LCIDN32-F Permit Fogleman-N-
Fogleman Soils, Inc.

AVERY.WARD@VERIZON.NET

Report

Fogleman and Fogleman Soils, Inc.
LCID Landfill (Permit # 32-F)
Sand and Gravel Mine (Permit #32-09)
4005 Intermere Road
Durham, NC 27704
919-682-0068

APPROVED
DIVISION OF WASTE MANAGEMENT
SOLID WASTE SECTION
DATE 19DEC2006 BY JONI WYCHE JONES
PTO 32-F V.2 ATTACH 1 PART V DOC 1

15A NCAC 13B.0564

1) None of the LCID landfill or sand/gravel mining activity is located in the 100 year flood plain. See engineer's map, exhibit A.

2 & 3) Corps of Engineers Regulatory Official, Eric Alsmeyer, from the Raleigh, NC field office, after visiting Foglemans' operation, sent a letter stating that no endangered or threatened species would be affected by the landfill or soil extraction. See attached exhibit B.

4 & 5) Attached is a letter from NC Dept of Cultural Resources. Exhibit C. They concluded that no archaeological investigation be conducted in connection with the mining/landfill facility land. Also, that this project was not eligible for the National Register of Historic Places. Neither the mine or landfill is in public view. It is completely buffered by trees, berms and fences.

6) No wetlands are affected by Foglemans' project. See the letter from Corps, exhibit B.

7) See engineer's map, exhibit A. Eight to ten acres of soil is available for cover, per the NCDENR Reclamation Plan. This information is also available in the Mining Permit information, see exhibit D.

8) Surface and ground water requirements are met through the following methods:

A) See permit from NCDENR, Division of Water Quality, exhibit E. This is a Certificate of Coverage, a General Stormwater Permit, Discharge Monitoring Report, and a Qualitative Monitoring Report. This was also addressed in the letter from U.S. Army Corp of Engineers, see exhibit B.

B) Any runoff is controlled by 1.25 acres of settling ponds in mining area. Please see the engineer's map, Exhibit A.

C) Again settling ponds in the mining area handle any runoff waters, see area marked on engineer's map, exhibit A. Also see letter from US Army Corps, addressing state waters, exhibit B.

D) The Landfill area is more that 4' above the seasonal high water table . See notes on the engineer's map, Exhibit A.

9) We feel that this landfill and mining facility meets the following buffer requirements. Please see the buffer zones noted on the engineer's map, exhibit A.

A) Note on map, exhibit A, that the landfill is more than 50' from any surface waters of the state, also see letter from US Army Corps of Engineers, exhibit B.

B) See engineer's map, exhibit A. This shows that the mine/landfill meets requirements to be at least 100' from any property lines, buildings or wells.

C) We have also built berms, and have natural tree lines to protect public view, health and environment. There is nothing visible from the entrance on Red Mill Road.

D) Please see the attached zoning ordinance, exhibit F. This zoning will remain in effect for the life of the landfill/mine.

Exhibits:

A Engineer's map
B US Army Corps letter
C NC Dept of Cultural Resources
D Mining permit
E NCDENR Water Quality
F Zoning ordinance

EXHIBIT
A

See 5 copies of maps.

EXHIBIT B

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action ID: **2006-41149** County: **Durham**

NO DEPARTMENT OF THE ARMY AUTHORIZATION REQUIRED

Property Owner: **James Kent Fogleman**
Mailing Address: **4005 Intermere Road**
Durham, NC 27704
Telephone No.: **(919) 683-3256**

Location of property (road name/number, town, etc.): **Borrow pit areas on north end of ~65-acre property at 4001 Intermere Road (Parcel ID 171276), north of I-85 and ~ 1,000 feet east of SR 1632 (Red Mill Road), northeast of Durham,, North Carolina.**

Site Coordinates: **36.058°N 78.813°W** USGS Quad: **Northeast Durham**

Waterway: **Ellerbe Creek** River Basin: **Neuse** HUC: **03020201**

Description of activity: **Proposed expansion of Landclearing Inert Debris landfill within two existing borrow pits.**

Applicable Law: ☒ Section 404 (Clean Water Act, 33 USC 1344)
☐ Section 10 (Rivers and Harbors Act, 33 USC 403)

Your work as proposed does not require Department of the Army authorization for the following reason:

___ There are no jurisdictional waters or wetlands within the boundaries of the property.
_X_ The proposed project does not impact jurisdictional waters or wetlands. The proposed landfill will be within the limits of the two borrow pit areas, which were dug from high ground.
___ The proposed project is exempt from Department of the Army regulation.
Specify:_____

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

Any changes in the above-described work must be coordinated with the Corps of Engineers prior to commencement. If you have any questions regarding the Corps of Engineers regulatory program, please contact **Eric Alsmeyer** at telephone **(919) 876-8441, ext 23.**

Corps Regulatory Official _____ Date: **10/23/2006** Verification Expiration Date: **10/23/2011**

EXHIBIT C

North Carolina Department of Cultural Resources

James B. Hunt Jr., Governor
Betty Ray McCain, Secretary

Division of Archives and History
Jeffrey J. Crow, Director

March 18, 1998

MEMORANDUM

TO: Tracy E. Davis
Land Quality Section
Division of Land Resources, DENR

FROM: David Brook
Deputy State Historic Preservation Officer

SUBJECT: Application for Mining Permit
Fogleman Mine Modification, Durham County
ER 94-8098

Thank you for giving us the opportunity to review and comment on the above project pursuant to Chapter 74, Article 7 of the North Carolina General Statutes.

Because of the location and topographic situation of the proposed project area, it is unlikely that any archaeological sites which may be eligible for inclusion in the National Register of Historic Places will be affected by the proposed borrowing. We, therefore, recommend that no archaeological investigation be conducted in connection with this project.

Thank you for your cooperation and consideration. If you have questions concerning the above comments, please contact Ms. Renee Gledhill-Earley, Environmental Review Coordinator, at 919/733-4763.

DB:slw

cc: James K. Fogelman
4005 Intermere Road
Durham NC 27704

EXHIBIT D

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF LAND RESOURCES

NCDENR

JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

CHARLES H. GARDNER
P.G., P.E. DIRECTOR
AND STATE GEOLOGIST

September 1, 1999

Mrs. James Fogleman
Fogleman Landfill and Mine, Inc.
4005 Intermere Road
Durham, North Carolina 27704

RE: Permit No. 32-09
Fogleman Mine
Durham County
Neuse River Basin

Dear Mrs. Fogleman:

Your application for renewal of the above referenced mining permit has been approved. A copy of the renewed permit is enclosed.

The conditions in the permit renewal were based primarily upon the initial application. Modifications were made as indicated by the renewal request and as required to insure compliance with The Mining Act of 1971. The new expiration date is September 1, 2009.

As a reminder, your permitted acreage and affected acreage for this site are both 36.0 acres, as indicated in the renewal application and on the mine map received by the Land Quality Section on July 22, 1999.

Please review the renewed permit and advise this office at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

Tracy E. Davis, P.E.
State Mining Specialist
Land Quality Section

TED/jw
Enclosures
cc: Mr. John Holley, P.E.
Ms. Barbara Rote-WRC, w/enclosures
Mr. Bradley Bennett-DWQ, w/enclosures

LAND QUALITY SECTION (919) 733-4574 FAX (919) 733-2876
GEOLOGICAL SURVEY SECTION (919) 733-2423 FAX (919) 733-0900

P.O. BOX 27687, RALEIGH, NORTH CAROLINA 27611-7687 TELEPHONE (919) 733-3833 FAX (919) 715-8801
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

P E R M I T

for the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Fogleman Landfill and Mine, Inc.

