

NC BROWNFIELDS
LAND USE RESTRICTIONS ("LUR") UPDATE



Certification Year: 2013

Name: Pond Road Landfill
Project #: 09032-05-11

Address: 79 Pond Road
County: Buncombe

Property Owner (In part or whole): _____

Read the following LURs and mark each restriction accordingly. Additional remarks may be added for compliance status clarification. Attach any required or supplemental documentation, sign, notarize and submit to the following address:

NC Division of Waste Management
Brownfields Program
1646 Mail Service Center
Raleigh, NC 27699-1646

LUR 1: No use may be made of the Brownfields Property other than for a recycling and reclamation facility and related maintenance shop and trucking traffic, unless other commercial uses are approved in writing in advance by the Department of Environment and Natural Resources ("DENR"). For purposes of this LUR, "recycling and reclamation" refers to the derivation of useable materials, or materials suitable for reuse, from the treatment or processing of used or waste materials, and "commercial" refers to an enterprise carried on for profit by the owner, lessee or licensee.

In compliance Out of compliance

Remarks: _____

LUR 2: No buildings or structures of any kind may be constructed in the area denominated "Waste-Containing Area" on the plat component of the Notice of Brownfields Property ("Notice").

In compliance Out of compliance

Remarks: _____

LUR 3: No vehicle may be driven in the area denominated "Waste-Containing Area" on the plat component of the Notice prior to installation, to DENR's written satisfaction, of a pervious driveable surface, defined as cover that will allow the free venting of methane gas to the surface but will also withstand maximum trucking loads. Unlike the native soil on the Brownfields Property, the cover must, to ensure good compaction and minimize fines, consist of 57M or comparable washed stone aggregate.

In compliance Out of compliance

Remarks: GRAVEL WAS PLACED IN 2009. EMPTY OR STORAGE TRAILERS ARE PARKED ON PROPERTY

LUR 4: The owner(s) of any portions of the Brownfields Property containing pervious driveable surface approved by DENR pursuant to the preceding LUR shall be responsible for maintaining such surfaces in good repair, whether or not another party has made a commitment to perform any part of said maintenance.

In compliance Out of compliance

Remarks: _____

LUR 5: No enclosed building constructed on the Brownfields Property after the effective date of this Agreement may be occupied unless and until a professional engineer provides DENR certification that a mechanical ventilation system that conforms to design specifications and complies with the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code has been installed in the building.

In compliance Out of compliance

Remarks: _____

LUR 6: No enclosed building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to the area denominated "Waste-Containing Area" on the plat component of the Notice. If DENR determines that the footprint of an enclosed building proposed to be constructed on the Brownfields Property would fall within fifty (50) feet of said portion, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor barrier mitigation system, or other effective vapor mitigation system approved in writing in advance by DENR. Within thirty (30) days following installation of the mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it.

In compliance Out of compliance

Remarks: _____

LUR 7: Within seven (7) days after the effective date of the Brownfields Agreement ("Agreement") and to DENR's written satisfaction, the owner(s) of the portions of the Brownfields Property containing the two methane monitoring points, denominated "SB-2" and "SB-3" on the plat component of the Notice, shall convert said points to pressure monitoring points. In each of the first twelve (12) weeks after the effective date of the Agreement and then no less frequently than monthly thereafter, unless DENR approves a different schedule in writing in advance, the owner(s) of the subject portions of the Brownfields Property shall be responsible for taking readings of the subject pressure points, recording said readings in a log book kept on the Brownfields Property, and making said book available for DENR inspection. (An event that may cause DENR to require more frequent readings would be the triggering of either alarm required by LUR 8 below.) If any of the readings show pressure above 0.5 inches of water column, the responsible owner shall notify DENR in writing within seven (7) days (e-mail suffices) and shall test all building interiors, building conduits, drains and crawl spaces on the Brownfields Property for methane with a portable gas detection device. If methane is detected, the responsible owner shall comply with subparagraphs b. through d. of LUR 8 below. Collection of measurements may be discontinued after three (3) years if no readings exceed 0.5 inches of water column.

In compliance Out of compliance

Remarks: _____

LUR 8: Within thirty (30) days after the effective date of the Agreement, the owner(s) of the portions of the Brownfields Property containing the buildings denominated "Maintenance Garage" and "Office Building," on the plat component of the Notice, shall be responsible for installing, maintaining and operating a methane LEL (lower explosion limit) and oxygen monitor in each of those buildings. The monitors shall be continuous operation models that are equipped with an alarm and with battery-powered back-up. The responsible owner(s) shall submit an equipment specification sheet regarding the monitor of choice for written DENR approval prior to final selection and installation. If the alarm in either monitor is triggered for methane, the responsible owner shall effect immediate evacuation of the building, inform the local fire department and comply with any additional emergency measures and requirements preliminary to reoccupying the subject building that the subject department imposes. The responsible owner shall notify DENR of the occurrence within three (3) days and shall, regarding the entire Brownfields Property:

