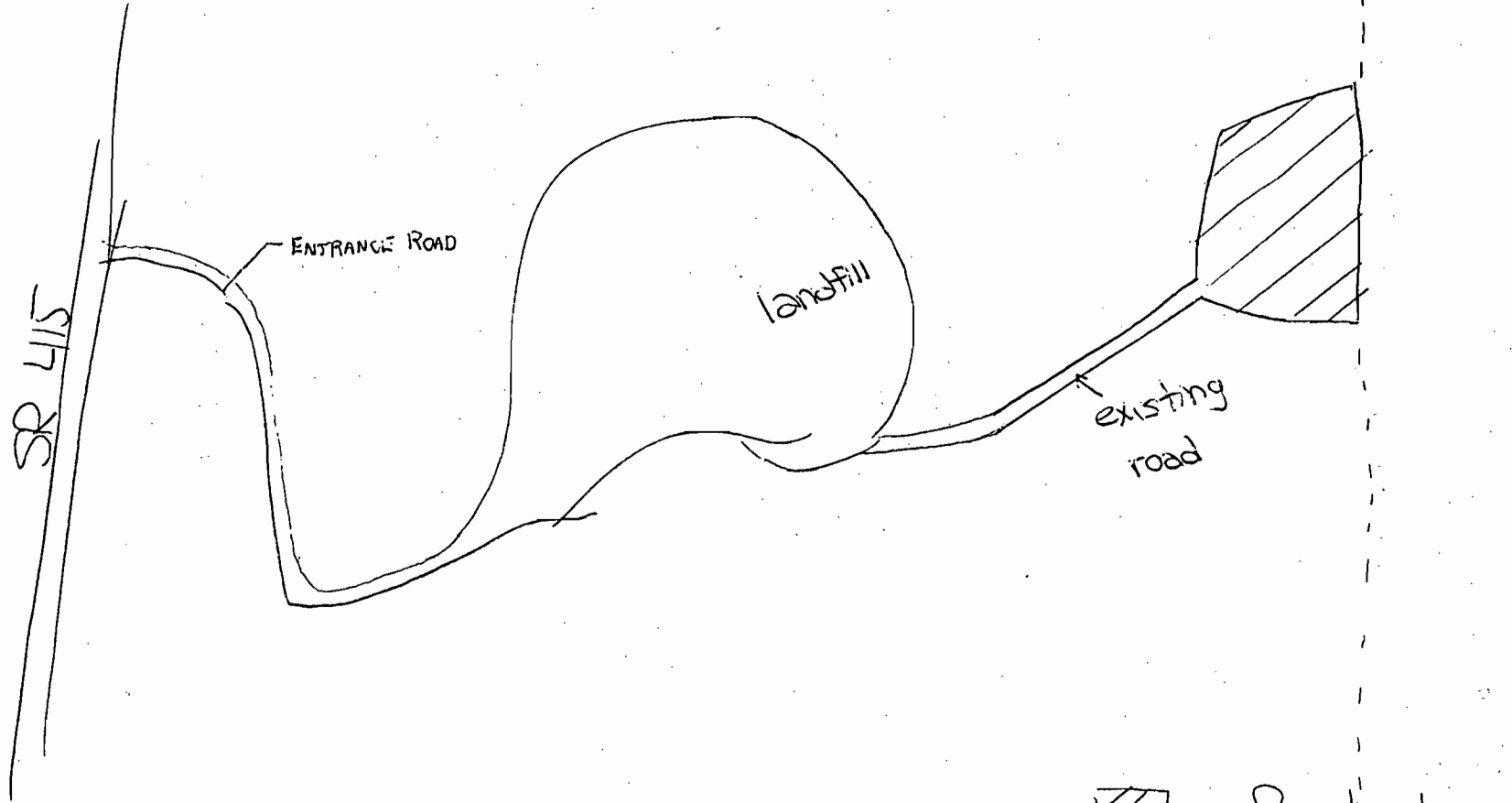
Samsula Landfill

OCC File

No. 00-0210

exhibit A.

SR 415



 = Restoration Area  
APPROX SIZE: 1.7 ACRES

NOT TO SCALE - DIMENSIONS EXTRACTED 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 Bruel  
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: ANISOLA RECYCLING / UND FILL

MESSAGE: REQUEST FOR INFORMATION

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 2





# 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

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\\GM\\ENVIRO\\Users\\MARSHALL\\SOLID\\Word\\P0300011.doc







# Department of Environmental Protection

Jeb Bush  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 21, 2000

Mr. James C. Colella PE  
Colella and Associates, Inc  
805 Smokerise Boulevard  
Port Orange Florida 31127

Re: Request for Additional Information

Samsula Recycling, Inc – Application for statewide permit for a relocatable crusher

Dear Mr. Colella:

On March 22, 2000, the Department received your application and fee for an air construction permit for a relocatable concrete and asphalt crusher, owned by Samsula Recycling, Inc. The application is incomplete. In order to continue processing your application, the Department will need the additional information requested below. Should your response to any of the below items require new calculations, please submit the new calculations, assumptions, reference material and appropriate revised pages of the application form.

1. Please provide facts supporting the assertion that this Eagle model 1200 (also described as Ultra Max 25 impactor) unit is not subject to 40 CFR 60, Subpart OOO, as specified on pages 6, 8 and appendix B of the application. Please attach any correspondence from EPA or others supporting this conclusion.
2. For each crusher, or grinding mill, please provide: (i) The rated capacity in tons per hour of the existing facility being replaced; (ii) the rated capacity in tons per hour of the replacement equipment; (iii) the date of manufacture of such crusher or grinder, (iv) if the capacity of the crusher or grinder varies with the space between the breaker-bars, please provide a table or chart correlating crusher throughput versus breaker bar spacing and product aggregate size, and, (v) if the throughput capacity of the crusher or grinder varies with the applied horsepower, please provide a table or chart correlating the horsepower applied versus the throughput passing each screen to be used
3. For a screening operation please provide: (i) The total surface area of the each screen of the existing screen deck and, (ii) the date of manufacture of such screens or classifiers
4. Can the screen cross conveyor (No 25 on the first drawing in Appendix A) be reversed to direct the +1/2 inch aggregate fraction (or any material retained on the top screen) to a stockpile rather than to the crusher return conveyor (No 8 on the same diagram)?
5. Please indicate dates and results of any written reports all performance tests conducted to demonstrate compliance with the standards set forth in Rule 62-297.310 (7)(a)4.a., Florida Administrative Code (F.A.C.) or 40 CFR 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with 40 CFR 60.672(b), (c), and (f), and reports of observations using Method 22 to demonstrate compliance with 40 CFR 60.672(e).
6. Please specify the nature of any materials to be crushed or processed by this unit, whether quarry run lime-rock, concrete recycling, asphalt pavement recycling, specific other materials, or combinations thereof.

"More Protection, Less Process"

Printed on recycled paper.

7. Please provide calculations indicating any particulate, VOC and Carbon Monoxide emissions by the internal combustion engines. Using emission factors from EPA Publication AP-42, 5<sup>th</sup> edition or provide reasons for using other emission factors.
8. Please specify the basis of the 12 gallons per hour estimated fuel consumption by the diesel engine on the crusher described on page on page 17, whether this number is based on theoretical or actual observed fuel consumption.
9. Please provide a tabulation or the results of calculations indicating any particulate, emissions from the feeder, crusher and each conveyor transfer point, and any power source within this facility as if the facility were subject to 40cfr60,subpart OOO, which would presumably be emitted by the internal combustion engines. Please use emission factors from EPA Publication AP-42, 5<sup>th</sup> Edition, or provide the reason for selecting other emission factors.
10. Please provide separate calculations and tabulation of estimated emissions for traffic based emissions, product pile emissions and emissions from front end loader and the basis of determining the appropriate emission factors.
11. Please verify that internal combustion engines will operate on commercial No. 2 virgin diesel fuel.
12. Will the facility have a continuous product production rate and cumulative production weighing scale?
13. Will the facility have a mechanical or electrical cumulative running time meter?

The Department will resume processing your application after receipt of the requested information. Rule 62-4.050(3), F.A.C., requires that all applications for a Department permit must be certified by a professional engineer registered in the State of Florida. This requirement also applies to responses to Department requests for additional information of an engineering nature. Material changes to the application should also be accompanied by a new certification statement by the authorized representative or responsible official. Permit applicants are advised that Rule 62-4.055(1), F.A.C., now requires applicants to respond to requests for information within 90 days, with processing time on the permit tolled during the actual time taken for the response. If there are any questions, please call me at 850/921-9522.

Sincerely,



William Leffler, P.E.

WL

cc: Michael Stokes, Manager, Samsula Recycling, Inc, 363 SR 415 New Smyrna Beach, FL 32168

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TWIN TOWERS OFFICE BUILDING  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400  
MS 5505

Mr. Michael Stokes, Manager  
Samsula Recycling, Inc.  
363 SR 415  
New Smyrna Beach, FL 32168

**CERTIFIED**

P 265 658 277

**MAIL**

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TWIN TOWERS OFFICE BUILDING  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400  
MS 5505

Mr. James C. Colella, P.E.  
Colella and Associates, Inc.  
805 Smokerise Blvd.  
Port Orange, FL 31127

# AIR CONSTRUCTION PERMIT APPLICATION

## Mobile Concrete Crushing Operation Statewide Project Sites

RECEIVED

MAR 30 2000

Prepared For:

BUREAU OF AIR REGULATION

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

Prepared By:

COLELLA & ASSOCIATES, INC.  
805 Smokerise Boulevard  
Port Orange, Florida 32127

March 2000



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## INTRODUCTION / SUMMARY

1. Samsula Recycling, Inc. (Samsula) purchased and began operating a concrete crusher in February 2000 at various project sites within Florida. In March 2000, the operation was discontinued because an air operating permit was not obtained from the Florida Department of Environmental Protection (FDEP). Upon receipt of the air construction and subsequent air operating permits, Samsula plans to operate the mobile crusher at project sites across Florida as opportunities arise. Currently, Samsula has project sites in Seminole, Orange, and Volusia Counties. Samsula anticipates the crusher will primarily (more than 50 percent of the time) be operated at the Samsula Landfill in New Smyrna Beach, Volusia, Florida (see Site Location Map, Figure 1).
2. The crushing operation includes an Eagle 1200 Crusher, a rubber tired loader, and discharge conveyors. Concrete debris is delivered to the project site by trucks and stockpiled. The debris is sized if required to fit into the crusher's hopper. The loader feeds the hopper of the Eagle 1200 Crusher (see Appendix A for details and photographs) which has a potential to process debris at a rate of 120 tons per hour (see Appendix B). The concrete debris is crushed to obtain processed aggregate within a 3/8 and 1/2 inch range. Because of the various sized concrete debris being crushed and the desired size of the processed aggregate, Samsula achieves an operational rate of approximately 80 tons per hour. The processed materials are discharged on conveyors (2) into stockpiles (2) and/or trucks as aggregates less than and greater than 3/8 inch in size. A Process Flow Diagram is provided as Figure 2.
3. The potential emission from the crushing of the concrete debris and work area is particulate matter (PM), dust. The potential emissions from the fuel (diesel) powered loader and crusher's generator are PM, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic compounds.
4. Samsula operates water suppression equipment (water truck for the work area, water hoses for the stockpiles, and water spray nozzles in the concrete crusher's hopper and at the loading point from the crusher onto the discharge conveyors) when concrete debris is being crushed to minimize the potential of dust generation. Samsula's Watering Plan is presented in Appendix C.
5. The permit application (Tab 1.0) and reference materials (Figures 1 and 2, and Appendices A, B, and C) are provided to document the operation, equipment being used, emissions, and methods to control the emissions. The Samsula equipment and

operational standards meet the FDEP requirements (62-210, 62-212, 62-296.711, and 62-297) for stationary sources and emissions monitoring. The Samsula crushing operation is exempt from the applicable federal regulation, 40 CFR 60.670 (Subpart OOO), because the crusher is mobile and its operating capacity is less than 150 tons per hour (40 CFR 60.670(c)(2)).

*A* [ No — OOO is based on nameplate capacity of crusher — not 'after process' which can be bypassed!



# Department of Environmental Protection

## Division of Air Resources Management

### APPLICATION FOR AIR PERMIT - NON-TITLE V SOURCE

See Instructions for Form No. 62-210.900(3)

#### I. APPLICATION INFORMATION

##### Identification of Facility

1. Facility Owner/Company Name: <b>Samsula Recycling, Inc.</b>	
2. Site Name: <b>Statewide (facility is not fixed based)</b>	
3. Facility Identification Number: <input checked="" type="checkbox"/> Unknown	
4. Facility Location: <b>Mobile Facility to be located at project site</b> Street Address or Other Locator: <b>Volusia, Seminole, and Orange Counties</b> City: _____ County: _____ Zip Code: _____	
5. Relocatable Facility? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6. Existing Permitted Facility? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

##### Application Contact

1. Name and Title of Application Contact: <b>Mr. Michael Stokes, Manager</b>	
2. Application Contact Mailing Address: Organization/Firm: <b>Samsula Recycling, Inc.</b> Street Address: <b>363 S. R. 415</b> City: <b>New Smyrna Beach</b> State: <b>FL</b> Zip Code: <b>32168</b>	
3. Application Contact Telephone Numbers: Telephone: <b>(904) 423-6769</b> Fax: <b>(904) 423-6769</b>	

*Get Company Report*

##### Application Processing Information (DEP Use)

1. Date of Receipt of Application:	
2. Permit Number:	

777512.001



**Purpose of Application**

**Air Operation Permit Application**

This Application for Air Permit is submitted to obtain: (Check one)

- Initial non-Title V air operation permit for one or more existing, but previously unpermitted, emissions units.
- Initial non-Title V air operation permit for one or more newly constructed or modified emissions units.

Current construction permit number: \_\_\_\_\_

- Non-Title V air operation permit revision to address one or more newly constructed or modified emissions units.

Current construction permit number: \_\_\_\_\_

Operation permit number to be revised: \_\_\_\_\_

- Initial non-Title V air operation permit under Rule 62-210.300(2)(b), F.A.C., for an existing facility seeking classification as a synthetic non-Title V source.

Current operation/construction permit number(s):  
\_\_\_\_\_

- Non-Title V air operation permit revision for a synthetic non-Title V source. Give reason for revision; e.g., to address one or more newly constructed or modified emissions units.

Operation permit number to be revised: \_\_\_\_\_

Reason for revision: \_\_\_\_\_

**Air Construction Permit Application**

This Application for Air Permit is submitted to obtain: (Check one)

- Air construction permit to construct or modify one or more emissions units.
- Air construction permit to make federally enforceable an assumed restriction on the potential emissions of one or more existing, permitted emissions units.
- Air construction permit for one or more existing, but unpermitted, emissions units.

**Owner/Authorized Representative**

1. Name and Title of Owner/Authorized Representative: <b>Mr. Michael Stokes, Manager</b>
2. Owner/Authorized Representative Mailing Address: Organization/Firm: <b>Samsula Recycling, Inc.</b> Street Address: <b>363 S. R. 415</b> City: <b>New Smyrna Beach</b> State: <b>FL</b> Zip Code: <b>32168</b>
3. Owner/Authorized Representative Telephone Numbers: Telephone: <b>(904) 423-6769</b> Fax: <b>(904)423-6769</b>
4. Owner/Authorized Representative Statement: <i>I, the undersigned, am the owner or authorized representative* of the facility addressed in this application. I hereby certify, based on information and belief formed after reasonable inquiry, that the statements made in this application are true, accurate and complete and that, to the best of my knowledge, any estimates of emissions reported in this application are based upon reasonable techniques for calculating emissions. The air pollutant emissions units and air pollution control equipment described in this application will be operated and maintained so as to comply with all applicable standards for control of air pollutant emissions found in the statutes of the State of Florida and rules of the Department of Environmental Protection and revisions thereof. I understand that a permit, if granted by the Department, cannot be transferred without authorization from the Department, and I will promptly notify the Department upon sale or legal transfer of any permitted emissions unit.</i>   _____ Signature  _____ Date <b>032200</b>

\* Attach letter of authorization if not currently on file.

