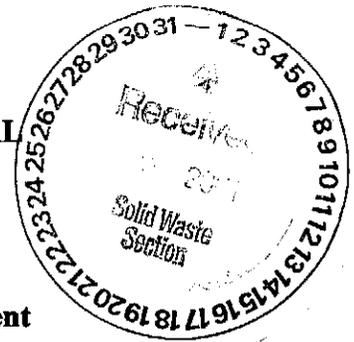


**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES
DIVISION OF WASTE MANAGEMENT**



IN RE:

**Administrative Consent
Agreement**

**Mr. Horatio D. Newbern, IV,
Soundside Recycling & Materials, Inc.,
Mr. and Mrs. Horatio D. Newbern III, and
Mrs. Kimberly Newbern**

Permit # 27-05, Currituck County

The North Carolina Department of Environment and Natural Resources, through its Division of Waste Management, Solid Waste Section ("The Division"), and Soundside Recycling & Materials, Inc., Mr. Horatio D. Newbern, IV, Mrs. Kimberly Newbern, Mr. Horatio D. Newbern III, and Mrs. Marlene H. Newbern, hereby enter this Administrative Consent Agreement. The purpose of this Agreement is to address the outstanding compliance issues at the solid waste management facility located at 7576 Caratoke Highway, Poplar Branch Township in Powells Point, North Carolina, Currituck County. The term "Parties" as used herein means Soundside Recycling & Materials, Inc., Mr. Horatio D. Newbern, IV, Mrs. Kimberly Newbern, Mr. Horatio D. Newbern III, and Mrs. Marlene H. Newbern.

I. Stipulation of Facts:

Based upon information available at the effective date of this Agreement, the following facts are stipulated:

1. Mr. Horatio D. Newbern III, his wife, Mrs. Marlene H. Newbern, and Soundside Recycling & Materials, Inc., are the named permit holders on Permit #27-05, which was issued to allow the operation of a solid waste management facility on property located at 7576 Caratoke Highway, Poplar Branch Township in Powells Point, North Carolina, Currituck County, hereinafter referred to the "Facility." The permit was originally issued in the year 2000 and subsequently modified in 2002 and 2005. Mr. Horatio D. Newbern, IV, is the vice-president and secretary of the corporation, and Mrs. Kimberly Newbern is the president. Both Mr. Horatio D. Newbern, IV and Mrs. Kimberly Newbern are responsible for the operations of the Facility, including decisions concerning compliance with the permit conditions and solid waste management statutes and regulations. Mr. Horatio D. Newbern III and Mrs. Marlene H. Newbern are the landowners of the Facility and signed Certification by Land Owner affidavits acknowledging ownership of the land and potential liability for operations at the Facility. The permit expired on December 5, 2005. An application for a permit renewal is pending.

2. On November 8, 2006, Mr. Chuck Boyette, Waste Management Specialist, with NCDENR Division of Waste Management, Solid Waste Section, inspected the Facility. During this inspection violations were noted and discussed with Mr. Horatio D. Newbern, IV. Pictures

were taken to document the violations. Mr. Boyette included in his inspection report a Notice of Violation (signed for by Mr. Newbern on November 29, 2006) for exceeding pile heights limits and for piling waste outside of the permitted boundaries. The deadline for correcting these violations was within 30 days of receipt of the Notice of Violation.

3. On December 14, 2006, Mr. Boyette went to the site to check on the status of the violations from November 8, 2006, and found that the violations had not been corrected.

4. On January 11, 2007, Mr. Boyette returned to the Facility to take additional pictures and to discuss and compare the actual operation with the approved operation plan. The approved operation plan required that gypsum board be ground on a daily basis. Mr. Boyette observed gypsum board stock-piled on the site. Mr. Horatio D. Newbern, IV stated that they were not grinding the gypsum board on a daily basis.

5. On January 18, 2007, Mr. Boyette and Mr. John Crowder, Eastern Area Supervisor with the Division of Waste Management, visited the facility to again check on the status of the Facility's compliance. Mrs. Kimberly Newbern, President of Soundside Recycling & Materials, Inc., was present for part of the inspection. As noted in the Notice of Violation dated November 8, 2006, the Facility operators had piled waste materials in an area outside of the permitted boundaries of the Facility. Mr. Boyette and Mr. Crowder saw that most of this waste had been removed and that the area had been leveled off.