Fogleman Mine

Durham County - Permit No. 32-09

for the operation of a

Borrow Pit

which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

MINING PERMIT EXPIRATION DATE: September 1, 2009

in accordance with the application for this mining permit, which is hereby approved by the Department of Environment and Natural Resources, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the expiration, revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit, or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation or suspension by the Department. Alternatively and in addition to the above, the Department may institute other enforcement procedures authorized by law.

Definitions

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. 74-49.

Modifications

April 22, 1998: This permit has been modified to increase both the permitted and affected acreage from 12.5 acres to 36.0 acres as indicated on the mine map last revised October 20, 1997. In addition, the name on the permit has been changed from James K. Fogleman to Fogleman Landfill and Mine, Inc.

Expiration Date

This permit shall be effective from the date of its issuance until September 1, 2009.

Conditions

This permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

OPERATING CONDITIONS:

1. A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.

B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Section, Division of Water Quality, to secure any necessary stormwater permits or other approval documents.

2. A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.

   B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.

3. A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.

   B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.

4. A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, silt check dams, silt retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.

   B. The sedimentation control measures as indicated on the revised mine map labeled "Proposed Demolition Landfill" dated August 22, 1993 shall be constructed and maintained to prevent offsite sedimentation.

   C. The sedimentation control measures for the mine expansion, as indicated on the mine map last revised October 20, 1997, shall be constructed and maintained to prevent offsite sedimentation.

   D. All mining-related activities shall be conducted in accordance with the mine map received by the Land Quality Section on July 22, 1999.

5. All mining permit boundaries (36 acres) shall be permanently marked at the site on 100 foot intervals unless the line of sight allows for larger spacing intervals.

6. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.

7. The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

8. Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.

9. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any excavation and any mining permit boundary or right-of-way to protect adjacent property.

10. A physical barrier consisting of a fence or earthen berm, etc., shall be maintained around the perimeter of any highwall.

11. Refuse Disposal

A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Land Quality Section, Department of Environment and Natural Resources. The method of disposal shall be consistent with the approved reclamation plan.

B. Mining refuse as defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.

C. For the purposes of this permit, the Division of Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):

1) on-site generated land clearing debris
2) conveyor belts
3) wire cables
4) v-belts
5) steel reinforced air hoses
6) drill steel

D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Land Resources prior to commencement of such disposal:

1. the approximate boundaries and size of the refuse disposal area;

2. a list of refuse items to be disposed;

3. verification that a minimum of 4 feet of cover will be provided over the refuse;

4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and

5. verification that a permanent vegetative groundcover will be established.

E. The disposal of demolition landfill material at the site shall be in accordance with Solid Waste Permit No. 32-F, and any subsequent approved modifications to said permit, issued by the Department of Environment and Natural Resources, Division of Waste Management.

12. An Annual Reclamation Report shall be submitted on a form supplied by the Department by February 1 of each year until reclamation is completed and approved.

13. The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit and any approved revisions to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

14. The security which was posted pursuant to N.C.G.S. 74-54 in the form of a $151,200.00 Irrevocable Standby Letter of Credit is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

15. A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.

B. Pursuant to N. C. G. S. 70 Article 3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

APPROVED RECLAMATION PLAN

This Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

The approved plan provides:

Minimum Standards As Provided By G.S. 74-53

1. The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.

2. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.

3. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.

4. No small pools of water shall be allowed to collect or remain on the mined area that are, likely to become noxious, odious or foul.

5. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.

6. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to fill the mined area with demolition landfill material according to Solid Waste Permit No. 32-F, and any subsequent approvals to said permit, sufficiently cover the landfill material, and properly regrade and satisfactorily revegetate any remaining disturbed areas.

2. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:

   A. All sideslopes shall be graded to a 2 horizontal to 1 vertical or flatter slope.

   B. Any settling ponds or sediment basins shall be backfilled and stabilized or cleaned out and made into acceptable lake areas.

   C. The processing, stockpile, and other disturbed areas neighboring the mine excavation shall be leveled and smoothed.

D. Compacted surfaces shall be disced, subsoiled or otherwise prepared before revegetation.

E. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition Nos. 11.A. through E.

F. The disposal of demolition landfill material shall be in accordance with Solid Waste Permit No. 32-F and any subsequent approvals to said permit. A minimum of two feet of soil cover shall be applied prior to final revegetation and closure of the landfill.

G. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan:

After site preparation, all disturbed land areas shall be revegetated as per the following:

Permanent Seeding Specifications

Dates	Species	Rate, Lbs/Acre
February 15- April 1	Kobe Lespedeza	10
	Bahiagrass	50
	Redtop	1
	Winter rye (grain)	15
April 1- July 31	Common Bermuda	50
August 1- October 25	Lespedeza (unscarified)	30
	German millet	40
October 25- February 15	Rye (grain- temporary)	120

Soil Amendments

Lime - 2000 lbs/acre or follow recommendations from a soil test.

Fertilizer- 1000 lbs/acre 8-8-8 or 10-10-10, or follow recommendations from a soil test.

Mulch- All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs/acre and anchored appropriately.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan:

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

This permit, issued July 20, 1994 and modified April 22, 1998, is hereby renewed this 1st day of September 1999 pursuant to G.S. 74-52.

By: _____

Charles H. Gardner, Director
Division of Land Resources
By Authority of the Secretary
Of the Department of Environment and Natural Resources

EXHIBIT E

Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality

February 7, 2005

James K Fogleman
Fogleman Landfill & Mine
4005 Intermere Rd
Durham, NC 27704

Subject: NPDES Stormwater Permit Coverage Renewal
Fogleman Landfill & Mine
COC Number NCG020463
Durham County

Dear Permittee:

In response to your renewal application for continued coverage under general permit NCG020000 the Division of Water Quality (DWQ) is forwarding herewith the reissued stormwater general permit. Please review the new permit to familiarize yourself with the changes in the reissued permit. The general permit authorizes discharges of stormwater and some types of wastewater. You must meet the provisions of the permit for the types of discharges present at your facility. This permit is reissued pursuant to the requirements of North Carolina General Statute 143-215.1 and the Memorandum of Agreement between the state of North Carolina and the U.S. Environmental Protection Agency, dated December 6, 1983.

The following information is included with your permit package:

- A new Certificate of Coverage
- A copy of General Stormwater Permit NCG020000
- A copy of a Technical Bulletin for the general permit
- Five copies of Discharge Monitoring Report (DMR) Forms - wastewater and stormwater
- Five copies of Qualitative Monitoring Report Form

Your coverage under this general permit is not transferable except after notice to DWQ. The Division may require modification or revocation and reissuance of the Certificate of Coverage. This permit does not affect the legal requirements to obtain other permits which may be required by DENR or relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

If you have any questions regarding this permit package please contact Ken Pickle of the Central Office Stormwater Permitting Unit at (919) 733-5083, ext.584.