**Professional Engineer Certification**

1. Professional Engineer Name: <b>James C. Colella</b> Registration Number: <b>41545</b>
2. Professional Engineer Mailing Address: Organization/Firm: <b>Colella &amp; Associates, Inc.</b> Street Address: <b>805 Smokerise Boulevard</b> City: <b>Port Orange</b> State: <b>FL</b> Zip Code: <b>32127</b>
3. Professional Engineer Telephone Numbers: Telephone: <b>(904) 322-9080</b> Fax: <b>(904) 322-0068</b>

4. Professional Engineer Statement:

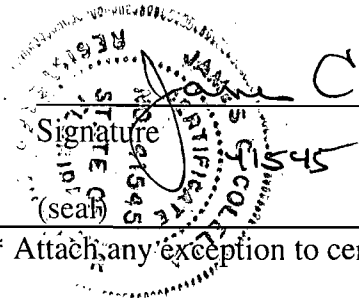
*I, the undersigned, hereby certify, except as particularly noted herein\*, that:*

*(1) To the best of my knowledge, there is reasonable assurance that the air pollutant emissions unit(s) and the air pollution control equipment described in this Application for Air Permit, when properly operated and maintained, will comply with all applicable standards for control of air pollutant emissions found in the Florida Statutes and rules of the Department of Environmental Protection; and*

*(2) To the best of my knowledge, any emission estimates reported or relied on in this application are true, accurate, and complete and are either based upon reasonable techniques available for calculating emissions or, for emission estimates of hazardous air pollutants not regulated for an emissions unit addressed in this application, based solely upon the materials, information and calculations submitted with this application.*

*If the purpose of this application is to obtain an air construction permit for one or more proposed new or modified emissions units (check here [ X ], if so), I further certify that the engineering features of each such emissions unit described in this application have been designed or examined by me or individuals under my direct supervision and found to be in conformity with sound engineering principles applicable to the control of emissions of the air pollutants characterized in this application.*

*If the purpose of this application is to obtain an initial air operation permit or operation permit revision for one or more newly constructed or modified emissions units (check here [   ], if so), I further certify that, with the exception of any changes detailed as part of this application, each such emissions unit has been constructed or modified in substantial accordance with the information given in the corresponding application for air construction permit and with all provisions contained in such permit.*



*C. Colella*

*21 Mar 00*

Signature

Date

\* Attach any exception to certification statement.



**Construction/Modification Information**

**1. Description of Proposed Project or Alterations:**

Samsula Recycling, Inc., operates a concrete crusher to recycle concrete debris. Concrete debris is received in various sizes, stockpiled and then processed through the crusher to produce sized aggregate for re-use. The concrete debris is loaded into the crusher by a rubber tired loader, crushed to the desired size, and discharged by conveyors into two distinct stockpiles (less than and greater than 3/8" diameter materials) for subsequent loading into trucks and/or into trucks. Water is applied to the raw and processed materials by spray nozzles at three (3) locations at a rate controlled by the crusher's operator. Depending on the type of concrete debris being handled, water is applied prior to the debris being loaded into the crusher's hopper, water is applied in the hopper as the material is crushed, and water is applied to the processed materials as they are loaded onto the discharge conveyors for stockpiling. Water is also applied to the stockpiled concrete debris and surrounding surface area to minimize dust generation from the wind and the truck and loader traffic. Samsula Recycling, Inc., operates the crushing activity relatively dust free; that is, applying an adequate volume of water to the raw and processed materials, stockpiles, and roads.

*Very small  
Capacity would be for granules with larger size gradations*

**2. Projected or Actual Date of Commencement of Construction: February 28, 2000**

**3. Projected Date of Completion of Construction: February 28, 2000**

**Application Comment**

The existing Eagle 1200 concrete crusher (see Appendix A for equipment details) has the capacity to process 200 tons of raw material per hour without any screens. Based on the planned sizing to be performed, the maximum capacity of the crusher is approximately 120 tons per hour (see Appendix B for operating details).

Samsula Recycling, Inc., proposes to perform concrete debris crushing operations at various locations throughout Florida. Currently, Samsula Recycling, Inc., will operate the equipment at project sites in Volusia, Seminole, and Orange Counties.

*No way this can be secretly enforceable*

## II. FACILITY INFORMATION

### A. GENERAL FACILITY INFORMATION

#### Facility Location and Type

1. Facility UTM Coordinates: <b>Mobile Facility - Various Locations</b>			
Zone:		East (km):	North (km):
2. Facility Latitude/Longitude:			
Latitude (DD/MM/SS):		Longitude (DD/MM/SS):	
3. Governmental Facility Code:	4. Facility Status Code:	5. Facility Major Group SIC Code:	6. Facility SIC(s):
0	C	32	
7. Facility Comment (limit to 500 characters): <b>The crusher is a mobile unit and will be located at various project sites across the state of Florida, with current projects in Volusia, Seminole and Orange Counties. Based on projections, the crusher will be primarily located at the Samsula Landfill at 363 S. R. 415 in New Smyrna Beach, Volusia County, Florida.</b>			
<p><i>← 6 months for permit??</i></p>			

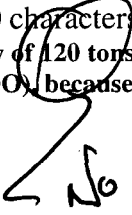
#### Facility Contact

1. Name and Title of Facility Contact: <b>Mr. Michael Stokes, Manager</b>			
2. Facility Contact Mailing Address:			
Organization/Firm: <b>Samsula Recycling, Inc.</b>			
Street Address: <b>363 S. R. 415</b>			
City: <b>New Smyrna BEach</b>		State: <b>FL</b>	Zip Code: <b>32168</b>
3. Facility Contact Telephone Numbers:			
Telephone: <b>(904) 423-6769</b>		Fax: <b>(904)423-6769</b>	

**Facility Regulatory Classifications**

**Check all that apply:**

1. <input type="checkbox"/> Small Business Stationary Source?	<input type="checkbox"/> Unknown
2. <input type="checkbox"/> Synthetic Non-Title V Source?	
3. <input type="checkbox"/> Synthetic Minor Source of Pollutants Other than HAPs?	
4. <input type="checkbox"/> Synthetic Minor Source of HAPs?	
5. <input type="checkbox"/> One or More Emissions Units Subject to NSPS?	
6. <input type="checkbox"/> One or More Emission Units Subject to NESHAP Recordkeeping or Reporting?	
7. Facility Regulatory Classifications Comment (limit to 200 characters): <b>The facility is a minor source respective to particulate matter, is portable, and has a capacity of 120 tons per hour (see Appendix B). The facility is not regulated by NSPS, 40CFR60.670 (Subpart OOO) because of an exemption, 40CFR60.670(c)(2).</b>	



**Rule Applicability Analysis**

- 62-204 General Provisions
- 62-210 Stationary Sources - Stationary Sources
- 62-212 Stationary Sources - Preconstruction Review
- 62-296 Stationary Sources - Emissions Standards (62-296.711 Materials Handling, Sizing, Crushing and Grinding Operations)
- 62-297 Stationary Sources - Emissions Monitoring





### C. FACILITY SUPPLEMENTAL INFORMATION

#### Supplemental Requirements

1. Area Map Showing Facility Location: <input type="checkbox"/> Attached, Document ID:_____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested Facility is mobile and will be located at project site. The crusher will primarily be based at the Samsula Landfill. See Figure 1.
2. Facility Plot Plan: <input type="checkbox"/> Attached, Document ID:_____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
3. Process Flow Diagram(s): <input checked="" type="checkbox"/> Attached, Document ID: <u>FIG. 2</u> <input type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
4. Precautions to Prevent Emissions of Unconfined Particulate Matter: <input checked="" type="checkbox"/> Attached, Document ID: <u>APP. C</u> <input type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
5. Supplemental Information for Construction Permit Application: <input type="checkbox"/> Attached, Document ID:_____ <input checked="" type="checkbox"/> Not Applicable
6. Supplemental Requirements Comment: <b>N/A</b>

**III. EMISSIONS UNIT INFORMATION**

A separate Emissions Unit Information Section (including subsections A through G as required) must be completed for each emissions unit addressed in this Application for Air Permit. If submitting the application form in hard copy, indicate, in the space provided at the top of each page, the number of this Emissions Unit Information Section and the total number of Emissions Unit Information Sections submitted as part of this application.

**A. GENERAL EMISSIONS UNIT INFORMATION**

**Emissions Unit Description and Status**

<p>1. Type of Emissions Unit Addressed in This Section: (Check one)</p> <p>[ ] This Emissions Unit Information Section addresses, as a single emissions unit, a single process or production unit, or activity, which produces one or more air pollutants and which has at least one definable emission point (stack or vent).</p> <p>[ X ] This Emissions Unit Information Section addresses, as a single emissions unit, a group of process or production units and activities which has at least one definable emission point (stack or vent) but may also produce fugitive emissions.</p> <p>[ ] This Emissions Unit Information Section addresses, as a single emissions unit, one or more process or production units and activities which produce fugitive emissions only.</p>		
<p>2. Description of Emissions Unit Addressed in This Section (limit to 60 characters):</p> <p><b>Diesel powered equipment. Fugitive particulate emissions from concrete debris crushing operation.</b></p>		
<p>3. Emissions Unit Identification Number: ID:</p>		<p>[ X ] No ID [ ] ID Unknown</p>
<p>4. Emissions Unit Status Code: <b>C</b></p>	<p>5. Initial Startup Date: <b>February 28, 2000</b></p>	<p>6. Emissions Unit Major Group SIC Code: <b>32</b></p>
<p>7. Emissions Unit Comment: (Limit to 500 Characters)</p> <p><b>Fugitive emissions are possible from the handling of raw materials (concrete debris) as being placed into crusher's hopper, the crushing of the raw material into the desired size(s), the handling of the processed materials on conveyors (2) and loading the processed materials onto trucks.</b></p> <p><b>All handling and crushing equipment are diesel fueled with exhaust pipes.</b></p>		

**Emissions Unit Information Section 1 of 1**  
**Emissions Unit Control Equipment**

1. Control Equipment/Method Description (limit to 200 characters per device or method):

**Fugitive Particulate Emissions - Spray bars are provided at the potential emissions points on the crushers equipment; hopper and loading points of the processed material conveyors (2). Stockpiles are watered by hoses and haul roads by water trucks.**

2. Control Device or Method Code(s): **061**

**Emissions Unit Details**

1. Package Unit: **Concrete Crusher**  
 Manufacturer: **Eagle**

Model Number: **1200**

2. Generator Nameplate Rating: **N/A**

**MW**

3. Incinerator Information: **N/A**

Dwell Temperature:

°F

Dwell Time:

seconds

Incinerator Afterburner Temperature:

°F

**Emissions Unit Operating Capacity and Schedule**

1. Maximum Heat Input Rate: **N/A**

**mmBtu/hr**

2. Maximum Incineration Rate: **N/A**

**lb/hr**

**tons/day**

3. Maximum Process or Throughput Rate: **120 tons per hour (see Appendix B)**

4. Maximum Production Rate: **120 tons per hour (see Appendix B)**

5. Requested Maximum Operating Schedule:

**16 hours/day**

**7 days/week**

**52 weeks/year**

**5,824 hours/year**

6. Operating Capacity/Schedule Comment (limit to 200 characters):

**For flexibility, the proposed operating schedule is required.**

Emissions Unit Information Section 1 of 1

**B. EMISSION POINT (STACK/VENT) INFORMATION**

**Emission Point Description and Type**

1. Identification of Point on Plot Plan or Flow Diagram? <b>N/A</b>		2. Emission Point Type Code: <b>4</b>	
3. Descriptions of Emission Points Comprising this Emissions Unit for VE Tracking (limit to 100 characters per point): <b>FUGITIVE PARTICULATE EMISSIONS - Crusher's Hopper, Processed Materials Conveyors (2), Stockpiles of Concrete Debris and Processed Materials, and Truck and Loader Traffic.</b>  <b>DIESEL FUEL EXHAUST - Loader and Crusher's Generator</b>			
4. ID Numbers or Descriptions of Emission Units with this Emission Point in Common:  <b>001</b>			
5. Discharge Type Code:  <b>F</b>	6. Stack Height: <b>N/A</b>  feet	7. Exit Diameter: <b>N/A</b>  feet	
8. Exit Temperature: <b>N/A</b>  °F	9. Actual Volumetric Flow Rate: <b>N/A</b>  acfm	10. Water Vapor: <b>N/A</b>  %	
11. Maximum Dry Standard Flow Rate:  <b>N/A</b> dscfm		12. Nonstack Emission Point Height: <b>4 (CONVEYORS), 15 (EQUIPMENT)</b> feet	
13. Emission Point UTM Coordinates:  Zone: East (km): North (km):			
14. Emission Point Comment (limit to 200 characters): <b>The emissions are fugitive from the crusher's hopper and conveyors while handling the debris and processed materials and from the equipment's engine's exhausts. The exhaust pipes of the equipment's diesel engines are approximately 15 feet above the ground surface.</b>			

Emissions Unit Information Section 1 of 1

C. SEGMENT (PROCESS/FUEL) INFORMATION

**Segment Description and Rate:** Segment 1 of 2

1. Segment Description (Process/Fuel Type) (limit to 500 characters):  Diesel rubber tired loader to handle concrete debris and processed materials.		
2. Source Classification Code (SCC): <b>20400402</b>		3. SCC Units: <b>Thousand Gallons Burned</b>
4. Maximum Hourly Rate: <b>N/A</b>	5. Maximum Annual Rate: <b>35</b>	6. Estimated Annual Activity Factor: <b>N/A</b>
6. Maximum % Sulfur: <b>N/A</b>	7. Maximum % Ash: <b>N/A</b>	8. Million Btu per SCC Unit: <b>N/A</b>
9. Segment Comment (limit to 200 characters):  Based on an approximate rate of 6 gallons of diesel per hour to operate the loader.  <b>6 gal/hr x 16 hr/day x 365 days/year + 1,000 = 35 thousand gallons burned</b>		

**Segment Description and Rate:** Segment 2 of 2

1. Segment Description (Process/Fuel Type ) (limit to 500 characters):  Diesel generator to power the crusher and conveyors.		
2. Source Classification Code (SCC): <b>20400402</b>		3. SCC Units: <b>Thousand Gallons Burned</b>
4. Maximum Hourly Rate: <b>N/A</b>	5. Maximum Annual Rate: <b>35</b>	6. Estimated Annual Activity Factor: <b>N/A</b>
6. Maximum % Sulfur: <b>N/A</b>	7. Maximum % Ash: <b>N/A</b>	8. Million Btu per SCC Unit: <b>N/A</b>
9. Segment Comment (limit to 200 characters):  Based on an approximate rate of 6 gallons of diesel per hour to operate the generator.  <b>6 gal/hr x 16 hr/day x 365 days/year + 1,000 = 35 thousand gallons burned</b>		





