

Brownfields Program  
File Room Document Transmittal Sheet

23

Your Name: Shirley Liggins  
Project ID: 0100797034  
Facility Name: Food Lion  
Document Group: Brownfields Agreement (BFA)  
Document Type: Notice of Brownfields Property - Unsigned (NBPU)  
Description: NBP sent to PD for signature and recordation  
Date of Doc: 12/12/1999  
Author of Doc: Robert Gelblum

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Date Recieved by File Room:

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7	18	2012

0100797034

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State of North Carolina

Department of Justice  
P. O. BOX 629  
RALEIGH  
27602-0629

MICHAEL F. EASLEY  
ATTORNEY GENERAL

Reply to:  
Robert R. Gelblum  
Environmental Division  
Telephone: (919) 716-6600  
Facsimile: (919) 716-6939  
rgeblum@mail.jus.state.nc.us

December 2, 1999

**CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED**

Thomas N. Griffin, III, Esq.  
Parker, Poe, Adams & Bernstein L.L.P.  
2500 Charlotte Plaza  
Charlotte, NC 28244

Re: Food Lion, Inc. Notice of Brownfields Property  
Winston-Salem, Forsyth County, NC

Dear Tom:

Please find enclosed the above-referenced Notice of Brownfields Property (NBP), which, as you know, must be filed together with the required attachments, with a certified copy returned to Harry Zinn upon recordation. On the relevant Food Lion's signature lines, we inserted the names of Messrs. Gehl and Nail and Ms. Dabbs. We also inserted December 1999 dates where appropriate.

I hope you have a good holiday season.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert R. Gelblum", with a long, sweeping underline.

Robert R. Gelblum  
Assistant Attorney General

Enclosure



## NOTICE OF BROWNFIELDS PROPERTY

This notice is filed on \_\_\_\_\_, 19\_\_ by Food Lion, Inc. (hereinafter "Prospective Developer") and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_.

It is a notice regarding contaminated property.

A copy of this notice certified by the North Carolina Department of Environment and Natural Resources (hereinafter "DENR") is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes (hereinafter "NCGS"), Section (hereinafter "§") 130A-310.35(b).

This Notice of Brownfields Property (hereinafter "Notice") is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property (hereinafter the "Brownfields Property") being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5.

A Brownfields Agreement between Prospective Developer and DENR is attached hereto as Exhibit A. It sets forth the use that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32.

Pursuant to NCGS § 130A-310.35(b), this Notice must be filed within 15 days of Prospective Developer's receipt of DENR's approval of the Notice or Prospective Developer's entry into the Brownfields Agreement, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under Prospective Developer's name.

The Brownfields Property is bounded by Waughtown Street to the north, Sprague Street to the south, parcels owned by Prodigals Community, Inc. and GLG Corp., respectively, to the east, and Thomasville Road to the west, in Winston-Salem, Forsyth County, North Carolina.

Attached hereto as Exhibit B to this Notice is the survey plat required by NCGS § 130A-310.35(a). The plat has been recorded and filed separately in Map Book \_\_\_\_\_. Page \_\_\_\_\_. It is a plat of areas designated by DENR that has been prepared and certified by a professional land surveyor and that meets the requirements of NCGS § 47-30. That plat contains the following information required by NCGS § 130A-310.35(a):

(1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property. The following table also sets forth the type and quantity of such

substances:

Benzene	up to 230 ug/l
Toluene	up to 79 ug/l
Ethylbenzene	up to 89 ug/l
Total Xylenes	up to 510 ug/l
Trichloroethene	up to 70 ug/l
Tetrachloroethene	up to 680 ug/l
1-2 Dichloroethane	up to 4.3 ug/l

Attached hereto as **Exhibit C** is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

### **LAND USE RESTRICTIONS**

NCGS 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. **The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e). Those restrictions are hereby imposed on the Brownfields Property, and are as follows:**

- a. **No water supply wells may be installed or used at the Property.**
- b. **No mining activities may be conducted on the Property.**
- c. **No activities which result in direct exposure to or removal of groundwater (for example, construction or excavation activities which encounter or expose groundwater) may be conducted on the Property without prior sampling and analysis of groundwater in the area where the activities are to be conducted, submittal of the analytical results to DENR or its successor in function along with plans and procedures to protect public health and the environment during those activities, and approval of those activities by DENR.**
- d. **No fountains, ponds, lakes, or other items which are supplied, in whole or in part, by groundwater may be constructed on the property.**
- e. **A notarized Land Use Restrictions Update must be submitted by the owner(s) of the Property to the following DENR official on each biannual anniversary of the effective date of this agreement certifying that the land use restrictions continue in force and are being complied with: Harry J. Zinn, Superfund Section, 401 Oberlin Rd., Raleigh, NC 27605.**

### **ENFORCEMENT**

The above land use restrictions shall be enforceable without regard to lack of privity of estate

or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land use restrictions shall be enforced by any owner of the Brownfields Property. The land use restrictions may also be enforced by DENR through the remedies provided in NCGS 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

### FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this \_\_\_\_ day of December, 1999.

Food Lion, Inc.

[Corporate Seal]

By:

\_\_\_\_\_  
Keith M. Gehl, Vice President of Real Estate and Store  
Development

ATTEST:

\_\_\_\_\_  
Lester C. Nail, Vice President of Legal Affairs and Secretary

NORTH CAROLINA  
ROWAN COUNTY

I, Melina W. Dabbs, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the Secretary of Food Lion, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President of Real Estate and Store Development and sealed with its corporate seal and attested by Lester C. Nail as its Secretary.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of December, 1999.

\_\_\_\_\_  
Melinda W. Dabbs, Notary Public

My Commission expires July 26, 2003

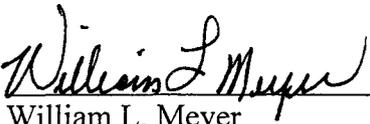
[Stamp/Seal]

**APPROVAL AND CERTIFICATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environment and  
Natural Resources

By:

  
William L. Meyer

Date: December 3, 1999

Director, Division of Waste Management

The foregoing Notice of Brownfields Property is certified to be duly recorded at the date and time, and in the Book and Page, shown on the first page hereof.

Register of Deeds for Forsyth County

By:

\_\_\_\_\_  
\_\_\_\_\_, Deputy/Assistant  
Register of Deeds

Date: \_\_\_\_\_