Sincerely,

Bradley Bennett

for Alan W. Klimek, P.E.

cc: Central Files
Stormwater & General Permits Unit Files
Raleigh Regional Office

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG020000
CERTIFICATE OF COVERAGE No. NCG020463

STORMWATER AND PROCESS WASTEWATER DISCHARGES

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Fogleman Landfill & Mine

is hereby authorized to discharge stormwater and to operate treatment systems and discharges associated with mine dewatering wastewater and process wastewater from a facility located at

Fogleman Landfill & Mine
4005 Intermere Rd
Durnam
Durnam County

to receiving waters designated as UT Ellerbe Creek, a class WS IV NSW CA stream in the Neuse River Basin in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, and VI of General Permit No. NCG020000 as attached.

This certificate of coverage shall become effective February 7, 2005.

This Certificate of Coverage shall remain in effect for the duration of the General Permit.

Signed this day February 7, 2005

Bradley Bennett

for Alan W. Klimek, P.E., Director
Division of Water Quality
By Authority of the Environmental Management Commission

STATE OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG020000

TO DISCHARGE STORMWATER, MINE DEWATERING, AND PROCESS WASTEWATER UNDER THE

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission and the Federal Water Pollution Control Act, as amended, this permit is hereby issued to all owners or operators, hereafter permittees, which are covered by this permit as evidenced by receipt of a Certificate of Coverage by the Environmental Management Commission to allow the discharge of stormwater, mine dewatering wastewater, and process wastewater to the surface waters of North Carolina or to a separate storm sewer system conveying discharges to surface waters in accordance with the terms and conditions set forth herein.

Coverage under this general permit is applicable to:

- Stormwater point source discharge outfalls associated with mining and quarrying of nonmetallic minerals (except fuels), land disturbance, and vehicle maintenance.
- Mine dewatering wastewater discharge outfalls.
- Wastewater discharge outfalls from sand and/or gravel operations.
- Nondischarging closed loop recycle systems.
- Process recycle wastewater discharge outfalls.

The following activities and their associated discharges are specifically excluded from coverage under this General Permit: borrow pits covered by the DOT statewide stormwater permit, peat mining, coal mining, metal mining, oil and gas extraction operations, and combined mining/asphalt operations (where the asphalt operation is not covered by a separate permit).

The General Permit shall become effective on January 19, 2005.

The General Permit shall expire at midnight on December 31, 2009.

Signed this day January 19, 2005.

Alan W. Klimek, P.E., Director
Division of Water Quality
By the Authority of the Environmental Management Commission

W 682-6060,
682-0002

EXHIBIT F

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

May 27, 1998

Mr. John H. Fogleman
Route 5, Box 170
Durham, NC 27705

Richard N. Watson, Esq.
Pulley, Watson, King & Lischer
P.O. Drawer 3600
Durham, NC 27702

Re: Fogleman Mine, Red Mill Road
Durham Tax Parcel 726-01-001
Durham Board of Adjustment Case B97-34

Dear Mr. Fogleman and Mr. Watson:

Further to our letter of December 29, 1997, we have reviewed your claim that the entire Fogleman tract (Tax Parcel 726-01-001) should be considered a legal nonconforming use for mining activities under the concept of "diminishing asset" as outlined in the various court cases you provided. After examining the documentation provided, we offer the following determination:

1. Future expansion of the current mining/resource extraction operations onto the northernmost area of this tract does not constitute an illegal expansion of a nonconforming use. Since the land itself is the primary asset and not any structures or uses on top of the land, the entire tract noted above encompasses the mining/resource extraction use.

2. Any expansion of this use onto land outside the boundaries of Tax Parcel 726-01-001 will be considered an illegal expansion of a nonconforming use and will be treated as a violation of the Durham Zoning Ordinance.

3. As noted previously, demolition land fill activities on this parcel are only allowed in conjunction with the mining/resource extraction activities permitted by the State, which activities are directly related to the land reclamation plan under the State mining permit. A "stand alone" demolition land fill is not allowed on this site due to the Durham Watershed regulations.

Should you have any questions regarding this matter, please call the undersigned at the number listed below.

Dennis Duffy, Zoning Enforcement Officer

Tel. No. 560-4137, Ext. 252

Fogleman & Fogleman Soils, Inc.
4005 Intermere Rd.
Durham, NC 27704
Phone # 919-682-0068 / 800-450-3827
Fax # 919-682-0662
LCID Landfill Permit # 32-F
Sand & Gravel Mine Permit #32-09

Received
OCT 2006
Solid Waste Section

OPERATIONAL MANUAL

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APPROVED
DIVISION OF WASTE MANAGEMENT
SOLID WASTE SECTION
DATE 19 DEC 2006 BY Toni Wyche Jones
PTO 32-F v. 2 ATTACH 1 PART IV Doc 1

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Fogleman & Fogleman Soils, Inc.
(LCID Landfill Permit # 32-F)
(Sand & Gravel Mine Permit #32-09)

Operational Manual

1.1 Overview:

Fogleman & Fogleman Soils, Inc., hereafter referred to as Foglemans'. The objective of this facility is to mine, fill and reclaim. The achievable goal is to reclaim the mine as an LCID landfill, and then reclaim that landfill as the original pasture and forest land.

The information contained herein was prepared to provide Foglemans' landfill/mine personnel with a clear understanding of how the engineering design was developed to handle day to day facility operations within the NCDENR guidelines.

The site is located Four (4) miles Northeast of Durham, North Carolina, (Durham County) off Red Mill Road, at the intersection of I-85 North. Please see attached Durham County map, **Appendix A**

Incoming loads will be inspected prior to unloading. The Fogleman landfill unit will only accept for disposal the following according to LCID guidelines:

Inert Debris Waste: (Concrete, brick, concrete block, uncontaminated soils and rock, untreated and unpainted wood, etc)

Land Clearing Debris: as defined by G.S. 120A-290. Specifically, waste that is generated solely from land-clearing activities, such as stumps, trees, etc

Asphalt: in accordance with G.S. 130-294 (m)

Written instructions for acceptable waste are posted at the gate office, and mailed to all clients. Non-conforming waste will not be accepted, trucks will be directed to the city landfill. The gate attendant will conduct visual inspections. After passing the gate attendant, the load will be directed to the dumping area by the site attendant. **See appendix B**

The untreated, unpainted wood will be dumped at the top of the landfill to be freely distributed to members of the community for home heating use.

1.2 Contact Information:

1.2.1 Kent Fogleman
4005 Intermere Rd.
Durham, NC 27704
Ph# 919-682-0068 / 800-450-3827
Hm # 919-683-3256 / Cell # 919-795-4392
Fax # 919-682-0662
Hours of Operation - Monday – Friday 7am – 5 pm

1.2.2 Fire or Emergency
Call 911 in case of fire or accident emergency. This will alert the Durham County Sheriff's Department as well as Redwood Fire & Rescue Teams.

1.2.3 NC Department of Environment and Natural Resources:
Landfill:
NCDENR-Division of Waste Management
Solid Waste Section
401 Oberlin Rd. Suite 150
1646 Mail Service Center
Raleigh, NC 27669
Ph# 919- 508-8523
Mine:
NCDENR – Division of Land Resources
Land Quality Section
P.O. Box 27687
Raleigh, NC 27611-7687
Ph # 919-733-4574
Smoke or Fire:
NCDENR – Air Quality Control # 919-733-4574

1.3 Access Control:

1.3.1 Physical Restraints

The site will be accessed by the existing concrete entrance on Red Mill Road. There are posted signs marking the entrances which are securely locked by gates during non-operating hours. The roads have 5 MPH speed signs. Maintenance of the roads for all weather access will be accomplished by covering them with crushed rock and crushed asphalt. All trucks must stop at the gatehouse, where loads are inspected and they receive a ticket with fees according to the size of the truck. **See appendix C**

Locked control gates at the entrance/exit to Foglemans' facility are important for the following reasons:

- Unauthorized and illegal dumping of waste materials is prevented.
- Trespassing, and injury resulting therefrom, is discouraged.
- The risk of vandalism is greatly reduced.