**D. EMISSIONS UNIT POLLUTANT DETAIL INFORMATION**

**Potential Emissions**

1. Pollutant Emitted: <b>CO</b>		2. Pollutant Regulatory Code: <b>EL</b>	
3. Primary Control Device Code: <b>N/A</b>	4. Secondary Control Device Code: <b>N/A</b>	5. Total Percent Efficiency of Control: <b>N/A</b>	
6. Potential Emissions: <b>Crusher Generator and Loader</b> lb/hour <b>4.5 tons/year</b>		7. Synthetically Limited? [   ]	
8. Emission Factor: <b>130 lb. / 1,000 gallons diesel</b> Reference: <b>FIRE 6.22 / SCC 20400402</b>		9. Emissions Method Code:  <b>3</b>	
10. Calculation of Emissions (limit to 600 characters):  Based on 12 gallons per hour (crusher generator and loader), the potential emissions are calculated by:  12 gallons per hour x 5,824 hours/year x 130 lb/1,000gal + 2,000 lbs/ton = 4.5 tons/year			
12. Pollutant Potential Emissions Comment (limit to 200 characters):			

**Allowable Emissions** Allowable Emissions \_\_\_\_\_ of \_\_\_\_\_ **N/A**

1. Basis for Allowable Emissions Code:	2. Future Effective Date of Allowable Emissions:
3. Requested Allowable Emissions and Units:	4. Equivalent Allowable Emissions: lb/hour                      tons/year
5. Method of Compliance (limit to 60 characters):	
6. Allowable Emissions Comment (Desc. of Operating Method) (limit to 200 characters):	











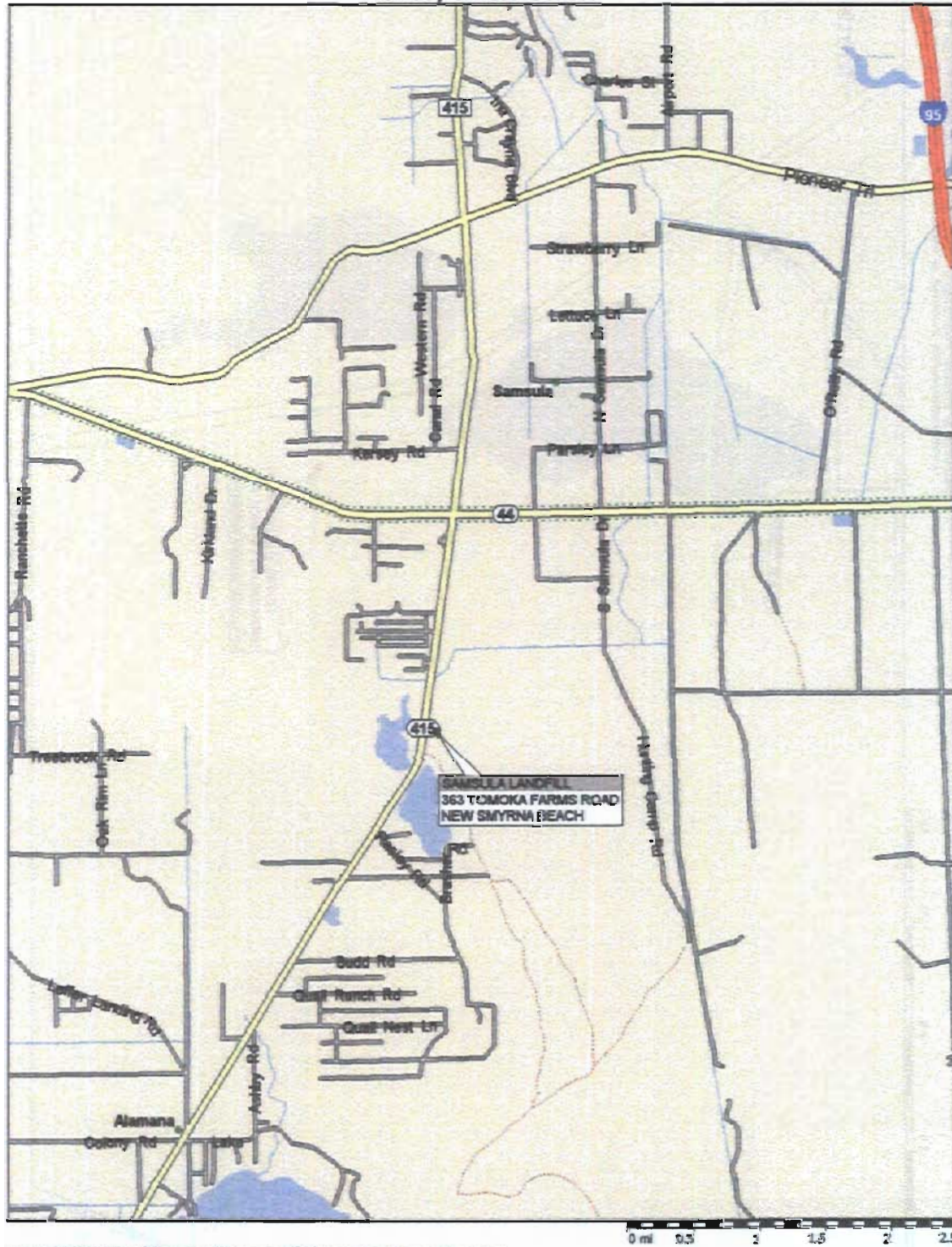


**G. EMISSIONS UNIT SUPPLEMENTAL INFORMATION**

**Supplemental Requirements**

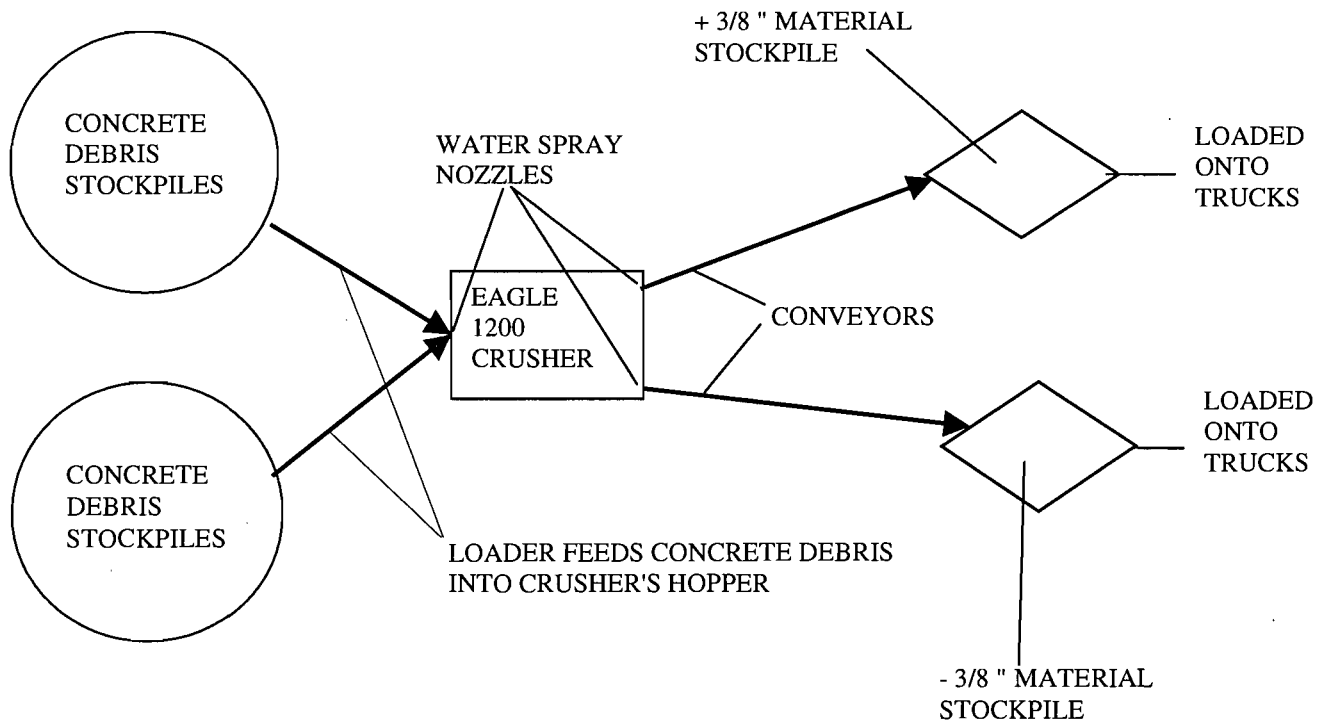
1. Process Flow Diagram <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
2. Fuel Analysis or Specification <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
3. Detailed Description of Control Equipment <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
4. Description of Stack Sampling Facilities <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
5. Compliance Test Report <b>To be submitted after construction permit is received and crusher can operate.</b> <input type="checkbox"/> Attached, Document ID: _____ <input type="checkbox"/> Previously submitted, Date: _____ <input type="checkbox"/> Not Applicable
6. Procedures for Startup and Shutdown <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
7. Operation and Maintenance Plan <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Waiver Requested
8. Supplemental Information for Construction Permit Application <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable
9. Other Information Required by Rule or Statute <input type="checkbox"/> Attached, Document ID: _____ <input checked="" type="checkbox"/> Not Applicable
10. Supplemental Requirements Comment:

Florida, United States



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**FIGURE 1**  
**SITE LOCATION MAP**  
**SAMSULA RECYCLING PRIMARY LOCATION**  
**SAMSULA LANDFILL**  
**363 STATE ROAD 415**  
**NEW SMYRNA BEACH, FLORIDA**  
**COLELLA & ASSOCIATES, INC.**



**NOTE:** STOCKPILES AND WORKING AREA WILL BE WATERED AS IS NECESSARY TO MINIMIZE THE GENERATION OF PARTICULATE EMISSIONS AS DUST.

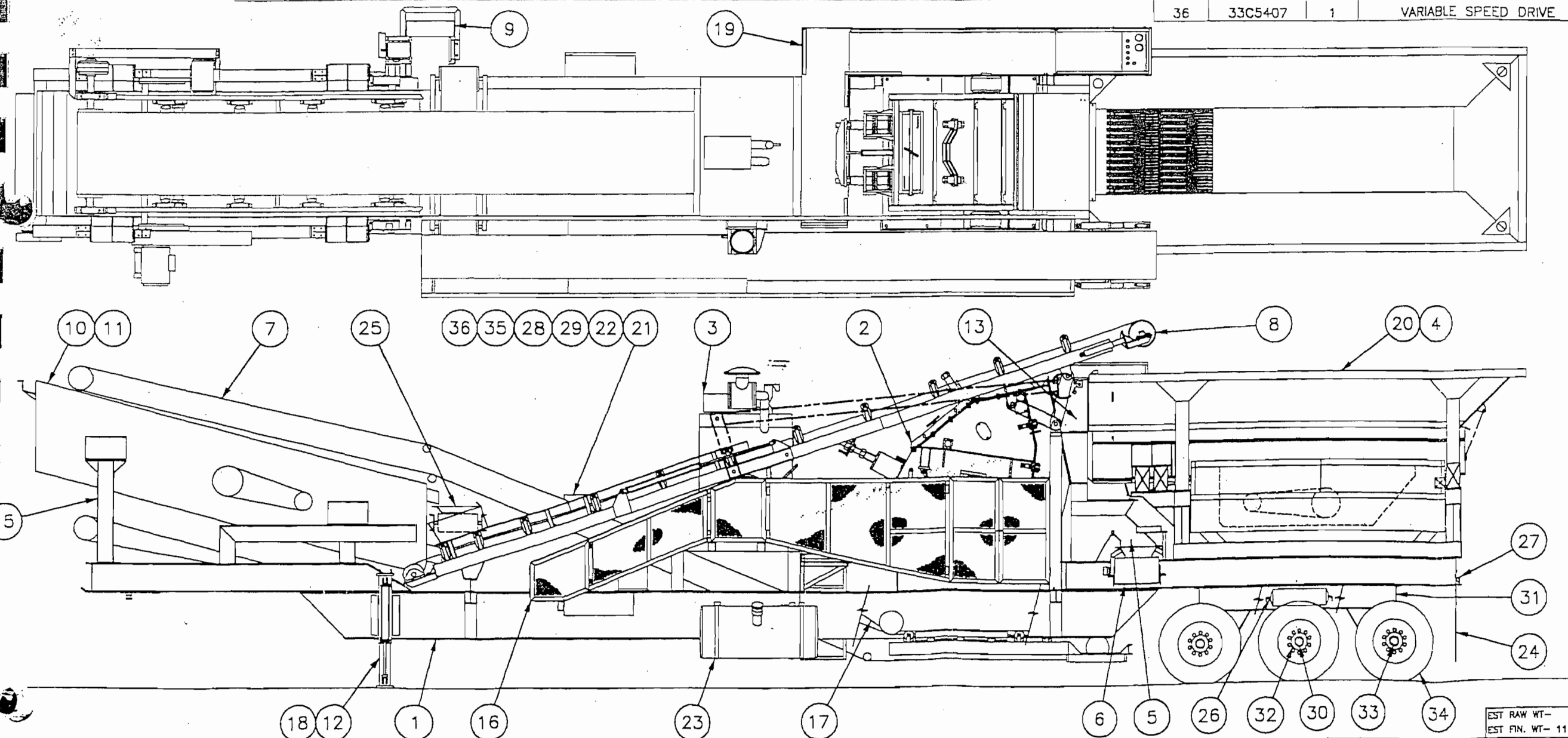
**FIGURE 2**  
**PROCESS FLOW DIAGRAM**  
 CONCRETE DEBRIS CRUSHING OPERATION  
 SAMSULA RECYCLING, INC.  
 COLELLA & ASSOCIATES, INC.