- a. test all building interiors, building conduits, drains and crawl spaces for methane with a portable gas detection device within twelve (12) hours after the occurrence, and submit the results to DENR in writing within seven (7) days thereafter;
- b. if methane is detected, within thirty (30) days after the occurrence submit a plan to DENR, that includes implementation and reporting deadlines, for sealing of all conduits and drains and ventilation of all crawl spaces, implement said plan as approved, and submit to DENR within the approved deadline a report sealed by a professional engineer licensed in North Carolina documenting implementation of the plan and stating a conclusion regarding the effectiveness of the plan;
- c. if methane is detected, within seven (7) days after submittal of the report required by LUR 8.b. above have a person certified by the American Association of Balancing Contractors or the National Environmental Balancing Bureau perform testing, adjusting and balancing of all heating, ventilation and air-conditioning systems on the Brownfields Property, prepare a Certified Test and Balance Report and, within seven (7) days after its issuance, submit a copy to DENR;
- d. if DENR determines that the methane issue in question remains unresolved, retain a professional engineer approved in advance by DENR in writing and licensed in North Carolina to design, subject to DENR's advance written approval, and implement, subject to DENR's written approval, methane mitigation and/or, at DENR's discretion, monitoring.

In compliance Out of compliance

Remarks: Monitors installed

LUR 9: Surface water and underground water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR.

In compliance Out of compliance

Remarks: _____

LUR 10: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the written satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the prior written approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance Out of compliance

Remarks: _____

LUR 11: Soil within the area denominated "Waste-Containing Area" on the plat component of the Notice may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. At any time between DENR's receipt of said notice and the conclusion of soil-disturbing activities, DENR may inspect and sample, or require sampling of, the subject soil for contaminants. If soil contamination is discovered that DENR determines in compliance with law would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if disturbed or allowed to remain disturbed, as much soil as DENR determines is

necessary to eliminate the threat to groundwater, public health and/or the environment shall be removed and disposed of in accordance with applicable law, and any other actions that DENR reasonably requires to make the Brownfields Property suitable for the uses specified in LUR 1 above while fully protecting public health and the environment shall be taken. If soil contamination is discovered that DENR determines would not likely contaminate groundwater if capped, or likely pose an imminent threat to public health or the environment if disturbed or allowed to remain disturbed, at DENR's discretion as much soil as DENR determines is necessary to eliminate any threat posed by the contamination may be capped in lieu of being removed and disposed of in accordance with applicable law.

In compliance Out of compliance

Remarks: _____

LUR 12: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance Out of compliance

Remarks: _____

LUR 13: No basements may be constructed on the Brownfields Property unless approved in writing by DENR in advance.

In compliance Out of compliance

Remarks: _____

LUR 14: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables A and B of the Notice, may be used or stored at the Brownfields Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities, and as constituents of automotive fluids present in vehicles being processed at any recycling and reclamation facility on the Brownfields Property.

In compliance Out of compliance

Remarks: _____

LUR 15: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR.

In compliance Out of compliance

Remarks: _____

LUR 16: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance Out of compliance

Remarks: _____

LUR 17: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance Out of compliance

Remarks: _____

LUR 18: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance Out of compliance

Remarks: _____

LUR 19: Neither DENR nor any party conducting environmental assessment or remediation, or inspecting the Brownfields Property for LUR compliance or other reasons related to protection of public health or the environment, at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

In compliance Out of compliance

Remarks: _____

LUR 20: During January of each year after the year in which the Notice is recorded, the then current owner of any portion of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR certifying that the Notice remains recorded at the Buncombe County Register of Deeds office and that the LURs are being complied with; the then current owner(s) of the portions of the Brownfields Property as to which log books must be kept pursuant to LUR 7 above shall submit notarized copies of the log book(s) for which such owner(s) is/are responsible; and the then current owner(s) of the portions of the Brownfields Property where monitors must be installed pursuant to LUR 8 above shall submit a notarized record of the triggering of any alarms during the preceding calendar year.

In compliance Out of compliance

Remarks: LATE SENDING IN "LUR" UPDATE BUT
OTHERWISE IN COMPLIANCE.

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice of Brownfields Property remains recorded at the Buncombe County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Sonia Gribble, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: SONIA GRIBBLE

In the case of owners that are entities:

Signature of individual signing: Sonia Gribble
Name typed or printed: Sonia Gribble
Title: President

In the case of all owners:

Date: 8-30-03

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

[Insert Name of Corporation]

Iri State Scrap Metal

By: SONIA GRIBBLE
Name typed or printed: *Sonia Gribble*
Title typed or printed: *President*

ATTEST:

Sonia Gribble Iri State Scrap Metal
Name typed or printed:
Secretary, SONIA GRIBBLE (corporation name)

NORTH CAROLINA
Buncombe COUNTY

I, Leah M. Garland, a Notary Public of the county and state aforesaid, certify that Sonia Gribble personally came before me this day and acknowledged that he/she is the Secretary of Iri State Scrap Metal (corporation name), a NC (state) corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its _____ and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 5 day of Sept. 2013, 20__.

Leah M. Garland
Name:
Notary Public

My Commission expires: 1-9-16

[Stamp/Seal]

LEAH M GARLAND
NOTARY PUBLIC
BUNCOMBE COUNTY
NORTH CAROLINA
MY COMMISSION EXPIRES JANUARY 09, 2016