Access to active areas of the landfill will be controlled by the combination of fences, gates and natural barriers, and strictly enforced during operating hours. A landfill attendant will be on duty at all times when the facility is open for public use to enforce access restrictions.

1.3.2 Security

Frequent inspections of gates, fences, berms will be performed by Fogleman personnel.

1.4 Signage:

A prominent sign(s) containing the information required by the NCDENR will be posted at the landfill entrance. They will provide information on operating hours, operating procedures, and acceptable wastes. Additional signage, 5MPH road signs are posted on roads and at the entrance and exit.

1.5 Communications:

Two way radio communications will be maintained between the active landfill/mine units and the landfill/mine gate house and office. The gate house and office have telephones in case of emergency and for the conducting of day-to-day business. Emergency telephone numbers are displayed in the gate house and office.

1.6 Fire and Safety:

1.6.1 Fire Control

No open burning is allowed in the landfill, but the possibility of fire within the landfill/mine, or a piece of equipment must be anticipated in the daily operation. Portable fire extinguishers will be operational on all heavy pieces of equipment at all times. For larger or more serious outbreaks, call 911, the local fire/rescue departments and Durham County Sheriff's Department will respond.

Fires within the landfill will be limited by the use of daily and intermediate soil coverage as a fire break and control of "hot" spots in the landfill. We have 8-10 acres of soil that is available for this use. We have had experience with a fire at our facility in 2001, although this fire happened during non-operational hours, and could not have been avoided; we have procedures in place to handle this situation. Landfill personnel at the gate house will turn away all trucks containing waste that is suspected to be hot. The facility will verbally notify NCDENR within 24 hours of discovery of a fire within any landfill disposal area. In addition, written documentation describing the fire, the actions carried out to extinguish the fire, and a strategy for preventing future occurrences will be provided to NCDENR within 15 days following any such occurrence. **See appendix D**

1.6.2 Safety

All aspects of the operation of the landfill facility were developed with the health and safety of the landfill's operating staff, customers, and neighbors in mind. The site safety officer, together with the facility's management will maintain a safety and emergency response program to remain consistent with National Solid Waste Management Association and Occupational Safety and Health Administration (OSHA) guidance. First aid kits and fire extinguishers are maintained on all pieces of equipment as well as in the office and gate house. Protective or enclosed cabs are also on all equipment.

1.7 Severe Weather Conditions:

Unusual weather conditions can directly affect the operation of the Foglemans' facility. Some of these weather conditions and recommended operational responses are as follows:

1.7.1 Ice Storms/ Snow Storms

An ice storm can make access to the landfill dangerous, prevent movement or placement of daily cover, and thus may require closure of the landfill until the ice is removed or has melted.

1.7.2 Heavy Rains

Exposed soil surfaces can create a muddy situation in some portions of the landfill during rainy periods. The control of the drainage and use of crushed stone or crushed asphalt on unpaved roads should provide all-weather access for the site and promote drainage.

1.7.3 Electrical Storms

The open area of a landfill is susceptible to the hazards of an electrical storm. If necessary, land filling activities will be temporarily suspended during such an event. To guarantee the safety of all field personnel, refuge will be taken in the on-site buildings or in rubber-tired vehicles.

1.7.4 Violent Storms

In the event of a hurricane, tornado, or severe winter storm warning issued by the National Weather Service, landfill operations may be temporarily suspended until the warning is lifted. Buildings and equipment will be properly secured.

1.8 Equipment Requirements:

Foglemans' will maintain on-site equipment required to perform the necessary landfill/mining activities. They will have enclosed or protective cabs. Periodic maintenance of all equipment, and minor/major repair work will be performed at designated maintenance zones outside the landfill. All pieces of equipment will have fire extinguishers and first aid kits.

1.9 Utilities:

Electrical power, water, telephone, and restrooms are provided at the landfill gate house and office.

1.10 Record Keeping:

Foglemans' shall maintain the following records in files at the landfill/mining office:

A. Waste/Mining inspection records
B. Daily truck size records
C. Results of inspections, repairs, etc.
D. Annual landfill/mining reports
E. Financial insurance documentation **(See Appendix E)**

The operating record will be kept up to date by Foglemans'. It will be presented upon request to the NCDENR for inspection. A copy of this Operations Manual will be kept at the landfill and will be available for use by all employees at all times.

2.0 Waste Handling Operations:

2.1 Overview

This section describes the waste handling requirements. The person responsible for operations is:

Kent Fogleman
4005 Intermere Rd.
Durham, NC 27704
PH # 919-682-0068

Signs are posted at the gate entrances with name of owner/ operator, phone number in case of emergency, and hours of operation.

This facility is reclaiming a mine site with waste according to LCID guidelines. After the reclamation is complete the land will be returned to original farm and forest land. A gate attendant will be on site during operational hours. The attendant will direct and visually inspect all incoming loads. All loads will be measured by truck size and these measurements will be recorded by the gate attendant on a 3-part ticket. The fees for truck sizes are posted for drivers and attendees information. All invoices/tickets have company names and are signed for by drivers. All vehicles are controlled by the gate/site attendants, and directional signs located within the facility. **See Appendix C** Again, any non-conforming waste will be turned away and directed to the Durham City Landfill.

2.2 Waste Screening

In order to assure that prohibited waste is not entering the landfill facility, screening polices have been implemented. Waste received at the gatehouse entrance, and the waste taken to the working face is inspected by trained personnel. These individuals have been instructed in how to spot indications of suspicious waste.

All vehicles must stop at the gate house located at the entrance to the facility. All waste transportation vehicles and their load are visually assessed by the attendant. The attendant may request from the driver of the vehicle a description of the waste he is carrying, to ensure that unacceptable waste is not allowed into the landfill. The attendant then writes a ticket/invoice with the company's name and size/cost of load. The driver signs the ticket and retains 1 part of the 3 part ticket. The remaining 2 parts are returned to Foglemans' office at the end of each day. **See Appendix C**

In the event any non-conforming waste is hidden and dumped in the landfill, the cost of the removal and disposing of any unacceptable waste will be charged to the owner of the vehicle involved. Any vehicle owner/operators who knowingly dump any unacceptable waste at the site may be barred from using the landfill.

2.3 Accepted/Prohibited Waste:

If unacceptable waste is found, the load will be turned away from the entrance. Upon discovery of any non-conforming waste the driver is notified by the gate attendant and the hauling company is notified by Foglemans' office, not to send any further debris of this nature. They are also faxed a copy of what is acceptable. **See Appendix B**

3.0 Environmental Management / Surface Water

3.1 The landfill is graded to eliminate water from ponding or collecting in any way.

3.1.1 Erosion control is provided primarily by 1.25 acres of settling ponds created for the mining activity. None of the land is in the 100 year flood plain, in a letter from the U.S. Army Corps of Engineers it is stated that the landfill does not impact jurisdictional waters or wetlands. **See Appendix F** The active area of operation in the landfill/mine will be maintained with the appropriate settling basins to control runoff. Erosion control shall be maintained as required, to guarantee proper functioning of the measures in place.