**APPENDIX A**

**EAGLE 1200 CRUSHER DETAILS AND PHOTOGRAPHS**

ITEM	PART NO.	QTY	PART NAME	12	33D4430	1	CYLINDER MOUNT INSTALLATION	24	33C1963	1	MUDFLAP INSTALLATION
1	33D4766	1	MAIN FRAME WELDMENT	13	33D4775	1	CRUSHER FEED BOX ASSEMBLY	25	36D1708	1	SCREEN CROSS CONVEYOR
2	62D290	1	ULTRA-MAX 25 IMPACTOR	14				26	38C077	1	AIR BRAKE ASSEMBLY
3	33D4510	1	CRUSHER DRIVE ASSEMBLY	15	33D2478	1	SCREEN MOUNT ASSEMBLY	27	33D3771	1	TAIL LIGHT INSTALLATION
4	33D4781	1	HOPPER/FEEDER ASSEMBLY	16	33D4506	1	CRUSHER DRIVE GUARD ASSEMBLY	28	50A1801	1	APR CONNECTOR
5	33D4887	1	GRIZZLY BY-PASS CHUTE ASS'Y.	17	33D4505	1	DISCHARGE BOX ASSEMBLY	29	50A1802	1	APJ CONNECTOR
6	36D2167	1	GRIZZLY BY-PASS CONV. ASS'Y.	18	43D205	1	HYDRAULIC ASSEMBLY	30	50C1088-2	1	TRI-AXLE SUSPENSION
7	36D1998	1	PLANT FEED CONVEYOR ASSEMBLY	19	33D4504	1	OPERATOR'S PLATFORMS	31	33C953	1	AXLE RISER WELDMENT
8	36D2057	1	RETURN CONVEYOR INSTALLATION	20	35D324	1	FEED HOPPER WELD REWORK	32	50D1446	3	AXLE
9	36C2062	1	LOWER SCREEN CROSS CONVEYOR	21	33D4784	1	ELECTRIC PANEL INSTALLATION	33	50A1660	12	RIM
10	50D1432	1	SIMPLICITY SCREEN	22	50D2059	1	CONTROL PANEL	34	50B1659	12	TIRE
11	33C4225	1	SCREEN TIE DOWN INSTALLATION	23	45D052	1	DIESEL FUEL ASSEMBLY	35	39D193	REF.	ELECTRIC SCHEMATIC
								36	33C5407	1	VARIABLE SPEED DRIVE



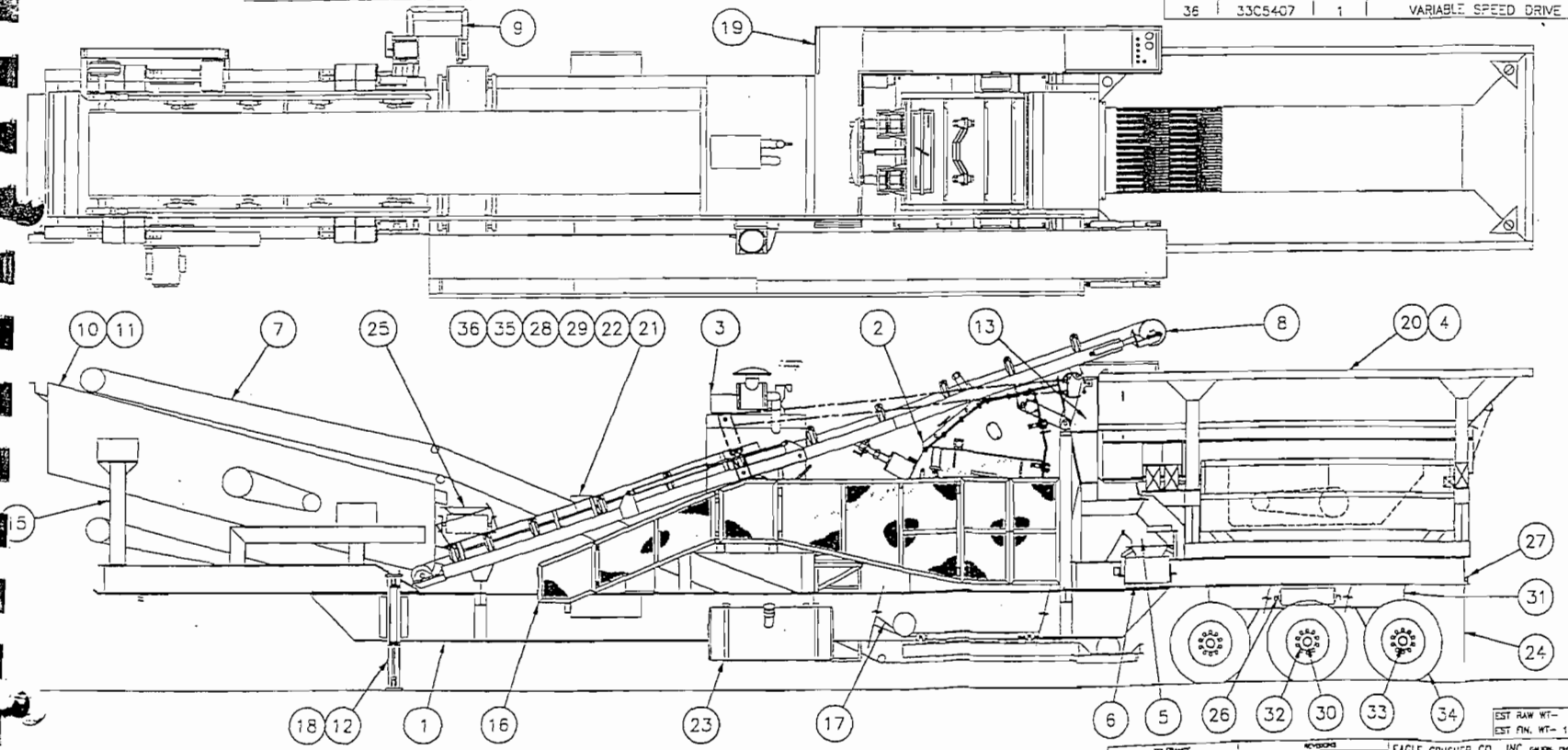
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EST FIN. WT- 116,000#

TOLERANCE		REVISIONS				EAGLE CRUSHER CO., INC. GALLON, OHIO, USA	
EXCEPT OTHERWISE NOTED	NO.	LOC.	DATE	BY	DATE	USED ON	PART NUMBER
ANGULAR: ±1°					4-23-64	ULTRAMAX 2500 MODEL 33D4778	
FRACTIONAL: ±1/16"						NEXT ASSEMBLY	
DECIMAL: 30± ±0.010						ULTRAMAX 2500	
1.000± ±0.005						PORTABLE ASSY.	P33477900



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ITEM	PART NO.	QTY	PART NAME	12	33D4430	1	CYLINDER MOUNT INSTALLATION	24	33C1963	1	MUDFLAP INSTALLATION
1	33D4766	1	MAIN FRAME WELDMENT	13	33D4775	1	CRUSHER FEED BOX ASSEMBLY	25	36D1708	1	SCREEN CROSS CONVEYOR
2	62D290	1	ULTRA-MAX 25 IMPACTOR	14				26	38C077	1	AIR BRAKE ASSEMBLY
3	33D4510	1	CRUSHER DRIVE ASSEMBLY	15	33D2478	1	SCREEN MOUNT ASSEMBLY	27	33D3771	1	TAIL LIGHT INSTALLATION
4	33D4761	1	HOPPER/FEEDER ASSEMBLY	16	33D4506	1	CRUSHER DRIVE GUARD ASSEMBLY	28	50A1801	1	APR CONNECTOR
5	33D4887	1	GRIZZLY BY-PASS CHUTE ASS'Y.	17	33D4505	1	DISCHARGE BOX ASSEMBLY	29	50A1802	1	APJ CONNECTOR
6	36D2167	1	GRIZZLY BY-PASS CONV. ASS'Y.	18	43D205	1	HYDRAULIC ASSEMBLY	30	50C1088-2	1	TRI-AXLE SUSPENSION
7	36D1958	1	PLANT FEED CONVEYOR ASSEMBLY	19	33D4504	1	OPERATOR'S PLATFORMS	31	33C953	1	AXLE RISER WELDMENT
8	36D2057	1	RETURN CONVEYOR INSTALLATION	20	35D324	1	FEED HOPPER WELD REWORK	32	50C1446	3	AXLE
9	36C2062	1	LOWER SCREEN CROSS CONVEYOR	21	33D4784	1	ELECTRIC PANEL INSTALLATION	33	50A1660	12	RIM
10	50D1432	1	SIMPLICITY SCREEN	22	50D2059	1	CONTROL PANEL	34	50B1659	12	TIRE
11	33C4225	1	SCREEN TIE DOWN INSTALLATION	23	45D052	1	DIESEL FUEL ASSEMBLY	35	39D193	REF.	ELECTRIC SCHEMATIC
								36	33C5407	1	VARIABLE SPEED DRIVE

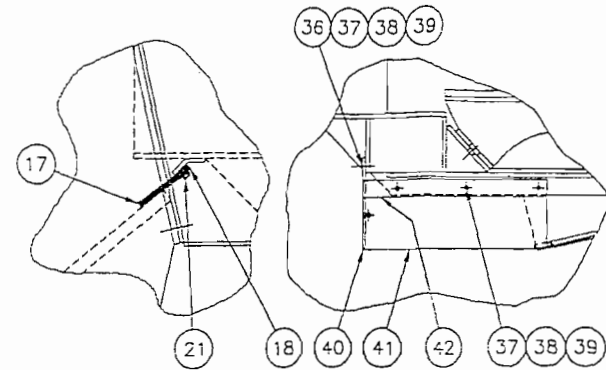


TO: FRANCE		REVISIONS		EAGLE CRUSHER CO., INC. GARDEN GROVE, CALIF. USA	
NO.	DATE	BY	CHKD.	DESCRIPTION	DATE
1				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
2				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
3				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
4				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
5				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
6				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
7				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
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33				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
34				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
35				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	
36				ISSUED FOR ULTRAMAX 2500 PORTABLE ASSEMBLY	

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EST. FIN. WT. - 116,000#

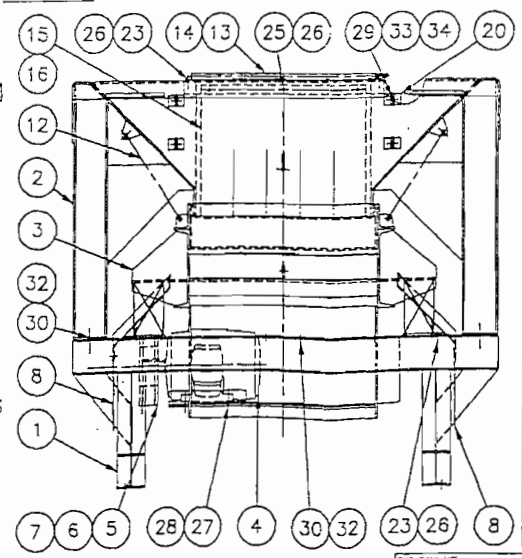
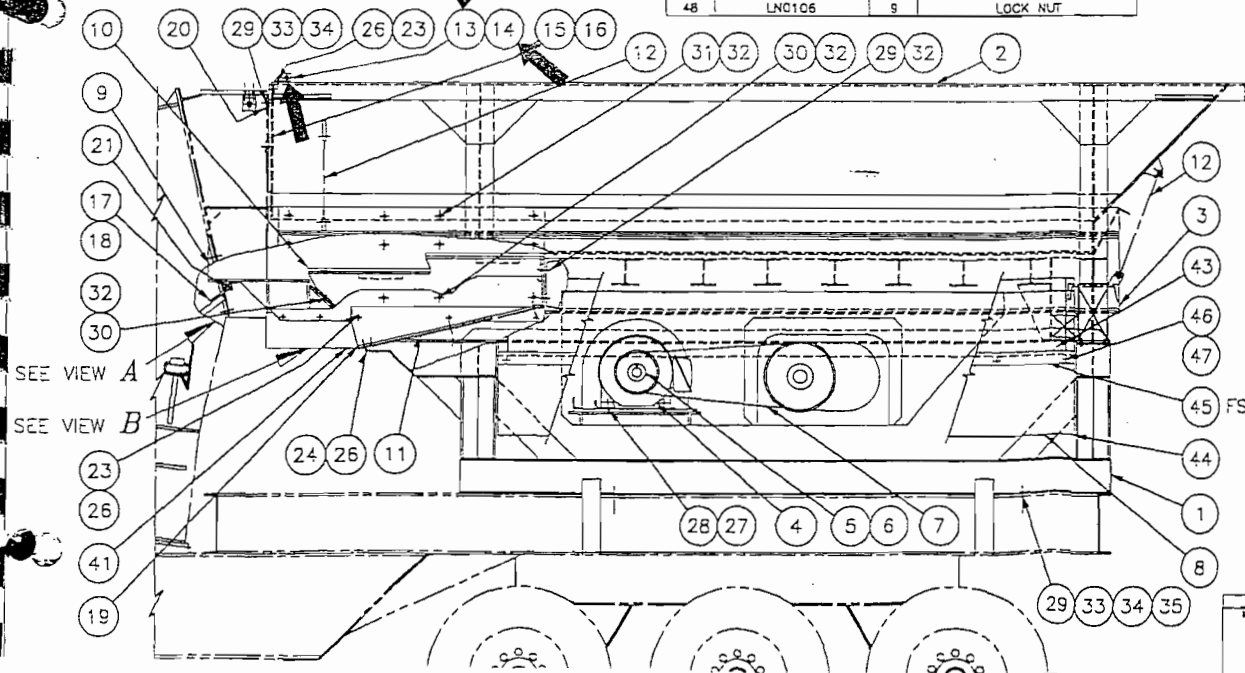
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ITEM	PART NO.	QTY	PART NAME	ITEM	PART NO.	QTY	PART NAME	OPTIONS LIST- ONE OF THESE MUST BE USED			
1	33D4782	1	FEEDER/HOPPER BASE WELD	24	BF0908020	9	FLAT SOCKET HEAD CAPSCREW	ITEM	PART NO.	QTY	PART NAME
2	35D324	1	FEED HOPPER	25	BF0308016	3	SQUARE NECK CARRIAGE BOLT	1	33D4365	1	GRIZZLY DECK WELD- 2 1/4 NOM.
3	50D1909	1	VIBRATING FEEDER	25	LN0106	28	LOCK NUT	2	33D4401	1	GRIZZLY DECK WELD- 1 1/2 NOM.
4	50A933-8	0	ELECTRIC MOTOR	27	BF1710036	4	HEX. HEAD CAPSCREW				
5	50A847-9-3	0	SHEAVE	28	LN0110	4	LOCK NUT				
6	50A825-96	0	C.D. HUB	29	BF1712040	11	HEX. HEAD CAP SCREW				
7	50A1200-3-109	0	V-BELT	30	BF1712028	36	HEX. HEAD CAP SCREW				
8	33C4363	2	SIDE GUARD ASSEMBLY	31	BF0912024	16	FLAT SOCKET HEAD CAPSCREW				
9	33D4364	1	GRIZZLY FRAME WELDMENT	32	LN0112	55	LOCK NUT				
10			SEE OPTION LIST	33	HN0112	8	HEX. NUT				
11	33D4366	1	GRIZZLY CHUTE WELDMENT	34	LW0112	8	LOCK WASHER				
12	50A1333	3	RATCHET JACK	35	BW0112	8	BEVEL WASHER				
13	33C4367	1	SPRAY BAR WELDMENT	36	FW0108	4	FLAT WASHER				
14	50A1361	3	SPRAY NOZZLE	37	FW0106	8	FLAT WASHER				
15	33A4368	1	CURTAIN RUBBER	38	LN0106	8	LOCK NUT				
16	33A4369	1	CURTAIN BACK PLATE	39	WS0106016	8	WELD STUD				
17	33A4370	1	FLASHING RUBBER	40	33A4849	1	FRONT RUBBER SEAL				
18	33A4371	1	FLASHING BACK PLATE	41	33A4850	2	SIDE RUBBER SEAL				
19	33A4372	1	CHUTE LINER	42	33A4851	2	SIDE CLAMP PLATE				
20	33A4783	8	WASHER	43	33C4385	1	SIDE GUARD WELDMENT				
21	BF1708016	3	HEX HEAD CAPSCREW	44	3354386	1	GUARD COVER				
22			HEX. HEAD CAPSCREW	45	33B4387	1	BACK PLATE				
23	BF1708024	16	HEX. HEAD CAPSCREW	46	BF0306016	9	CARRIAGE BOLT				
				48	LN0106	9	LOCK NUT				