6. Mr. Boyette and Mr. Crowder then reviewed the ongoing Facility operations and compared them with the approved operations plan. They found the following inconsistencies:

a) Paragraph one of the approved operation plan states that the "operations and stockpiles will be 100 feet from all buildings, wells, and surface waters." This requirement was not being followed. A berm on the site measuring approximately 60 feet x 755 feet x 25 feet and consisting of mixed processed or chipped wood waste, including wood chips, ground plywood, particle board and other "engineered-type" wood waste chips, was located approximately 60 feet from one of the wells located on the north side of the office. In addition, the berm was located less than 60 feet from the office, approximately 80 feet from a restaurant and less than 60 feet from a double wide mobile home used apparently as residence. This restaurant and residence was located on the south side of the facility office. In summary, operations were located less than 100 feet from a well and three buildings.

b) Paragraph four of the approved operation plan states that "non-treated wood will be stockpiled up to a month before it is loaded into the grinder to be shredded, and then either composted or colored for mulch in the Becker Underwood Second Harvester colorizer." The operational plan does not list engineered wood products (e.g. plywood, oriented strand board, and particle board) as a material to be recycled in this manner and does not address the management of engineered wood products at the Facility. The berm described above, as well as many of the piles of ground wood that are either composted or sold as mulch, however, contained visible pieces of plywood, oriented strand board, and particle board. These engineered wood products contain phenolic and formaldehyde based resins and are not considered suitable

for mulch or compost products. Treated and engineered wood products were being processed in violation of the operation plan.

c) Paragraph four of the approved operation plan states that, "gypsum board will be shredded daily in the grinder, and either composted or land applied promptly after it is received to reduce the chance it will get wet." The Division inspectors saw two large piles containing gypsum that had not been ground. The first pile located on the south side of the site measured 130 ft. by 30 ft. by 25 ft. The second pile located on the east side of the site was mixed with wood, paper, plastics, soil, shingles, metal and various other material and was approximately 140 ft. by 50 ft. by 20 ft. Mr. Newbern IV, admitted that they were not grinding gypsum board on a daily basis. This part of the plan was not being followed.

7. Mr. Boyette and Mr. Crowder also compared the location of the on-site activities with the approved site plan, which included a mapped layout of the approved locations for conducting operations at the Facility including, among others, sorting, grinding, and storage activities. The following problems were seen:

a) Indicated on the plan was a composting operation on the south side of the facility. During the site visit on January 18, 2007, there was no sign of this operation. Instead, located in this designated compost area was a stockpile of ground mixed waste. The mixed wood waste included treated wood, engineered wood products (e.g. plywood, oriented strand board, and particle board) and untreated wood.

b) During the inspection on January 18, 2007, there was a pile of crushed concrete measuring approximately 75 ft. by 30 ft. by 12 ft. and located towards the southeast of the Facility. This pile was not indicated on the plan, nor was the management of this material described in the approved operation plan.

c) Wood piles, including ground wood waste, separated plywood and other engineered wood products, were not being stored or staged in the locations consistent with the approved plan.

8. As of the effective date of this Administrative Consent Agreement, the Facility is out of compliance with North Carolina Solid Waste Management Act, N.C.G.S. 130A, Article 9, and Rules, codified at 15A NCAC 13B, and permit conditions.

II. Stipulation of Violations:

1. 15A NCAC 13B .0302(1) states that, "Operational plans shall be approved and followed as specified for the facility."

The Parties have violated this rule by not abiding by the operational plan in the ways set forth above in paragraph 6, subsections (a), (b), & (c).

2. Permit Condition No. 3 of Permit 27-05 provides that "Site preparation shall be in accordance with and maintained consistent with the approved site plan."

The Parties have violated this permit condition by failing to conduct activities in accordance with the approved site plan in the ways set forth above in paragraph 7, subparagraphs (a), (b), & (c).

III. Scope of Work

The Parties agree to perform and shall perform the following actions in order to achieve compliance:

1. The Parties shall immediately cease grinding engineered wood products, including plywood, oriented strand board, and particle board, as well grinding CCA (chromium, copper, arsenic) treated wood products.

2. The Parties shall remove the berm composed of ground or chipped engineered wood from the perimeter of the site by July 1, 2008, unless an extension is granted by the Division of Waste Management. Progress reports shall be provided every 3 months beginning September 1, 2007 to insure that at least one-quarter of the berm is removed during each three-month period. Division staff will meet you on the site to confirm that markers have been placed indicating the four divisions in the berm. These markers shall remain in place until the entire berm has been removed. Failure to meet the quarterly goals shall result in closure of the facility until the quarterly goals have been met and confirmed by the Division. Furthermore, if the quarterly goals are not met the Division may initiate further compliance action.

3. The Parties shall immediately begin processing gypsum board on a daily basis.

4. Within 120 calendar days of execution of this Agreement, the Parties shall achieve complete compliance with the approved Facility operation plan, the Facility site plan, and all solid waste management rules applicable to the Facility.

5. The Parties shall submit to the Division a monthly report summarizing work completed at the Facility.

6. Within 30 days of satisfactory completion of all the conditions for compliance, the Parties shall submit a final report. The Division shall review the report and may request more information or additional tasks as it deems necessary.