3.1.2 Storm water discharges have been addressed. The General permit # is NCG020000 and the Certificate of Coverage is #NCG020463. **See Appendix G** The dry creek bed is an unnamed tributary to Ellerbee Creek in the Neuse River basin.

3.1.3 The existing entrance from Red Mill Rd is constructed with a concrete roadway at the gate, followed by crushed asphalt and stone. Dust is controlled by watering the road with a 2000 gallon tanker truck.

3.1.4 Litter is collected daily in a receptacle provided by Foglemans' to discourage truck drivers from discarding their trash in the landfill. Other materials such as plastic, metal, paper, and trash (hidden under loads) are picked up and disposed of in these dumpsters from Waste Industries. **See Appendix H**

4.0 Reclamation:

Adequate soil cover shall be applied daily/monthly or when the active area reaches one acre in size. The interim soil cover shall be 1' thick. The mining area is being reclaimed as an LCID landfill. Once the landfill/mine is completed the original farm land will be reclaimed and returned to forest and pasture land. The sediment basins will be filled with landfill acceptable debris, covered with soil 2' thick, and regraded to the original contours. Eight to ten acres have been designated for this purpose. Vegetative covers, according to the approved NCDENR mining reclamation plan will then be planted within 2 years of the closure of the landfill/mine. All of these requirements have been established by NCDENR. **See Appendix I** for the Letter of credit (reclamation funds) and **Appendix J** for the NCDENR Reclamation Plan.

Appendices:

A	Durham County map
B	Permitted materials
C	Invoice/tickets
D	Fire occurrence
E	Liability insurance
F	US Army Corps letter
G	Storm water permit
H	Waste Industries invoice
I	Reclamation funds
J	Mining permit

Fogleman & Fogleman Soils, Inc
4005 Intermere RD.
Durham, NC 27704
Ph # 919-682-0068/ 800-450-3827
Fax # 919-682-0662

Just a friendly reminder .....

THIS LANDFILL IS PERMITTED TO RECEIVE ONLY:

STUMPS, LIMBS, LEAVES, UNPAINTED BRICK, UNPAINTED BLOCK, CONCRETE, UNPAINTED, UNTREATED WOOD, ASPHALT AS PER HB 1131 AND UNCONTAMINATED SOIL!

WE CANNOT ACCEPT ANY:

PLYWOOD, PRESSBOARD, SHINGLES, SHEETROCK, PAPER, PLASTIC, TRASH, METAL, WIRE, TIRES OR FURNITURE!

******If any of the above is brought in that we CANNOT accept it will be your physical and financial responsibility to remove it from our landfill! ******

Should you have a question regarding something that is not listed, please feel free to contact us.

Please respect our landfill and do not dump any personal trash (ex: cups, bags, food wrappers)

Thanking you in advance for your cooperation in keeping our landfill "clean"!

Sincerely,

Fogleman & Fogleman Soils Inc.

Fogleman & Fogleman Soils, Inc.
4005 Intermere Rd.
Durham, NC 27704
919-682-0068 / 800-450-3827
FAX 919-682-0662

Due to recent fuel and related cost inflation, Fogleman & Fogleman Soils will have a price increase as of May 1, 2005.

Dumping Fees:

Pick – Up Trucks

Single-Axle Trucks

Tandem and Tri-Axle Trucks

Quinn and Quad Trucks

Trailers – 24 foot or less with 4 foot sides

Larger Trailers- over 24 feet with 4 foot sides

Soil Fees:

Tandem, Single-Axle or Tri-Axle Trucks

Quinn and Quad Trucks

Any Dump Trailers

FIRE OCCURRENCE NOTIFICATION

NC DENR Division of Waste Management
Solid Waste Section

NCDENR
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCE

The Solid Waste Rules [15A NCAC 13B, Section 1626(5)(d) and Section .0505(10)(c)] require verbal notification within 24 hours and submission of a written notification within 15 days of the occurrence. The completion of this form shall satisfy that requirement. *(If additional space is needed, use back of this form)*

NAME OF FACILITY: Fogleman & Fogleman Soils PERMIT # 32-09

DATE AND TIME OF FIRE 11 / 14 / 01 @ 9 : 00 AM / PM (circle one)

HOW WAS THE FIRE REPORTED AND BY WHOM A motorist from Bedmill Rd noticed heavy Smoke & Smell

LIST ACTIONS TAKEN Fire Department was called, 30 tankers of water, Covered with dirt.

WHAT WAS THE CAUSE OF THE FIRE We were told by the Fire Dept that it was Spontaneous Combustion. The US Corp of Engineer & US Forestry Service agreed with the Fire Dept, that it was due to the drought conditions.

DESCRIBE AREA, TYPE, AND AMOUNT OF WASTE INVOLVED Outer Area of Dump Site. Brush, Concrete & wood involved

WHAT COULD HAVE BEEN DONE TO PREVENT THIS FIRE Nothing

CURRENT STATUS OF FIRE Fire is Out

DESCRIBE PLAN OF ACTIONS TO PREVENT FUTURE INCIDENTS: Weather conditions are beyond our control, but we have ample dirt to seal it again

NAME James K Fogleman TITLE owner DATE 1/07/02

THIS SECTION TO BE COMPLETED BY SOLID WASTE SECTION REGIONAL STAFF

DATE RECEIVED _____

List any factors not listed that might have contributed to the fire or that might prevent occurrence of future fires:

FOLLOW-UP REQUIRED:
☐ NO ☐ PHONE CALL ☐ SUBMITTAL ☐ MEETING ☐ RETURN VISIT BY: _____ (DATE)

ACTIONS TAKEN OR REQUIRED:

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 05/19/04

PRODUCER
RILEY & DAVIS INSURANCE AGENCY
P.O. BOX 1149
120 S. MAIN ST.
GRAHAM, NC 27253

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
FOGLEMAN & FOGLEMAN SOILS INC.
4005 INTERMERE RD.
DURHAM, NC 27704

INSURER A: FIRST FINANCIAL INSURANCE CO.
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTAN ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF S POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY X CLAIMS MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC		09/01/06	09/01/07	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 1,000,000 $ 1,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
	EXCESS LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	19435100	08/26/03	08/26/04	WC STATU-TORY LIMITS / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 100000 $ 100000 $ 500000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER

ADDITIONAL INSURED: INSURER LETTER:

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATI DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHA IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS O REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action ID: **2006-41149** County: **Durham**

NO DEPARTMENT OF THE ARMY AUTHORIZATION REQUIRED

Property Owner: **James Kent Fogleman**
Mailing Address: **4005 Intermere Road**
Durham, NC 27704
Telephone No.: **(919) 683-3256**

Location of property (road name/number, town, etc.): **Borrow pit areas on north end of ~65-acre property at 4001 Intermere Road (Parcel ID 171276), north of I-85 and ~ 1,000 feet east of SR 1632 (Red Mill Road), northeast of Durham,, North Carolina.**

Site Coordinates: **36.058°N 78.813°W** USGS Quad: **Northeast Durham**

Waterway: **Ellerbe Creek** River Basin: **Neuse** HUC: **03020201**

Description of activity: **Proposed expansion of Landclearing Inert Debris landfill within two existing borrow pits.**

Applicable Law: ☒ Section 404 (Clean Water Act, 33 USC 1344)
☐ Section 10 (Rivers and Harbors Act, 33 USC 403)