VIEW A

VIEW B

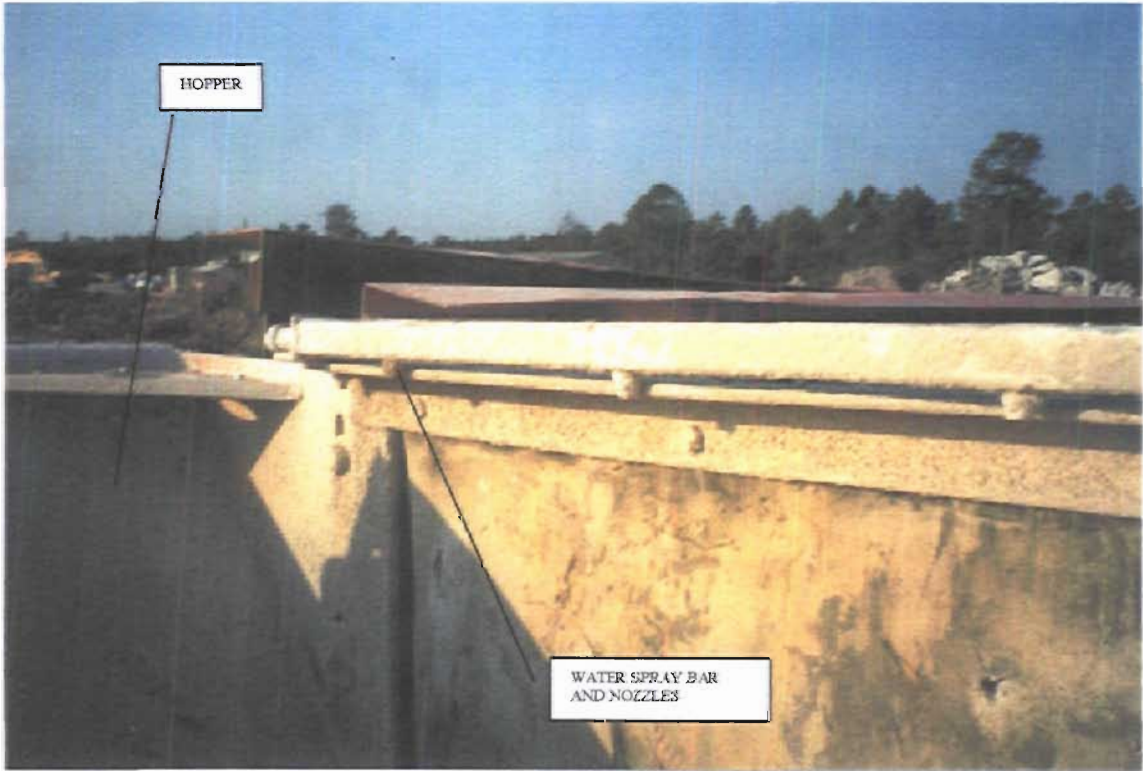


EST. RAW WT- 21,148.2#		EST. FIN WT- 21,148.2#	
EAGLE CRUSHER CO., INC. GALLUP, OHIO, U.S.A.			
EXCEPT OTHERWISE NOTED	SCALE: 1/4" = 1"	DATE: 11/28/50	WORK: 33D4782
DESIGNED BY: J. J. B. 11/28/50	CHECKED BY: J. J. B. 11/28/50	APPROVED BY: J. J. B. 11/28/50	PART NUMBER: P33D4781



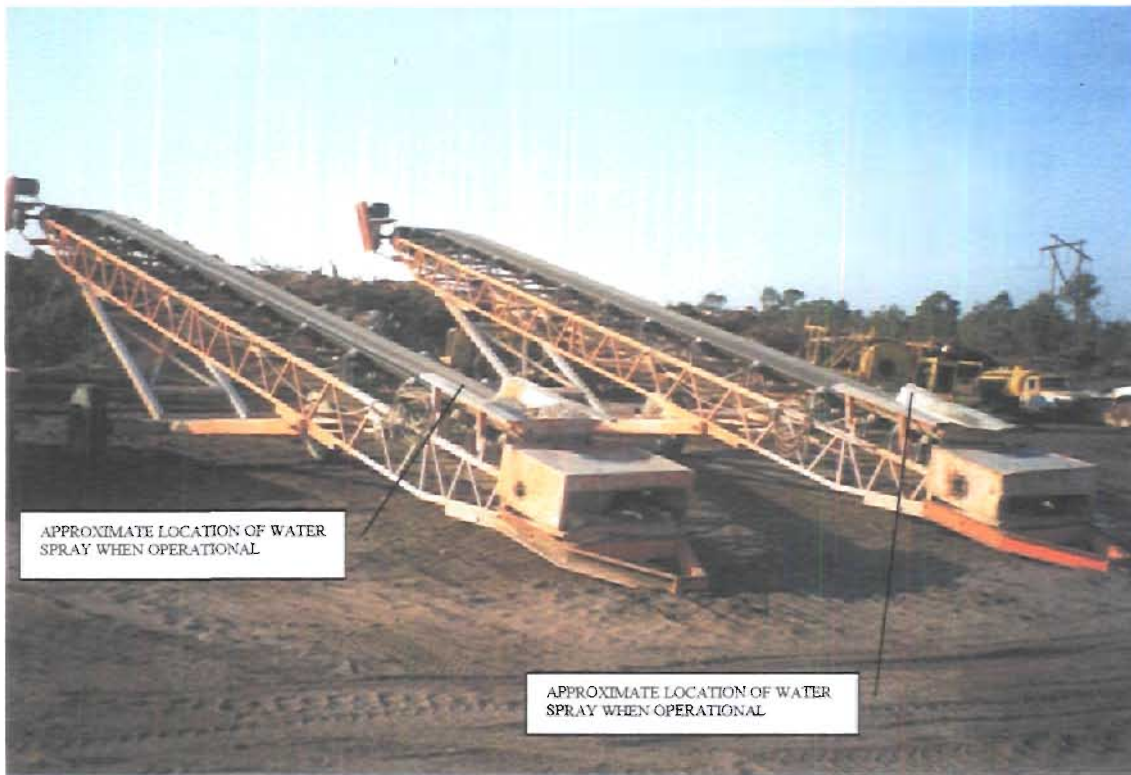


EAGLE 1200 CRUSHER.



CLOSE-UP VIEW OF WATER SPRAY BAR IN THE CRUSHER'S HOPPER.

**APPENDIX A-1**  
**CRUSHER AND SPRAY BAR**  
EAGLE 1200 CRUSHER  
SAMSULA RECYCLING, INC.  
NEW SMYRNA BEACH, FLORIDA  
**COLELLA & ASSOCIATES, INC.**



APPROXIMATE LOCATION OF WATER SPRAY WHEN OPERATIONAL

APPROXIMATE LOCATION OF WATER SPRAY WHEN OPERATIONAL

CONVEYORS USED TO DISCHARGE PROCESSED CONCRETE DEBRIS.



APPROXIMATE LOCATION OF WATER SPRAY WHEN OPERATIONAL

CRUSHED MATERIAL LOADING POINT

CLOSE-UP VIEW OF LOADING POINT AND WATER SPRAY AREAS ON CONVEYORS.

**APPENDIX A-2  
PROCESSED MATERIALS' CONVEYORS**

**EAGLE 1200 CRUSHER  
SAMSULA RECYCLING, INC.  
NEW SMYRNA BEACH, FLORIDA**

**COLELLA & ASSOCIATES, INC.**

**APPENDIX B**

**EAGLE 1200 CRUSHER OPERATING RANGE**



# EAGLE

CRUSHER COMPANY, INC.

P.O. Box 537 • Galion, Ohio 44833 • 800-25-EAGLE • 419-468-2288 • FAX: 419-468-4840 • [www.eaglecrusher.com](http://www.eaglecrusher.com)

March 16, 2000

Sansula Landfill, Inc.  
Yancey McDonald  
363 State Road 415  
New Smyrna Beach, FL 32168

Ref: UltraMax 1200-25

In your particular application the Eagle UltraMax 1200-25 Portable Plant with 1 1/2" top deck, and 3/8" bottom deck screen has a rated capacity of 120 tons per hour.

Eagle Crusher Company, Inc.



Jay Giltz  
Applications Manager  
Team Eagle Sales

cc: Magness Machinery

**APPENDIX C**

**SAMSULA RECYCLING WATERING PLAN**

**APPENDIX C - DUST SUPPRESSION PLAN**  
**SAMSULA RECYCLING, INC.**

**1. Crusher**

- Crusher's spray bar and associated nozzles in the hopper will be maintained operational.
- Water supply to be provided by tanker or hard piping to water supply prior to operating crusher.
- Crusher will not operate if the spray bar/nozzles or other devices to apply water in the hopper are not functioning.
- Water pressure to be maintained at least 135 psi to develop adequate misting and coverage.
- Crusher operator will operate the crusher in a manner to minimize dust generation during crushing by controlling the flow of water to the spray bar/nozzles.

**2. Work Area**

- A water truck or other water application system will apply water to the ground surface to minimize dust being generated from the delivery of concrete debris, from the loading of the crusher's hopper, from the conveying of processed materials, from stockpiling the processed materials, from loading the processed materials into trucks, and from the truck traffic hauling the processed materials.
- Crusher operator will control the water application rate onto the ground surface to minimize dust generation from wind erosion and/or equipment traffic.
- The crusher will not operate if dust suppression in the work area is not controlled.

**3. Processed Materials Conveyors**

- Maintain the water spray equipment operational at the loading point of the processed material from the crusher onto the discharge conveyors (2).
- Water supply to be provided by tanker or hard piping to water supply prior to operating crusher and conveyors.
- Crusher will not operate if the spray bar/nozzles or other devices to apply water at the loading points of the discharge conveyors are not functioning.
- Water pressure to be maintained at least 135 psi to develop adequate misting and coverage.
- Crusher operator will control the flow of water to the spray bar/nozzles to maintain a relatively dust free working environment.

**4. Stockpiled Materials**

- All stockpiles will be sprayed with water to minimize dust generation by wind erosion and/or the handling of the materials during loading operations.
- Water supply to be provided by tanker or hard piping to water supply prior to operating crusher and conveyors.
- Adequate spray heads will be provided for each stockpile and the water pressure will be maintained at least 135 psi to develop adequate misting and coverage.
- Crusher operator will control the water application rate onto the stockpiles to minimize dust generation from wind erosion and/or loading operations.

**5. Exception**

- Stockpiles and the work area watering can be suspended during rain events and subsequent to a rain event if dust is not being generated. Upon first notice of dust generation by wind erosion and/or equipment movement, water application will begin.

The News-Journal

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

RECEIVED

SEP 25 2000

BUREAU OF AIR REGULATION

LEGAL ADVERTISEMENT

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION Draft Permit No. 7775112-001-AC Samsula Recycling, Inc.

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit to Samsula Recycling, Inc., for a diesel engine powered relocatable concrete, asphalt, and construction debris crushing facility. The permittee plans to operate the facility at construction and industrial sites throughout Florida. The facility is a minor source of air pollution. It is subject to New Source Performance Standards, 40 CFR 60, Subpart OOO. It is not subject to the Prevention of Significant Deterioration (PSD) regulations, Rule 62-212.400, Florida Administrative Code (F.A.C.). A Best Available Control Technology determination was not required for this facility. The applicant's name and address is: Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, Florida 32168.

The facility has been reviewed for potential operation in all counties of Florida. The facility will emit fugitive particulate matter from the crusher operation and the products of combustion from the diesel fuel firing. Control of process unconfined fugitive particulate matter emissions shall be accomplished by wetting the material using water spray bars at needed at unloading, at the crusher entrance, and at conveyor transfer points; and, non-process unconfined fugitive particulate matter emissions shall be controlled using watering and/or application of some dust suppressant(s) on the haul roads, workyards and stockpiles. Because of the low emissions estimates and limited time of operation at any one site, the crusher will not cause or contribute to any violation of an ambient air quality standard or increment.

The Department will issue the Final permit, in accordance with the conditions of the Draft permit, unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed Draft permit issuance action for a period of 14 (fourteen) days from the date of publication of this Notice. Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this Draft permit, the Department shall issue a revised Draft permit and require, if applicable, another Public Notice.

The Department will issue the Final permit with the conditions of the Draft permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.). Mediation is not available for this action. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000, telephone: 850/488-9370, fax: 850/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any per-

State of Florida, County of Volusia:

Before the undersigned authority personally appeared Maggie Rollins

who, on oath says that he is Classified Sales Manager

of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia County, Florida; that the attached copy of advertisement, being a

Public Notice

Of Intent to Issue Air Construction Permit in the matter of

in the Court, was published

in said newspaper in the issues

August 31, 2000

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Maggie Rollins (handwritten signature)

Sworn to and subscribed before me

this 31st day of August

A.D. 19 2000

Anita Marie Saundets (handwritten signature)



ANITA MARIE SAUNDETS Notary Public, State of Florida My Comm. Exp. Aug. 30, 2003 Comm. No. CC 867646

**PROOF OF PUBLICATION**

a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207, F.A.C.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner; the applicant's name and address, the Permit File Numbers and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by the petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the Department's action or proposed action addressed in this notice of intent.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Copies of the proposed air construction permit and the technical evaluation are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at: Florida Dept. of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803. Telephone: 407/894-7555.

The complete project file, which includes the application, technical evaluation, Draft air construction permit, and the information submitted by the applicant, exclusive of confidential records under Section 403.111, F.S., is available in the office of the permitting authority in Tallahassee. Interested persons may contact William Leffler, P.E., project engineer, at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 850/921-9522, for additional information. Legal L41612. August 31, 2000 lt.

**NEWS-JOURNAL CORPORATION**

**Daytona Beach, Florida**

**Publication Fee, \$ . . . . .**

Z 333 638 226

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to Mr. Michael Stokes	
Street & Number 363 State Road 415	
Post Office, State, & ZIP Code New Smyrna Beach, FL	
Postage	\$ 321.68
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
<b>TOTAL Postage &amp; Fees</b>	<b>\$</b>
Postmark or Date 8/23/00	
DRAFT Air Construction Permit No.: 7775112-001- AC	

PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address
2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Michael Stokes, President  
 Samsula Recycling, Inc.  
 363 State Road 415  
 New Smyrna Beach, Florida  
 32168

4a. Article Number

Z 333 638 226

4b. Service Type

- |   |   |
|---|---|
| <input type="checkbox"/> Registered                     | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail                   | <input type="checkbox"/> Insured              |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD                  |

7. Date of Delivery

8-28-00

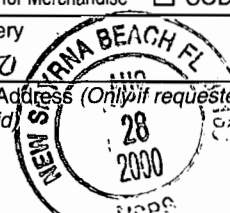
5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

*[Handwritten Signature]*

8. Addressee's Address (Only if requested and fee is paid)



Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR RESOURCES MANAGEMENT  
BUREAU OF AIR REGULATION - TITLE V  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

M& 5505

BUREAU OF AIR REGULATION

AUG 30 2000

RECEIVED



Z 333 638 227

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to Mr. Doug Weaver	
Street & Number 123 W Indiana Avenue	
Post Office, State, & ZIP Code Deland, Florida 32720-4621	
Postage	\$ 4621
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
<b>TOTAL Postage &amp; Fees</b>	<b>\$</b>
Postmark or Date 8/23/00	
DRAFT Air Construction Permit No.: 7775112-001- AC-Samsula Recycling, Inc.	

PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address
2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
Mr. Doug Weaver  
Volusia County Attorney's  
Office  
123 W Indiana Avenue  
Deland, Florida 32720-4621

4a. Article Number  
Z 333 638 227

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
25 AUG 2000

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

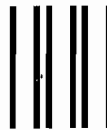
6. Signature: (Addressee or Agent)

X 

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Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR RESOURCES MANAGEMENT  
BUREAU OF AIR REGULATION - TITLE V  
2600 BLAIR STONE ROAD

TALLAHASSEE, FLORIDA 32399-2400

*M & S 5505*

AUG 28 2000

RECEIVED



Z 333 638 228

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

PS Form 3800, April 1995

Sent to	
Mr. Albert Elsworth Ford	
Street & Number	
505 Wekiva Springs Road	
Post Office, State, & ZIP Code	
Longwood, Florida 32770	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	
8/23/00	
DRAFT Air Construction	
Permit No.: 7775112-001-	
AC - Samsula Recycling, Inc.	