7. All reports and questions shall be submitted and directed to:

Charles Boyette, Environmental Senior Specialist
Solid Waste section, Division of Waste Management
943 Washington Square Mall
Washington, NC 27889
(252) 948-3913

IV. Access Availability:

The Division shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of, inter alia, inspecting non-privileged records, operating logs, and contracts related to work under this Administrative Consent Agreement and reviewing the progress of the parties in carrying out the terms of this Administrative Consent Agreement. The Parties shall permit such persons to inspect and copy all non-privileged records, files, photographs, documents, and other writings including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Administrative Consent Agreement. Documents subject to the attorney-client privilege or attorney work product doctrine are not subject to inspection and copying.

V. Potential Consequences of Failure to Comply; Penalties and Enforcement

The Parties acknowledge that, pursuant to N.C.G.S. 130A-22, each day of a continued violation of any requirement of the North Carolina Solid Waste Management Act, the solid waste management rules, or any order issued under the act or rules constitutes a separate violation for which a penalty of up to \$5,000.00 per day may be imposed. By entering into this Agreement, the Division has not waived any right to assess a penalty for the violations set forth herein, nor has the Division waived any right to assess a penalty for any other violation not specifically set forth herein. The Parties further acknowledge that each may also be subject to further enforcement actions, including but not limited to a lawsuit for injunctive relief, as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

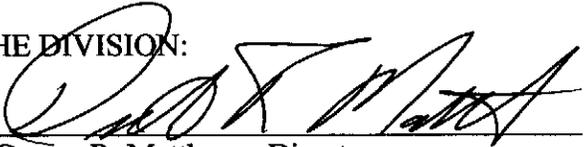
VI. Landowner Acknowledgment

The landowners, Mr. and Mrs. Horatio Newbern III, acknowledge and understand that the failure of the Facility to operate in accordance with the solid waste management statutes and regulations, as well as permit conditions, subjects the landowners to potential liability under North Carolina solid waste management laws. The landowners specifically acknowledge that the failure of the Facility to remain financially solvent and meet its operational obligations, may result in its closure and that the landowners bear joint and several liability with the Facility operators for the proper closure of the Facility. Closure of the Facility would include, at a minimum, the removal of all accumulated waste, and may also include groundwater monitoring, surface water monitoring, and other monitoring or testing as may be necessary. The landowners further acknowledge that there may be other federal, state, or local environmental laws, or other laws, applicable to the activities or occurrences on their property and that it is not the intent of this Paragraph to set forth all potentially applicable laws.

This Agreement is hereby entered into on the 3rd day of August, 2007, which serves as the effective date of this Agreement.

FOR THE DIVISION:

By:


Dexter R. Matthews, Director

Division of Waste Management
N.C. Department of Environment
and Natural Resources

By: Horatio D. Newbern, IV
Horatio D. Newbern, IV
7565 Caratoke Hwy
Jarvisburg, North Carolina 27947

State of North Carolina, County of CURRITUCK

Sworn to and subscribed before me this 27 day of July, 2007.

Deborah H. Burge
Notary Public
My Commission Expires: 11/3/2010

By: Kimberly Newbern
Kimberly Newbern
7565 Caratoke Hwy
Jarvisburg, North Carolina 27947

State of North Carolina, County of Currituck

Sworn to and subscribed before me this 27 day of July, 2007.

Deborah H. Burge
Notary Public
My Commission Expires: 11/3/2010

By: Horatio D. Newbern, III
Horatio D. Newbern, III
7565 Caratoke Hwy
Jarvisburg, North Carolina 27947

State of North Carolina, County of Currituck

Sworn to and subscribed before me this 27 day of July, 2007.

Deborah H. Burge
Notary Public
My Commission Expires: 11/3/2010

By: Marlene Newbern
Marlene Newbern
7565 Caratoke Hwy

Jarvisburg, North Carolina 27947

State of North Carolina, County of Currituck

Sworn to and subscribed before me this 27 day of July, 2007.

Deborah H. Bursge
Notary Public
My Commission Expires: 11/3/2010

By: Soundside Recycling & Materials, Inc.

(Corporate Seal)

By: Horatio D. Newbern III
Vice President (print)

Horatio D. Newbern III
Vice President (signature)

7-26-07
Date

ATTEST: Horatio D. Newbern III
Corporate Secretary (print)

Horatio D. Newbern III
Corporate Secretary (signature)

7-26-07
Date

State of North Carolina
County of Currituck

I, Deborah H. Bursge, a Notary Public for said County and State do hereby certify that Horatio D. Newbern III (name of Corporate Secretary) personally appeared before me this day and acknowledged that he (she) is the Secretary of Soundside Recycling and Materials, Inc., a corporation, and that by authority duly given and as the act of the corporation, the forgoing instrument was signed in its name by its Horatio D. Newbern III (President or Vice President), sealed with its corporate seal, and attested by himself (herself) as its Secretary. Witness my hand and official seal, this the 27 day of July, 2007.

Deborah H. Bursge
(Notary Public)

My Commission expires: 11/3/2010

(SEAL)