Your work as proposed does not require Department of the Army authorization for the following reason:

___ There are no jurisdictional waters or wetlands within the boundaries of the property.
_X_ The proposed project does not impact jurisdictional waters or wetlands. The proposed landfill will be within the limits of the two borrow pit areas, which were dug from high ground.
___ The proposed project is exempt from Department of the Army regulation.
Specify:_____

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

Any changes in the above-described work must be coordinated with the Corps of Engineers prior to commencement. If you have any questions regarding the Corps of Engineers regulatory program, please contact **Eric Alsmeyer** at telephone **(919) 876-8441, ext 23.**

Corps Regulatory Official _____ Date: **10/23/2006** Verification Expiration Date: **10/23/2011**

STATE OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG020000

TO DISCHARGE STORMWATER, MINE DEWATERING, AND PROCESS WASTEWATER UNDER THE

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission and the Federal Water Pollution Control Act, as amended, this permit is hereby issued to all owners or operators, hereafter permittees, which are covered by this permit as evidenced by receipt of a Certificate of Coverage by the Environmental Management Commission to allow the discharge of stormwater, mine dewatering wastewater, and process wastewater to the surface waters of North Carolina or to a separate storm sewer system conveying discharges to surface waters in accordance with the terms and conditions set forth herein.

Coverage under this general permit is applicable to:

- Stormwater point source discharge outfalls associated with mining and quarrying of nonmetallic minerals (except fuels), land disturbance, and vehicle maintenance.
- Mine dewatering wastewater discharge outfalls.
- Wastewater discharge outfalls from sand and/or gravel operations.
- Nondischarging closed loop recycle systems.
- Process recycle wastewater discharge outfalls.

The following activities and their associated discharges are specifically excluded from coverage under this General Permit: borrow pits covered by the DOT statewide stormwater permit, peat mining, coal mining, metal mining, oil and gas extraction operations, and combined mining/asphalt operations (where the asphalt operation is not covered by a separate permit).

The General Permit shall become effective on January 19, 2005.

The General Permit shall expire at midnight on December 31, 2009.

Signed this day January 19, 2005.

Alan W. Klimek, P.E., Director
Division of Water Quality
By the Authority of the Environmental Management Commission

Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality

February 7, 2005

James K Fogleman
Fogleman Landfill & Mine
4005 Intermere Rd
Durham, NC 27704

Subject: NPDES Stormwater Permit Coverage Renewal
Fogleman Landfill & Mine
COC Number NCG020463
Durham County

Dear Permittee:

In response to your renewal application for continued coverage under general permit NCG020000 the Division of Water Quality (DWQ) is forwarding herewith the reissued stormwater general permit. Please review the new permit to familiarize yourself with the changes in the reissued permit. The general permit authorizes discharges of stormwater and some types of wastewater. You must meet the provisions of the permit for the types of discharges present at your facility. This permit is reissued pursuant to the requirements of North Carolina General Statute 143-215.1 and the Memorandum of Agreement between the state of North Carolina and the U.S. Environmental Protection Agency, dated December 6, 1983.

The following information is included with your permit package:

- A new Certificate of Coverage
- A copy of General Stormwater Permit NCG020000
- A copy of a Technical Bulletin for the general permit
- Five copies of Discharge Monitoring Report (DMR) Forms - wastewater and stormwater
- Five copies of Qualitative Monitoring Report Form

Your coverage under this general permit is not transferable except after notice to DWQ. The Division may require modification or revocation and reissuance of the Certificate of Coverage. This permit does not affect the legal requirements to obtain other permits which may be required by DENR or relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

If you have any questions regarding this permit package please contact Ken Pickle of the Central Office Stormwater Permitting Unit at (919) 733-5083, ext.584.

Sincerely,

Bradley Bennett

for Alan W. Klimek, P.E.

cc: Central Files
Stormwater & General Permits Unit Files
Raleigh Regional Office

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG020000
CERTIFICATE OF COVERAGE No. NCG020463

STORMWATER AND PROCESS WASTEWATER DISCHARGES

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Fogleman Landfill & Mine

is hereby authorized to discharge stormwater and to operate treatment systems and discharges associated with mine dewatering wastewater and process wastewater from a facility located at

Fogleman Landfill & Mine
4005 Intermere Rd
Durham
Durham County

to receiving waters designated as UT Ellerbe Creek, a class WS IV NSW CA stream in the Neuse River Basin in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, and VI of General Permit No. NCG020000 as attached.

This certificate of coverage shall become effective February 7, 2005.

This Certificate of Coverage shall remain in effect for the duration of the General Permit.

Signed this day February 7, 2005

Bradley Bennett

for Alan W. Klimek, P.E., Director
Division of Water Quality
By Authority of the Environmental Management Commission

INVOICE

STATEMENT DATE	ACCOUNT #	INVOICE #	FOR BILLING INQUIRIES, CALL	SERVICE ADDRESS
9/02/06	17-0012664 1	2196547	(919)596-1363	FOGLEMAN & FOGLEMAN SOILS 4005 INTERMERE RD DURHAM NC 27704
PAGE NO. 1 OF 1	PAYMENT DUE 09/24/06	SERVICE PERIOD SEPTEMBER		

DATE	DESCRIPTION	QTY.	UNIT PRICE	TOTAL
WI DURHAM				
9/02/06	SOLID WASTE REMOVAL - 8 # P/U: 01	1.00		163.24
9/02/06	OIL/ENERGY PRICE ADJSTMNT			11.92
	YOUR INVOICE MAY REFLECT A NOMINAL INCREASE TO COVER THE RISING COST OF OUR OPERATIONS.			
			Total Taxes & Fees:	11.92

WASTE INDUSTRIES NOW OFFERS EBILLING!
CONVENIENCE. It's fast! Your statement is online right now.
CHOICES. Checking, MC/Visa and AMEX accepted.
CONTROL. You decide how and when to pay.
TO ENROLL:
www.waste-ind.com/ebilling.htm

UNPAID PREVIOUS BALANCE	CURRENT CHARGES	TOTAL AMOUNT DUE
0.00	175.16	**$175.16**

INVOICE

STATEMENT DATE	ACCOUNT #	INVOICE #	FOR BILLING INQUIRIES, CALL	SERVICE ADDRESS
10/03/06	17-0012664 1	2200988	(919)596-1363	FOGLEMAN & FOGLEMAN SOILS 4005 INTERMERE RD DURHAM NC 27704
PAGE NO. 1 OF 1	PAYMENT DUE 10/25/06	SERVICE PERIOD OCTOBER		

DATE	DESCRIPTION	QTY.	UNIT PRICE	TOTAL
WI DURHAM				
10/03/06	SOLID WASTE REMOVAL - 8 # P/U: 01	1.00		163.24
10/03/06	OIL/ENERGY PRICE ADJSTMNT			8.81
	EFFECTIVE 11/1/06 WASTE INDUSTRIES WILL NO LONGER ACCEPT THE AMERICAN EXPRESS CARD. PAYMENTS ARE NO LONGER ACCEPTED AT YOUR LOCAL BRANCH. PLEASE MAIL YOUR PAYMENT TO THE PO BOX ON THE REMITTANCE STUB.			
			Total Taxes & Fees:	8.81

WASTE INDUSTRIES NOW OFFERS EBILLING!
CONVENIENCE. It's fast! Your statement is online right now.
CHOICES. Checking, MC/Visa and AMEX accepted.
CONTROL. You decide how and when to pay.
TO ENROLL:
www.waste-ind.com/ebilling.htm

UNPAID PREVIOUS BALANCE	CURRENT CHARGES	TOTAL AMOUNT DUE
0.00	172.05	**$172.05**

Avery Ward

From: "Reaves.Floalice" <Floalice.Reaves@SunTrust.com>
To: <jermaine.jorgan@suntrust.com>
Cc: "Powell.Barbara" <Barbara.Powell@SunTrust.com>; <avery.ward@verizon.net>
Sent: Monday, October 02, 2006 11:04 AM
Subject: Fogleman Landfill

Subject: LOC F844506

Jermaine;

Per our phone conversation today regarding Fogleman Landfill letter of credit extension; please extend the letter until February 27, 2008. The expiry date is currently February 27, 2007 and the client wants to continue this letter in favor of the current beneficiary, State of North Carolina, Environmental Health and Natural Resources.