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
Mr. Albert Elsworth Ford  
505 Wekiva Springs Road  
Longwood, Florida 32770

4a. Article Number  
Z 333 638 228

4b. Service Type  
 Registered       Certified  
 Express Mail       Insured  
 Return Receipt for Merchandise       COD

7. Date of Delivery  
8-25-00

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: Addressee or Agent

*[Handwritten Signature]*

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**AUG 28 2000**

**BUREAU OF AIR REGULATION**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR RESOURCES MANAGEMENT  
BUREAU OF AIR REGULATION - TITLE V  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

*M& 5505*



# INTEROFFICE MEMORANDUM

**Sensitivity:** COMPANY CONFIDENTIAL

**Date:** 28-Jun-2000 04:53pm  
**From:** Caroline Shine ORL 407/893-333  
SHINE\_C@a1.deporl.dep.state.fl.us  
**Dept:**  
**Tel No:**

**To:** William Leffler TAL ( LEFFLER\_W@a1 )  
**To:** Alan Zahm ORL ( ZAHM\_A@a1.deporl.dep.state.fl.us )  
**To:** John B. Turner ORL ( TURNER\_JB@a1.deporl.dep.state.fl.us )  
**To:** Leonard Kozlov ORL ( KOZLOV\_L@a1.deporl.dep.state.fl.us )

**Subject:** FWD: SAMSULA LANDFILL & YANCEY MCDONALD

I have received this email from Chip Dozier. The case is and have been in the ARMS SYSTEM.

Both of the companies were operating without a permit. Samsula applied before Chips. Chips has their permit and Samsula does not. Can you please advise of the status of the Samsula permit and if there is a problem issuing this permit?

Both of these competitors are persistently concerned about the other's operation.

Please advise.  
Caroline Shine

# INTEROFFICE MEMORANDUM

**Date:** 28-Jun-2000 04:40pm  
**From:** CHIPS DOZER  
chipsdoz@bellsouth.net  
**Dept:**  
**Tel No:**

**Subject:** SAMSULA LANDFILL & YANCEY MCDONALD

TOM & CAROLINE:

OUR ATTORNEY SPOKE TO MR. WILLIAM LEFFLER AT THE DEP PERMITTING ENGINEER IN TALLAHASSEE TODAY. HE WAS SPEAKING ABOUT YANCEY'S CRUSHER PERMIT. OUR ATTORNEY TOLD MR. LEFFLER THAT YANCEY HAD BEEN OPERATING AGAINST THE CONSENT ORDER. MR. LEFFLER SAID THAT THERE WAS NOTHING IN THE COMPUTER ABOUT YANCEY DOING ANYTHING WRONG. COULD YOU PLEASE PUT IT IN THE COMPUTER AS TO THE STATUS OF YANCEY AND CALL WILLIAM LEFFLER AT (850) 921-9522....

THANKS,

LORI

RFC-822-headers:

Received: from epic50.dep.state.fl.us ([199.73.169.50])  
by mail.deporl.dep.state.fl.us (PMDF V5.2-33 #37974)  
with ESMTP id <01JR55TSMK260008H0@mail.deporl.dep.state.fl.us>; Wed,  
28 Jun 2000 16:36:02 EDT

Received: from mail6.lig.bellsouth.net ([205.152.0.91])  
by mail.epic50.dep.state.fl.us (PMDF V5.2-32 #31508)  
with ESMTP id <01JR55U5BVAG001AB4@mail.epic50.dep.state.fl.us>; Wed,  
28 Jun 2000 16:36:19 -0400 (EDT)

Received: from bellsouth.net  
(host-216-76-219-40.dab.bellsouth.net [216.76.219.40])  
by mail6.lig.bellsouth.net (3.3.5alt/0.75.2) with ESMTP id QAA19766; Wed,  
28 Jun 2000 16:38:17 -0400 (EDT)

X-Mailer: Mozilla 4.72 [en]C-bis40 (Win98; I)

X-Accept-Language: en

RFC-822-headers:  
Priority: normal

# INTEROFFICE MEMORANDUM

**Date:** 28-Jun-2000 04:46pm  
**From:** Caroline Shine ORL 407/893-3336  
SHINE\_C@a1.deporl.dep.state.fl.us  
**Dept:**  
**Tel No:**

**Subject:** Re: SAMSULA LANDFILL & YANCEY MCDONALD

LORI,  
This case is and has been in the computer. I will check with Bill Leffler regarding the status.

TOM & CAROLINE:

OUR ATTORNEY SPOKE TO MR. WILLIAM LEFFLER AT THE DEP PERMITTING ENGINEER IN TALLAHASSEE TODAY. HE WAS SPEAKING ABOUT YANCEY'S CRUSHER PERMIT. OUR ATTORNEY TOLD MR. LEFFLER THAT YANCEY HAD BEEN OPERATING AGAINST THE CONSENT ORDER. MR. LEFFLER SAID THAT THERE WAS NOTHING IN THE COMPUTER ABOUT YANCEY DOING ANYTHING WRONG. COULD YOU PLEASE PUT IT IN THE COMPUTER AS TO THE STATUS OF YANCEY AND CALL WILLIAM LEFFLER AT (850) 921-9522.....

THANKS,

LORI



RFC-822-headers:  
Priority: normal

RFC-328-headers:

Received: from epic50.dep.state.fl.us ([199.73.169.50])  
by mail.epic1.dep.state.fl.us (PMDF V5.2-33 #37976)  
with ESMTP id <01JR56K770T2000TJK@mail.epic1.dep.state.fl.us> for  
LEFFLER\_W@a1.epic1.dep.state.fl.us; Wed, 28 Jun 2000 16:56:32 EDT  
Received: from deporl.dep.state.fl.us ([199.73.202.11])  
by mail.epic50.dep.state.fl.us (PMDF V5.2-32 #31508)  
with ESMTP id <01JR56H9X5VC0015D5@mail.epic50.dep.state.fl.us> for  
LEFFLER\_W@a1.epic1.dep.state.fl.us; Wed, 28 Jun 2000 16:54:11 -0400 (EDT)  
Received: from a1.deporl.dep.state.fl.us by mail.deporl.dep.state.fl.us  
(PMDF V5.2-33 #37974) id <01JR56GVTEIY0006IM@mail.deporl.dep.state.fl.us> for  
LEFFLER\_W@a1.epic1.dep.state.fl.us; Wed, 28 Jun 2000 16:53:52 -0400 (EDT)

	<b>J. A. JURGENS, P.A.</b>	
	Attorneys at Law	
J. A. Jurgens	505 Wekiva Springs Road	Of Counsel:
	Suite 500	Brickleyer Smolker
Scott M. Price	Longwood, Florida 32779	& Bolves, P.A.
	Telephone: (407) 772-2277	500 E. Kennedy Blvd.
Albert E. Ford II	Facsimile (407) 772-2278	Suite 200
		Tampa, Florida 33602

**DATE:** September 14, 2000

**COMPANY:** Florida Department of Environmental Protection

**ATTENTION:** William Leffler, P.E.

**FAX NUMBER:** 850-922-6979

**FROM:** J.A. Jurgens, Esquire

**RE:** Combined Petition/Samsula

**NUMBER OF PAGES (Including Cover Page):** 9

**MESSAGE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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*Confidential  
Notice at  
bottom - Did  
not scan.*

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

ROBERT H. and ZETTA M. BAKER,  
and WILLIAM D. and GEORGIA M.  
TOWNER,

CASE NO.

Petitioners,

v.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
and SAMSULA RECYCLING, INC.

Respondents.

---

**COMBINED PETITION FOR FORMAL ADMINISTRATIVE HEARING  
AND TO INITIATE RULEMAKING**

Petitioners, ROBERT H. and ZETTA M. BAKER ("Bakers") and WILLIAM D. and GEORGIA M. TOWNER ("Townners"), hereby file this combined Petition for Formal Administrative Hearing and to Initiate Rulemaking in accordance with § 120.536, 120.54(7)(a), 120.569, 120.57 and 120.573, Florida Statutes ("F.S."), and Rules 62-110.103, 62-110.106(3), 28-103.006 and 28-106.201, Florida Administrative Code ("F.A.C."), and a Public Notice of Intent to Issue Air Construction Permit, Draft Permit #7775112-001-AC, Samsula Recycling, Inc., and as grounds therefore, states as follows:

**PARTIES**

1. Petitioners, Bakers, are natural persons who own and live at property located at 353 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904)767-2029. Petitioners are represented by undersigned counsel, whose name, address and telephone number appear below.

2. Petitioners, Towners, are natural persons who own and live at property located at 355 S.R. 415, New Smyrna Beach, Florida 32168, telephone number (904) 427-2517.
3. Respondent, State of Florida Department of Environmental Protection ("DEP"), is an agency of the State of Florida whose principle office address is 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000.
4. Respondent, Samsula Recycling, Inc. ("Samsula"), is an operator of a C & D Landfill Facility located at 363 S.R. 415, New Smyrna Beach, Florida 32168. Samsula seeks to permit and operate a concrete, asphalt, and construction debris crusher, which is the subject of this Combined Petition.
5. Petitioners reside immediately adjacent to the subject C & D Landfill and the location of the proposed crusher.
6. On January 17, 2000, Petitioners filed with the Department a Verified Complaint pursuant to §403.412(2)(c), F.S., alleging that subsidiaries of Respondent, Samsula, Yancy's Landclearing, Inc. and Samsula Landfill, Inc., were operating the subject rock crusher without the required DEP permit. Yancy's Landclearing, Inc. and Samsula Landfill, Inc. have the same officers, directors, principals and managers as Respondent, Samsula, those are, Charles Yancey McDonald and Michael Stokes. For purposes of the agency action at issue, Samsula Landfill, Inc., Yancy's Landclearing, Inc. and Respondent, Samsula, are the same corporate entity.

#### **AGENCY ACTION AT ISSUE**

7. The agency action at issue is the Notice of Intent to Issue Air Construction Permit, Draft Permit # 7775112-001-AC and the bases for that Notice, namely, a Technical Evaluation and Preliminary Determination for Draft Air Construction Permit #

7775112-001-AC, signed August 27, 2000 by William Leffler, P.E., DEP ("Technical Evaluation"), and the Draft Permit itself, pages 1-18.

#### **FACTS AND BACKGROUND**

8. Prior to the entry of the Consent Order, OGC File No. 00-0210, referred to above, Respondent, Samsula, by and through its officers, managers and related companies, illegally operated the subject rock crusher, without the required DEP Permit much to the detriment of the Petitioners. In said Consent Order, the Department made specific findings of fact that the Respondent's related companies had violated Department statutes and rules by, among other things, operating the subject rock crusher without the required DEP permit.
9. In paragraph 12 of the Consent Order, Respondent Samsula's related companies were directed not to operate the rock crusher without first obtaining the required DEP permit.
10. In less than 60 days of entering into the subject Consent Order, Respondent, Samsula, and/or its associated companies, officers, managers and directors, operated the subject rock crusher in another county without the benefit of the required Department permit. This was a willful and egregious violation of the Consent Order and is a matter of record in the comments submitted to the Department by Petitioners dated July 13, 2000, and the Department's own records. This violation and the myriad other environmental violations by Respondent, Samsula, and/or its related companies, officers, managers and directors, is documented in the referenced Verified Complaint which is a matter of Department record and thus, will not be reiterated here.

11. During the operation of the subject rock crusher adjacent to the property of Petitioners, Petitioners were subjected to excessive dust and other particulate emissions and extremely excessive high levels of noise pollution and vibrations. These particulate emissions exceeded Department standards and if the subject permit is issued, these particulate emissions and extremely excessive noise pollution will continue.

**WHEN AND HOW NOTICE OF AGENCY ACTION RECEIVED**

12. Petitioners received notice of agency action by publication of the subject Notice of Intent on August 31, 2000.

**ULTIMATE FACTS**

13. Rule 62-4.070, F.A.C., requires the Department to issue a permit "only if the applicant affirmatively provides the Department with reasonable assurance . . . that the construction, expansion, modification, operation, activity of the installation will not [violate] Department standards or rules." Petitioners contend that Respondent, Samsula, has failed to provide the necessary reasonable assurances.

**DISPUTED ISSUES OF MATERIAL FACTS**

14. The repeated history of violation of Department rules and standards by Respondent, Samsula, and its related companies, officers, managers and directors, is so extensive that the applicant has failed to provide the Department with the required reasonable assurances as provided by Rule 62-4.070(5), F.A.C. The provisions in paragraph 15 of page 5 of 18 of the Draft Permit will not overcome this deficiency.
15. The Department has failed to promulgate required rules regarding noise pollution. If the Department had promulgated these required rules, Respondent, Samsula, would

not be allowed to operate the subject rock crusher adjacent to Petitioners' residence as it will be allowed if the permit was issued in its current form.

16. The expected air pollutant emissions are not less than 100 TPY of any single criteria air pollutant as identified in the Technical Evaluation.
17. The unconfined fugitive particulate matter emissions from the Facility's operation are not less than 10 TPY of PM as indicated in the Technical Evaluation.
18. The diversion of the oversized stone as described in paragraph 4.1 of the Technical Evaluation will increase the Facility's emissions.
19. Fugitive particulate emission will not be controlled by watering or application of dust suppressant to roadways, work-yard stockpiles despite the description in paragraph 4.2 of the Technical Evaluation. There are other potential emissions at the subject C & D Landfill that were not considered in paragraph 6.1 of the Technical Evaluation. For example, there is currently an unpermitted screening operation at the subject C & D Landfill that is subject to Subpart OOO, 40 CFR Section 60.670. The fact that this screening operation occurs without the required Department permit further emphasizes that the applicant has failed to provide reasonable assurances to the Department for the subject permit. The screening operation along with the total emissions at the site will cause an exceedances of the 100 TPY threshold of Title 5 of the Clean Air Act.
20. The operation of the water-spray suppression system as described in the Facility description paragraph on page 2 of the Draft Permit along with other dust suppression described therein will cause the unpermitted discharge of industrial wastewater in violation of Rule 62-620.300(2), F.A.C. The visible emissions limits



identified on page 6 of the Draft Permit do not conform to the standards required by 40 CFR, Section 60.672.

21. The Draft Permit does not specify how the applicant will comply with the particulate matter limit specified in 40 CFR, Section 60.672(a)(1). Furthermore, the Draft Permit fails to specify how the applicant will demonstrate compliance with this particulate matter standard as required by 40 CFR, Section 60.675(b).

#### **HOW PETITIONERS' INTERESTS ARE AFFECTED**

22. Petitioners' substantial interests are affected by the proposed agency action because the proposed permit would subject them to air emissions in violation of Department standards, unnecessary and excessive noise, and unpermitted discharges of industrial wastewater.

#### **RULEMAKING**

23. Section 403.061(11), F.S., requires the Department to adopt "standards for the abatement of excessive and unnecessary noise."
24. The fact that the Department has a duty to regulate noise pollution is emphasized by the fact that "noise" is included within the definition of a "pollutant" by Section 403.021(7), F.S.
25. Because the Department has failed to promulgate rules regulating the abatement of excessive and unnecessary noise, Petitioners request that the Department initiate rulemaking for the purpose of promulgating such rules.
26. The reason that Petitioners request such action of the Department is that without this rule, Petitioners are expected to be subjected to the excessive and unnecessary noise that will be generated by the operation of the rock crusher.

27. Petitioners have a substantial interest in the rule because a rule promulgated by the Department regulating excessive and unnecessary noise would be reasonably ~~expected to alleviate them from being subjected to the excessive and unnecessary~~ noise from the subject rock crusher that they experienced prior to the entry of the referenced Consent Order.

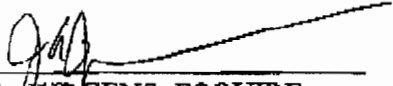
### **DEMAND FOR RELIEF**

Petitioners demand the following relief:

- A. Pursuant to Section 120.569(2)(a), F.S., the assignment of an Administrative Law Judge within 15 days of the receipt of this Petition, for a Formal Administrative Hearing at which Petitioner will seek:
1. A Final Order entered by the Department finding that the Respondent, Samsula, has failed to provide the Department the required reasonable assurances; and,
  2. A Final Order denying the applied for permit.
- B. Pursuant to Section 120.54(7)(b), F.S., the Department initiates rule making or provide notice in the Florida Administrative Weekly that the Department will hold a public hearing on this Petition within 30 days for purposes of adopting rulemaking regarding the regulation of excessive and unnecessary

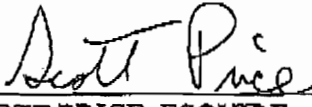
noise.

Respectfully submitted this 14<sup>th</sup> day of September, 2000.



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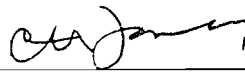
Mr. Michael Stokes  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**NOTICE OF ISSUANCE OF FINAL AIR CONSTRUCTION PERMIT**

Enclosed is the Final Air Construction Permit, No. 7775112-001-AC, for a diesel engine powered portable concrete, asphalt, and construction debris crusher that will be allowed to operate at sites in those counties designated in Appendix PC. This permit is issued pursuant to Chapter 403, Florida Statutes (F.S.).

Any party to this order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Legal Office; and, by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 (thirty) days from the date this Notice is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.



C.H. Fancy, P.E.  
Chief  
Bureau of Air Regulation

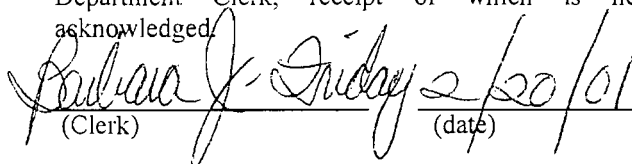
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this AIR CONSTRUCTION PERMIT was sent by certified mail (\*) and copies were mailed by U.S. Mail, or electronic mail (as noted) before the close of business on 2/20/01 to the person(s) listed:

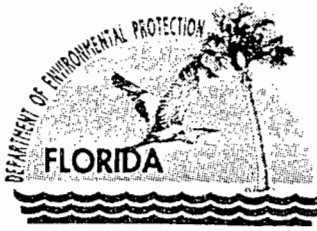
Mr. Michael Stokes\*, Samsula Recycling, Inc., 363 State Road 415, New Smyrna Beach, FL 32168  
James Colella, P.E., Colella & Associates, Inc., 805 Smokerise Boulevard, Port Orange, FL 32127  
William and Georgia Towner\*, 355 South State Road 415, New Smyrna Beach, FL 32168  
Robert and Zetta Baker\*, 353 South State Road 415, New Smyrna Beach, FL 32168  
Arthur Drewry, 800 Hull Road, Ormond Beach, FL 32174  
Danielle Marshall, Volusia County Environmental Management, 123 W Indiana Avenue, Deland, FL, 32720-4621  
Doug Weaver, Volusia County Attorney's Office, 123 W Indiana Avenue, Deland, FL 32720-4621  
J. A. Jurgans\*, Esq., Attorney of Record for the Towner's and Baker's, 505 Wekiva Springs Road, Suite 500, Longwood, FL 32770  
Albert Elsworth Ford II, Esq., 505 Wekiva Springs Road, Suite 500, Longwood, FL 32770  
Len Kozlov, DEP, Central District  
Douglas Beason, Esq., DEP - OGC

Clerk Stamp

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

  
(Clerk) 2/20/01 (date)

Notes: Remaining DAPA's and LAPA's deleted because advertising was limited to Volusia County  
J. A. Jurgans was added as Attorney of Record for the Towner's and Baker's  
Danielle Marshall was substituted for Barry Appelby, Volusia County Environmental Management



Jeb Bush  
Governor

# Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

**PERMITTEE:**

Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**FID No.:** 7775112

**Permit No.:** 7775112-001-AC

**SIC No.:** 1795

**Expiration Date:** September 18, 2005

**Project:** Diesel engine powered relocatable concrete, asphalt, and construction debris crushing plant designated as Eagle Ultra Max Model 1200-25

**AUTHORIZED REPRESENTATIVE**

Mr. Michael Stokes  
Samsula Recycling, Inc.  
363 State Road 415  
New Smyrna Beach, Florida 32168

**PROJECT**

This permit allows the applicant to construct/install a diesel engine powered relocatable concrete, asphalt, and construction debris crushing plant, designated as Eagle Ultra Max Model 1200-25 Crushing Plant, together with associated crusher feeder, classifier screens, conveyors, and electric generator.

**STATEMENT OF BASIS**

This air construction permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and the Florida Administrative Code (F.A.C.) Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297. The above named permittee is authorized to construct/install the facility in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department of Environmental Protection (Department).

**APPENDICES**

The attached appendices are a part of this permit:

Appendix GC - General Permit Conditions  
Appendix PC - Permitted Counties

Howard L. Rhodes, Director  
Division of Air Resources Management

"More Protection, Less Process"

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## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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The following facility-wide conditions apply to all emissions units at this facility.

### ADMINISTRATIVE

1. Regulating Agencies: All documents relating to the initial application for a permit to operate and all initial compliance tests shall be submitted to the Department's Bureau of Air Regulation in Tallahassee. Subsequent applications for permit renewals, reports, tests, minor modifications, and notifications shall be submitted to the Department's district office or local program that has permitting/compliance jurisdiction over the current or proposed operating location.
2. General Conditions: In addition to the specific conditions of this permit, the owner and operator are subject to and shall operate under the General Permit Conditions G.1 through G.15, contained in the attached Appendix GC - General Permit Conditions of this permit. General Permit Conditions are binding and enforceable pursuant to Chapter 403, F.S.  
[Rule 62-4.160, F.A.C.]
3. Terminology: The terms used in this permit have specific meanings as defined in the corresponding chapters of the Florida Administrative Code.
4. Forms and Application Procedures: The permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C., and follow the application procedures in Chapter 62-4, F.A.C.  
[Rule 62-210.900, F.A.C.]
5. Extension of Expiration Date: The permittee may, for good cause, request that this construction permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation prior to 60 days before the expiration of the permit.  
[Rules 62-210.300(1), 62-4.070(4) and 62-4.210, F.A.C.]
6. Notification of Intent to Relocate: An air permit for a relocatable facility shall be amended upon each change of location of the facility. The owner or operator of the facility must submit a Notification of Intent to Relocate Air Pollutant Emitting Facility [DEP Form No. 62-210.900(6)] to the Department's district office and/or, if appropriate, the local program office, at least seven (7) days prior to the change, if the facility would be relocated to a county in which public notice of the proposed operation of the facility had been given within the previous five years pursuant to Rule 62-210.350(1), F.A.C., or otherwise thirty (30) days prior to the change. A separate form shall be submitted for each facility in the case of the relocation of multiple facilities which are jointly owned or operated.  
The notification shall be submitted to the Department's district office and any approved local program office using DEP Form No. 62-210.900(6), along with the appropriate processing fee, and a USGS topographic map showing all potential sites in such county.  
[Rule 62-210.370(1), F.A.C.]
7. Operation Permit Required: This permit authorizes construction/installation of the facility and initial operation for testing purposes in order to determine compliance with the applicable rules and standards. An operation permit is required for continued commercial operation of the facility. The owner or operator shall apply for and receive an operation permit prior to expiration of this permit. To apply for an operation permit, the applicant shall submit the appropriate application fee and, in quadruplicate, the appropriate application form, a certification that construction was completed with a notation of any deviations from the conditions in the construction permit, compliance test results, and such additional information as the Department may by law require. A copy of the compliance test results must be submitted to the Department's Tallahassee office as well as the district office or local program office that has compliance jurisdiction over the location where the performance test took place.  
[Rules 62-4.030, 62-4.050, 62-4.220 and 62-210.300(2), F.A.C.]

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

PAGE 3 OF 18

## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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8. Applicable Regulations: Unless otherwise indicated in this permit, the construction/installation and operation of the facility shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of Chapter 403, F.S.; Chapters 62-4, 62-204, 62-210, 62-296 and 62-297, F.A.C.; and, the Code of Federal Regulations Title 40, Parts 60 and 61, adopted by reference in Chapter 62-204, F.A.C. Issuance of this permit does not relieve the facility owner or operator from compliance with any applicable federal, state, or local regulations.

[Rules 62-204.800 and 62-210.300, F.A.C.]

### EMISSION LIMITING STANDARDS

9. General Visible Emissions Standard: Except for emissions units that are subject to a particulate matter or opacity limit set forth or established by rule and reflected by conditions elsewhere in this permit, no person shall cause, let, permit, suffer, or allow to be discharged into the atmosphere the emissions of air pollutants from any activity, the density of which is equal to or greater than that designated as Number 1 on the Ringelmann Chart (20% opacity). If a special compliance test is required, the test method for visible emissions shall be EPA Method 9, incorporated and adopted by reference in Chapter 62-297, F.A.C.

[Rules 62-296.320(4)(b)1. & 4., F.A.C.]

### 10. Unconfined Emissions of Particulate Matter:

- (a) No person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities such as loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions.
- (b) Any permit issued to a facility with emissions of unconfined particulate matter shall specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.
- (c) Reasonable precautions committed to by the permittee:
  - Unconfined fugitive particulate matter emissions that might be generated from various emission points throughout the crushing operation shall be controlled by a water suppression system with spray bars located at the various emissions points of the operation including, but not limited to, the Grizzly feeder, the entrance and exit of the impact crusher, the classifier screens and conveyor drop points.
  - All stockpiles, roadways and work-yard, where this crushing operation is located, shall apply water (by water trucks equipped with spray bars) and/or an effective dust suppressant(s) on a regular basis to control any unconfined fugitive particulate matter emissions that may be generated by vehicular traffic or prevailing winds.
- (d) In determining what constitutes reasonable precautions for a particular source, the Department shall consider the cost of the control technique or work practice, the environmental impacts of the technique or practice, and the degree of reduction of emissions expected from a particular technique or practice.

[Rule 62-296.320(4)(c), F.A.C. ; and, application received 3/22/2000]

### 11. General Pollutant Emission Limiting Standards:

a. No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems deemed necessary and ordered by the Department.

{Permitting note: No vapor control device was deemed necessary at the time of issuance of this permit.}

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

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## SECTION II. FACILITY DESCRIPTION AND FACILITY-WIDE CONDITIONS

AIR CONSTRUCTION PERMIT NO.: 7775112-001-AC

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b. No person shall cause, suffer, allow or permit the discharge of air pollutants, which cause or contribute to an objectionable odor.

{Permitting note: An objectionable odor is defined in Rule 62-210.200, F.A.C., Definitions, as any odor present in the outdoor atmosphere which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance.}

[Rules 62-210.200 and 62-296.320(1)(a) and (2), F.A.C.]

### OPERATIONAL REQUIREMENTS

12. Modifications: No emissions unit or facility shall be constructed or modified without obtaining an air construction permit from the Department. Such permit must be obtained prior to the beginning of construction or modification.

[Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

13. Plant Operation - Problems: If temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department's district office and, if applicable, appropriate local program. The notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules.

[Rule 62-4.130, F.A.C.]

14. Circumvention: No person shall circumvent any air pollution control device or allow the emission of air pollutants without the applicable air pollution control device operating properly.

[Rule 62-210.650, F.A.C.]

### MISCELLANEOUS

15. Prior to application for an air operating permit and prior to commercial operation, the permittee shall:

- a. Resolve and bring to closure all pending violations and penalties with the Department;
- b. Train each operator on the equipment and document the training;
- c. Make sure each operator is knowledgeable of all of the operational requirements established in this permit; and,
- d. Provide a written corporate environmental policy to the Department.

[Rule 62-4.070(3), F.A.C.]

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SAMSULA RECYCLING, INC.

RELOCATABLE CONCRETE, ASPHALT, AND CONSTRUCTION DEBRIS CRUSHING PLANT  
EAGLE ULTRA MAX MODEL 1200-25

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SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

**Subsection A.**

The emissions units/activities contained in this subsection and their descriptions are as follows:

EMISSIONS UNIT/ACTIVITY NO.	DESCRIPTION
001	250 TPH Eagle Ultra Max Model 1200-25 Impactor Crusher; S/N: 1206; Mfg 1996; with associated feeder, classifier screens, and conveyors.
002	300 HP Cummins diesel engine; S/N: 11822539; with direct drives to the crusher and the electric generator, which powers the conveyors and classifier and the water-spray pump.

Emissions unit 001 is subject to the requirements of 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR 60.670 - 60.676) and 40 CFR 60, Subpart A. The diesel engine is required to be permitted pursuant to Rule 62-210.300(1), F.A.C., Permits Required.

The following specific conditions apply to the above referenced emissions units after construction:

**ESSENTIAL POTENTIAL TO EMIT (PTE) PARAMETERS**

1. Hours of Operation: The emissions units/activities are allowed to operate a maximum of 16 hours/day, 364 days/calendar year, for a total of 5824 hours/calendar year.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]
2. Permitted Capacity: The maximum crusher operation process throughput of materials is 250 TPH.  
[Rule 62-210.200, F.A.C., Definitions - PTE; and, application received 3/22/2000]

**EMISSION LIMITATIONS AND PERFORMANCE STANDARDS**

3. Visible Emissions: The following emission points/activities are subject to the visible emission limits in Table 1.

**Table 1**

Emission Point/Activity	Visible Emissions Limit (% Opacity) if operating in a PM maintenance area	Visible Emissions Limit (% Opacity) if <u>not</u> operating in a PM maintenance area and subject to 40CFR60, Subpart OOO
Receiving Hopper and Grizzly Feeder	5	10
Crusher	5	15*
Portable Belt Conveyor(s)	5	10**
Screen(s)	5	10
Truck Loading/Unloading	5	<20

- \* This limit applies since no capture system is used.
- \*\* This limit applies to transfer points onto conveyor belts only.

The description of the maintenance area and the visible emissions limit follows:

**Hillsborough County**

That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U. S. 41 South and State Road 60 and a radius of 12 kilometers.

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

The permittee shall not cause, permit, or allow any visible emissions (five percent opacity).

[Rule 62-204.340, F.A.C.; and, Rule 1-3.61, Rules of the Environmental Protection Commission of Hillsborough County]

[Reference to the Duval County Maintenance Area was deleted due to nonapplicability.]

4. No Visible Emissions - Saturated Materials: No owner or operator shall cause to be discharged into the atmosphere any visible emissions from:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.672(h)(1) & (2)]

5. Excess Emissions: The following excess emissions provisions cannot be used to vary any NSPS requirements from any subpart of 40 CFR 60:

- a. Excess emissions resulting from start-up, shutdown or malfunction of any emissions units shall be permitted providing (1) best operational practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized, but in no case exceed two hours in any 24 hour period unless specifically authorized by the Department for longer duration.