Please send the invoice to my attention at NC-Durham-0640.

Thank you for your assistance.

Floalice Reaves, VP
BB Relationship Manager
Tele: 919-683-7290
Fax: 919-683-6540
E-Mail: floalice.reaves@suntrust.com

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COPY

IRREVOCABLE STANDBY LETTER OF CREDIT

LETTER OF CREDIT NO.: 98041

EFFECTIVE DATE: 2/27/98

AMOUNT: $151,200.00

ISSUING INSTITUTION:

Central Carolina Bank and Trust
Name

P O Box 931 Wellons Village Branch
Address

Durham NC 27703
City State Zip Code

Durham
County

BENEFICIARY:

State of North Carolina
Department of Environment, Health and Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687

APPLICANT/OPERATOR:

Fogleman Landfill and Mine Inc.
Name

4005 Intermare Road
Address

Durham NC 27704-9461
City State Zip Code

Durham
County

Dear Sir or Madam:

(1) The APPLICANT/OPERATOR desires to engage in mining operations within the State of North Carolina, under the provisions of the Mining Act of 1971, N. C. Gen. Stat. §74-46, et seq., and the administrative rules promulgated thereunder.

(2) N. C. Gen. Stat. §74-50 requires that operators engaged in mining shall first obtain an operating permit from the N. C. Department of Environment, Health and Natural Resources ("DEHNR") which covers the affected land and which has not terminated, been revoked, been suspended for the period in question, or otherwise become invalid. N. C. Gen. Stat. §74-54 requires that each applicant for an operating permit, or for the renewal thereof, shall file with DEHNR, and shall thereafter maintain in force, a bond in favor of the State of North Carolina in an amount as prescribed by Title 15A N.C. Administrative Code Subchapter 5B. 0003. N. C. Gen. Stat. §74-54 further provides that in lieu of the surety bond, an applicant or operator may file with DEHNR a cash deposit, negotiable securities, or an assignment of a savings account in a North Carolina bank.

(3) Thus, this IRREVOCABLE STANDBY LETTER OF CREDIT is issued to DEHNR, in lieu of the surety bond required to be filed by the APPLICANT/OPERATOR, as provided by N. C. Gen. Stat. §74-54.

(4) The undersigned hereby establishes its IRREVOCABLE STANDBY LETTER OF CREDIT in favor of DEHNR, for the account of Foreman Landfill and Mine, Inc. (APPLICANT/OPERATOR) for the amount of One Hundred Fifty One Thousand Two Hundred and 00/100 Dollars dollars and no 100's ($ 151,200.00), available by DEHNR's draft(s) drawn on sight.

(5) This IRREVOCABLE STANDBY LETTER OF CREDIT shall expire on February 27, 1999 (date at least one (1) year from effective date). The expiration date shall be extended automatically for a period of One Year (one year or more) on 2/27/99 (expiration date) and on each successive expiration date, unless, at least sixty (60) days prior to the expiration date, the undersigned notifies DEHNR and the OPERATOR by certified mail, return receipt requested that the undersigned will not extend this letter of credit beyond the current expiration date. If the undersigned notifies DEHNR that this letter of credit will not be extended, any unused portion of the credit shall be available upon presentation of DEHNR's sight draft within sixty (60) days after DEHNR's or the OPERATOR's receipt of such notification, whichever is later.

(6) This IRREVOCABLE STANDBY LETTER OF CREDIT is non-transferable.

(7) Draft(s) shall be marked "Drawn Under _____ Central Carolina Bank and Trust Co. Credit No. 98061 " (Issuing Institution) and shall include the following documentation:

(a) A signed certificate by DENR, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"In accordance with N. C. Gen. Stat. §74-59, we have received a notice of forfeiture of part or all of the Bond Amount. The amount of our drawing does not exceed the amount of the forfeiture as set forth in such notice.";

-or-

(b) A signed certificate by DENR, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"We have received from Central Carolina Bank and Trust (Issuing Institution) written notice stating (1) that this IRREVOCABLE STANDBY LETTER OF CREDIT has not been renewed; and, (2) that the amount of our drawing does not exceed the Bond Amount, less any previous forfeitures thereunder, pursuant to notices received in accordance with N.C. Gen. Stat. §74-59.";

-or-

(c) A signed certificate by DENR, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"We have received from Central Carolina Bank and Trust (Issuing Institution) written notice stating (1) that there exists an Event of Default under the Credit Agreement (as defined in the IRREVOCABLE STANDBY LETTER OF CREDIT); (2) that a drawing should be made under this IRREVOCABLE STANDBY LETTER OF CREDIT; and, (3) that the amount of the drawing does not exceed the bond amount, less any previous forfeitures thereunder, pursuant to notices received in accordance with N. C. Gen. Stat. §74-59."

(8) This IRREVOCABLE STANDBY LETTER OF CREDIT is subject to the Uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce, Publication No. 400, and the laws of the State of North Carolina. In the event of any conflict, the laws of the State of North Carolina will control.

(9) Central Carolina Bank and Trust (Issuing Institution) hereby agrees with the drawers, endorsers, and bona fide holders that all drafts drawn under and in compliance with the terms of this IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation to this bank/issuing institution.

Very truly yours,

Central Carolina Bank and Trust
(Issuing Institution)

BY: [signature] VP

TITLE: Vice President

DATE: 2/27/98

Sworn and subscribed to before me this

the 27 day of February,

1998.

Lydia Walker
Notary Public

My Commission Expires: 4-28-2001
Date

(SEAL)

*PLEASE MAIL THIS FORM AND THE ATTACHED INSTRUMENT TO THE FOLLOWING ADDRESS:

LAND QUALITY SECTION
P. O. BOX 27687
RALEIGH, NC 27611

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF LAND RESOURCES

NCDENR

JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

CHARLES H. GARDNER
P.G., P.E. DIRECTOR
AND STATE GEOLOGIST

April 27, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mrs. James Fogleman
Fogleman Landfill and Mine, Inc.
4005 Intermere Road
Durham, North Carolina 27704

RE: Permit No. 32-09
Fogleman Mine
Durham County
Neuse River Basin

Dear Mrs. Fogleman:

Your recent request to have the above referenced mining permit modified has been approved. The modification is to increase both the permitted and affected acreage from 12.5 acres to 36.0 acres as indicated on the mine map last revised October 20, 1997. In addition, per your request, the name on the permit has been changed from James K. Fogleman to Fogleman Landfill and Mine, Inc. A copy of the modified permit is enclosed.