[Rule 62-210.700(1), F.A.C.]

- b. Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during start-up, shutdown, or malfunction shall be prohibited.

[Rule 62-210.700(4), F.A.C.]

#### COMPLIANCE MONITORING AND TESTING REQUIREMENTS

6. Test Frequency:

- a. Prior to obtaining an operation permit for this facility, the owner or operator shall conduct a visible emissions compliance test to demonstrate compliance with the standards of this permit.

[Rule 62-297.310(7)(a)1., F.A.C.]

- b. The owner or operator of the facility shall conduct visible emissions tests annually for all emission points/activities subject to a visible emission standard.

[Rule 62-297.310(7)(a)4.a., F.A.C.]

7. Operating Rate During Testing: Unless otherwise stated in the applicable emission limiting standard rule, testing of emissions shall be conducted with the emissions unit operating 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 (i.e., at less than 90 percent of the maximum operation rate allowed by the permit); in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted provided however, operations do not exceed 100 percent of the maximum operation rate allowed by the permit. 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.]

8. Test Procedures shall meet all applicable requirements of Rule 62-297.310(4), F.A.C.

[Rule 62-297.310(4), F.A.C.]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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**9. Determination of Process Variables:**

a. **Required Equipment.** The owner or operator of an emissions unit for which compliance tests are required shall install, operate, and maintain equipment or instruments necessary to determine process variables, such as process weight input or heat input, when such data are needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

b. **Accuracy of Equipment.** Equipment or instruments used to directly or indirectly determine process variables, including devices such as belt scales, weight hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value.

[Rule 62-297.310(5), F.A.C.]

10. **Test Notification:** The owner or operator shall notify the Department's district office and/or, if applicable, appropriate local program, at least 15 days prior to the date on which each formal compliance test is to begin. Notification shall include the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator.

[Rule 62-297.310(7)(a)9., F.A.C.; and, 40 CFR 60.8]

[**Permitting note:** The federal requirements of 40 CFR 60.8 require 30 days notice of the initial test and any tests required under section 114 of the Clean Air Act, but the Department rules require 15 days notice for the annual compliance tests. Unless otherwise advised by the Department, provide 15 days notice prior to conducting annual tests, except for the initial test when 30 days notice is required.]

11. **Visible Emissions Test Method:** In determining compliance with the standards in 40 CFR 60.672 (b) and (c), the owner or operator shall use EPA Method 9 and the procedures in 40 CFR 60.11, with the following additions:

a. The minimum distance between the observer and the emissions source shall be 4.57 meters (15 feet).

b. The observer shall, when possible, select a position that minimizes interference from other fugitive emissions units (e.g., road dust). The required observer position relative to the sun (Method 9, Section 2.1) must be followed.

c. For affected emissions units using wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of emissions is to be made at a point in the plume where the mist is no longer visible.

[40 CFR 60.675(c)(1)(i), (ii) & (iii)]

12. When determining compliance with the fugitive emissions standard for any affected facility described under 40 CFR 60.672(b), the duration of the EPA Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a. There are no individual readings greater than 10 percent opacity; and,

b. There are no more than 3 readings of 10 percent for the 1-hour period.

[40 CFR 60.675(c)(3)(i) & (ii)]

13. When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under 40 CFR 60.672(c), the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a. There are no individual readings greater than 15 percent opacity; and,

b. There are no more than 3 readings of 15 percent for the 1-hour period.

[40 CFR 60.675(c)(4)(i) & (ii)]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

14. Visible Emissions Test - Emissions Interference: For the method and procedure of 40 CFR 60.675(c), if emissions from two or more emissions units continuously interfere so that the opacity of fugitive emissions from an individual affected emissions unit cannot be read, either of the following procedures may be used:

- a. Use for the combined emission stream the highest fugitive opacity standard applicable to any of the individual affected emissions units contributing to the emissions stream; or,
- b. Separate the emissions so that the opacity of emissions from each affected emissions unit can be read. [40 CFR 60.675(e)(1)(i) & (ii)]

15. No Tests Required - Saturated Materials: Method 9 performance tests under 40 CFR 60.11 and 40 CFR 60.675 are not required for:

- a. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.
- b. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

[40 CFR 60.675(h)(1) & (2)]

16. Special Compliance Tests: When the Department, after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained in a Department rule or in a permit issued pursuant to those rules is being violated, it shall require the owner or operator of the facility to conduct compliance tests which identify the nature and quantity of pollutant emissions from the emissions units and to provide a report on the results of said tests to the Department.

[Rule 62-297.310(7)(b), F.A.C.]

#### REPORTING AND RECORDKEEPING REQUIREMENTS

17. Log: The permittee shall maintain a daily log showing at a minimum, the following information:

- (a) The location and production rate.
- (b) The hours of operation of the crusher system.
- (c) Maintenance and repair logs for any work performed on the permitted emissions units.
- (a) The use of wetting agents to control unconfined fugitive dust.
- (b) Fuel consumption

This data shall be made available to the Department or county upon request.

[Rule 62-4.070(3), F.A.C.]

18. Operation and Maintenance (O&M) Plan and Log: The permittee shall keep an O&M plan and a daily log for the air pollution control equipment with the facility. The log shall include the list of the parameters being monitored, the frequency of the check/maintenance, observations, and comments.

[Rule 62-4.070(3), F.A.C.]

19. Test Reports: The owner or operator shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in 40 CFR 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with 40 CFR 60.672(b) and 40 CFR 60.672(c).

(b) The required test report shall be filed with the Department as soon as practical but no later than 45 days after the last sampling run of each test is completed.

(c) The test report shall provide sufficient detail on the emissions unit tested and the test procedures used to allow the Department to determine if the test was properly conducted and the test results properly computed. As a minimum, the test report, other than for an EPA Method 9 test, shall provide the following information:

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

1. The type, location, and designation of the emissions unit tested.
2. The facility at which the emissions unit is located.
3. The owner or operator of the emissions unit.
4. The normal type and amount of fuels used and materials processed, and the types and amounts of fuels used and material processed during each test run.
5. The method, raw data and computations used to determine the amount of fuels used and materials processed, if necessary to determine compliance with an applicable emission limiting standard.
6. The type of air pollution control devices installed on the emissions unit, its general condition, their normal operating parameters (pressure drops, total operating current and GPM scrubber water), and their operating parameters during each test run.

[40 CFR 60.676(f); and, Rules 62-297.310(8)(b) and (c)1. - 6., F.A.C.]

20. Change From Saturated to Unsaturated Material: The owner or operator of any screening operation, bucket elevator, or belt conveyor that processes saturated material and is subject to 40 CFR 60.672(h) and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the 10 percent opacity limit in 40 CFR 60.672(b) and the emission test requirements of 40 CFR 60.11 and subpart OOO. Likewise a screening operation, bucket elevator, or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the no visible emission limit in 40 CFR 60.672(h).

[40 CFR 60.676(g)]

21. Records Retention: This facility shall maintain a central file containing all measurements, records, and other data that are required to be collected pursuant to the various specific conditions of this permit.

[Rule 62-4.160(14)(a), F.A.C.]

22. Duration of Recordkeeping: Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These records shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

[Rule 62-4.160(14)(b), F.A.C.]

23. Excess Emissions Report: If excess emissions occur, the owner or operator shall notify the Department within one working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident. Pursuant to the Standards of Performance for New Stationary Sources, excess emissions shall also be reported in accordance with 40 CFR 60.7.

[Rule 62-4.130, F.A.C.; and, 40 CFR 60.7]

24. Excess Emissions Report - Malfunctions: In case of excess emissions resulting from malfunctions, each owner or operator shall notify the Department or the appropriate local program in accordance with Rule 62-4.130, F.A.C. A full written report on the malfunctions shall be submitted in a quarterly report if requested by the Department.

[Rule 62-210.700(6), F.A.C.]

**NSPS GENERAL PROVISIONS**

[**Note:** The numbering of the original rules in the following conditions has been preserved for ease of reference. In cases where the state requirements are more restrictive than the NSPS general requirements, the state requirements shall prevail.]

**25. Notification And Recordkeeping:**

(a) Any owner or operator subject to the provisions of 40 CFR 60 shall furnish the Administrator written notification as follows:

(4) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(b) The owner or operator subject to the provisions of 40 CFR 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(f) The owner or operator subject to the provisions of 40 CFR 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least three years following the date of such measurements, maintenance, reports, and records.

[40 CFR 60.7]

**26. Performance Tests:**

(a) Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, (3) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance, (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard, or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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(d) The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present.

[40 CFR 60.8]

27. Compliance With Standards And Maintenance Requirements:

(a) Compliance with standards in 40 CFR 60, other than opacity standards, shall be determined only by performance tests established by 40 CFR 60.8, unless otherwise specified in the applicable standard.

(b) Compliance with opacity standards in 40 CFR 60.11 shall be determined by conducting observations in accordance with Reference Method 9 in appendix A of 40 CFR 60.11, any alternative method that is approved by the Administrator, or as provided in 40 CFR 60.11(e)(5). [Under certain conditions (40 CFR 60.675(c)(3)&(4)), Method 9 observation time may be reduced from 3 hours to 1 hour. Some affected facilities are exempted from Method 9 tests (40 CFR 60.675 (h)).]

(c) The opacity standards set forth in 40 CFR 60.11 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(g) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, nothing in this part shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[40 CFR 60.11]

28. Circumvention: No owner or operator subject to the provisions of 40 CFR 60.12 shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

[40 CFR 60.12]

## SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

29. General Notification and Reporting Requirements:

(a) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[40 CFR 60.19]



SECTION III. EMISSION UNIT SPECIFIC CONDITIONS

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30. **Prohibited Operations: Asbestos Containing Materials, 40 CFR 61, Subpart M:** This facility shall **not** process Asbestos Containing Materials (ACM), whether regulated asbestos containing material (RACM), category I or category II, and whether friable or nonfriable when received at the facility.

(1) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite and includes trade acronym products such as amosite.

(2) "Asbestos-containing materials", ACM, means any materials which contain more than one percent asbestos as determined by Polarized Light Microscopy. Based on a representative composite sample.

(3) "Asbestos removal project" means renovation or demolition operation in a facility that involves the removal of a threshold amount of regulated asbestos-containing material.

(4) "Category I Nonfriable Asbestos-Containing Material (ACM)" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(5) "Category II Nonfriable ACM" means any material, excluding Category I Nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

[40 CFR 61, Subpart M; Chapter 62-257, F.A.C.; and, Rules 62-730.300 and 62-701.520, F.A.C.]

31. **Restricted/Prohibited Activities: Co-location at Existing Stationary Source Facilities:** This relocatable crusher facility is not authorized to operate on the premises of, or adjacent to, any other permitted air pollution facility, unless the permit for such stationary source includes this crushing unit as an emission unit within such facility's air construction and air operation permits.

MISCELLANEOUS

32. The diesel engine is allowed to fire new No. 2 fuel oil, or better.

[Rules 62-4.070(3) and 62-210.200, Definitions - PTE, F.A.C.]

The following general conditions apply to all permits pursuant to Rule 62-4.160, F.A.C.:

- G.1 The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "Permit Conditions" and are binding and enforceable pursuant to Sections 403.161, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
- G.2 This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings or exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
- G.3 As provided in Subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit is not a waiver or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.
- G.4 This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
- G.5 This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
- G.6 The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
- G.7 The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at a reasonable time, access to the premises, where the permitted activity is located or conducted to:
- (a) Have access to and copy and records that must be kept under the conditions of the permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit, and,
  - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

## APPENDIX GC – GENERAL CONDITIONS

- G.8 If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
- (a) A description of and cause of non-compliance; and
  - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.
- The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.
- G.9 In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
- G.10 The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance, provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
- G.11 This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
- G.12 This permit or a copy thereof shall be kept at the work site of the permitted activity.
- G.13 This permit also constitutes:
- (a) Determination of Best Available Control Technology ( )
  - (b) Determination of Prevention of Significant Deterioration ( ) ; and
  - (c) Compliance with New Source Performance Standards (X).

APPENDIX GC – GENERAL CONDITIONS

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G.14 The permittee shall comply with the following:

- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- (c) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application or this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- (d) Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements;
  - 2. The person responsible for performing the sampling or measurements;
  - 3. The dates analyses were performed;
  - 4. The person responsible for performing the analyses;
  - 5. The analytical techniques or methods used; and
  - 6. The results of such analyses.

G.15 When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

## APPENDIX PC – PERMITTED COUNTIES

The permittee is authorized to operate in the following counties where public notice has been published:

Permitted Counties:	Date of Publication:	Permitted Counties:	Date of Publication:	Permitted Counties:	Date of Publication:
Alachua		Hamilton		Okeechobee	
Baker		Hardee		Orange	
Bay		Hendry		Osceola	
Bradford		Hernando		Palm Beach	
Brevard		Highlands		Pasco	
Broward		Hillsborough		Pinellas	
Calhoun		Holmes		Polk	
Charlotte		Indian River		Putnam	
Citrus		Jackson		St. Johns	
Clay		Jefferson		St. Lucie	
Collier		Lafayette		Santa Rosa	
Columbia		Lake		Sarasota	
Dade		Lee		Seminole	
DeSoto		Leon		Sumter	
Dixie		Levy		Suwannee	
Duval		Liberty		Taylor	
Escambia		Madison		Union	
Flagler		Manatee		<b>Volusia</b>	<b>August 31,2000</b>
Franklin		Marion		Wakulla	
Gasden		Martin		Walton	
Gilchrist		Monroe		Washington	
Glades		Nassau			
Gulf		Okaloosa			

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TWIN TOWERS OFFICE BUILDING  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

*MS 5505*



437  
POSTALIA 5104

RECEIVED  
MAR 13 2001  
BUREAU OF AIR REGULATION

*[Handwritten signature]*  
Robert and Zetta Baker  
353 South State Road 415  
New Smyrna Beach, Florida 32168

- REASON CHECKED**
- Mailed, Left No Address
  - Unable To Forward
  - Unclassified
  - No Such Street
  - Insufficient Address
- Not Known  
 Not Known  
 Refused  
 No Such Number

*2/22  
2/21  
3/19  
3/19*

3-14-01  
Owners (Baker's) have  
moved out and are verifying  
it. Bill became aware of this  
move last week.  
*Benn*

*Not  
22.01 Ro*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		A. Received by ( <i>Please Print Clearly</i> )	B. Date of Delivery
1. Article Addressed to: Robert and Zetta Baker 353 South State Road 415 New Smyrna Beach, Florida 32168		C. Signature <b>X</b>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
2. Article Number ( <i>Copy from service label</i> ) 7099 3400 0000 1449 2525		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? ( <i>Extra Fee</i> ) <input type="checkbox"/> Yes	
PS Form 3811, July 1999		Domestic Return Receipt	
		102595-99-M-1789	

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
7099 3400 0000 1449 2525	Article Sent To: Robert and Zetta Baker	
	Postage	\$
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	<b>Total Postage &amp; Fees</b>	<b>\$</b>
Name ( <i>Please Print Clearly</i> ) ( <i>to be completed by mailer</i> ) Robert and Zetta Baker Street, Apt. No., or PO Box No. 353 South State Road 415 City, State, ZIP+4 New Smyrna Beach, FL 32168		
PS Form 3800, July 1999		See Reverse for Instructions