The conditions in the modified permit were based primarily upon the initial application. Modifications were made as indicated by the modification request and as required to insure compliance with The Mining Act of 1971. The expiration date, mine name and permit number shall remain the same as before the modification.

The issuance of a mining permit and/or any modification to it does not supersede local zoning regulations. The responsibility of compliance with any applicable zoning regulations lies with you.

As a reminder, your permitted acreage and affected acreage for this site are both 36.0 acres, as indicated in the modification application and on the mine map last revised October 20, 1997.

Please note that your permit expires on July 20, 1999. In order to continue mining operations at this site, a completed renewal application must be submitted to this office prior to the expiration date.

LAND QUALITY SECTION (919) 733-4574 FAX (919) 733-2876
GEOLOGICAL SURVEY SECTION (919) 733-2423 FAX (919) 733-0900

P.O. BOX 27687, RALEIGH, NORTH CAROLINA 27611-7687 TELEPHONE (919) 733-3833 FAX (919) 715-8801
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

As this office has received the new $151,200.00 Irrevocable Standby Letter of Credit (ISLOC) that is sufficient to cover this site, I am returning the $46,000.00 ISLOC currently on file with this office for this site to you for your file.

Please review the modified permit and advise this office at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

Tracy E. Davis, P.E.
State Mining Specialist
Land Quality Section

TED/jw

Enclosures

cc: Mr. John Holley, P.E.
Ms. Barbara Rote-WRC, w/enclosures
Mr. Bradley Bennett-DWQ, w/enclosures

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF LAND RESOURCES

NCDENR

JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

CHARLES H. GARDNER
P.G., P.E. DIRECTOR
AND STATE GEOLOGIST

September 1, 1999

Mrs. James Fogleman
Fogleman Landfill and Mine, Inc.
4005 Intermere Road
Durham, North Carolina 27704

RE: Permit No. 32-09
Fogleman Mine
Durham County
Neuse River Basin

Dear Mrs. Fogleman:

Your application for renewal of the above referenced mining permit has been approved. A copy of the renewed permit is enclosed.

The conditions in the permit renewal were based primarily upon the initial application. Modifications were made as indicated by the renewal request and as required to insure compliance with The Mining Act of 1971. The new expiration date is September 1, 2009.

As a reminder, your permitted acreage and affected acreage for this site are both 36.0 acres, as indicated in the renewal application and on the mine map received by the Land Quality Section on July 22, 1999.

Please review the renewed permit and advise this office at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

Tracy E. Davis, P.E.
State Mining Specialist
Land Quality Section

TED/jw
Enclosures
cc: Mr. John Holley, P.E.
Ms. Barbara Rote-WRC, w/enclosures
Mr. Bradley Bennett-DWQ, w/enclosures

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

P E R M I T

for the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Fogleman Landfill and Mine, Inc.

Fogleman Mine

Durham County - Permit No. 32-09

for the operation of a

Borrow Pit

which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

MINING PERMIT EXPIRATION DATE: September 1, 2009

In accordance with the application for this mining permit, which is hereby approved by the Department of Environment and Natural Resources, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the expiration, revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit, or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation or suspension by the Department. Alternatively and in addition to the above, the Department may institute other enforcement procedures authorized by law.

finitions

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. 74-49.

Modifications

April 22, 1998: This permit has been modified to increase both the permitted and affected acreage from 12.5 acres to 36.0 acres as indicated on the mine map last revised October 20, 1997. In addition, the name on the permit has been changed from James K. Fogleman to Fogleman Landfill and Mine, Inc.

Expiration Date

This permit shall be effective from the date of its issuance until September 1, 2009.

Conditions

This permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

OPERATING CONDITIONS:

1. A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.

B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Section, Division of Water Quality, to secure any necessary stormwater permits or other approval documents.

2. A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.

B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.

3. A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.

B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.

4. A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, silt check dams, silt retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.

B. The sedimentation control measures as indicated on the revised mine map labeled "Proposed Demolition Landfill" dated August 22, 1993 shall be constructed and maintained to prevent offsite sedimentation.

C. The sedimentation control measures for the mine expansion, as indicated on the mine map last revised October 20, 1997, shall be constructed and maintained to prevent offsite sedimentation.

D. All mining-related activities shall be conducted in accordance with the mine map received by the Land Quality Section on July 22, 1999.

5. All mining permit boundaries (36 acres) shall be permanently marked at the site on 100 foot intervals unless the line of sight allows for larger spacing intervals.

6. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.

7. The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

8. Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.

9. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any excavation and any mining permit boundary or right-of-way to protect adjacent property.

10. A physical barrier consisting of a fence or earthen berm, etc., shall be maintained around the perimeter of any highwall.

11. Refuse Disposal

A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Land Quality Section, Department of Environment and Natural Resources. The method of disposal shall be consistent with the approved reclamation plan.

B. Mining refuse as defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.

C. For the purposes of this permit, the Division of Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):

1) on-site generated land clearing debris
2) conveyor belts
3) wire cables
4) v-belts
5) steel reinforced air hoses
6) drill steel

D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Land Resources prior to commencement of such disposal:

1. the approximate boundaries and size of the refuse disposal area;

2. a list of refuse items to be disposed;

3. verification that a minimum of 4 feet of cover will be provided over the refuse;

4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and

5. verification that a permanent vegetative groundcover will be established.

E. The disposal of demolition landfill material at the site shall be in accordance with Solid Waste Permit No. 32-F, and any subsequent approved modifications to said permit, issued by the Department of Environment and Natural Resources, Division of Waste Management.

12. An Annual Reclamation Report shall be submitted on a form supplied by the Department by February 1 of each year until reclamation is completed and approved.

13. The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit and any approved revisions to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

14. The security which was posted pursuant to N.C.G.S. 74-54 in the form of a $151,200.00 Irrevocable Standby Letter of Credit is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

15. A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.

B. Pursuant to N. C. G. S. 70 Article 3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

APPROVED RECLAMATION PLAN

Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

The approved plan provides:

Minimum Standards As Provided By G.S. 74-53

1. The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.

2. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.

3. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.

4. No small pools of water shall be allowed to collect or remain on the mined area that are, likely to become noxious, odious or foul.

5. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.

Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to fill the mined area with demolition landfill material according to Solid Waste Permit No. 32-F, and any subsequent approvals to said permit, sufficiently cover the landfill material, and properly regrade and satisfactorily revegetate any remaining disturbed areas.

2. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:

   A. All sideslopes shall be graded to a 2 horizontal to 1 vertical or flatter slope.

   B. Any settling ponds or sediment basins shall be backfilled and stabilized or cleaned out and made into acceptable lake areas.

   C. The processing, stockpile, and other disturbed areas neighboring the mine excavation shall be leveled and smoothed.

D. Compacted surfaces shall be disced, subsoiled or otherwise prepared before revegetation.

E. No contaminants shall be permanently disposed of at the mine site. Off-site disposal of waste shall be in accordance with Operating Condition Nos. 11.A. through E.

F. The disposal of demolition landfill material shall be in accordance with Solid Waste Permit No. 32-F and any subsequent approvals to said permit. A minimum of two feet of soil cover shall be applied prior to final revegetation and closure of the landfill.

G. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan:

After site preparation, all disturbed land areas shall be revegetated as per the following:

Permanent Seeding Specifications

Dates	Species	Rate, Lbs/Acre
February 15- April 1	Kobe Lespedeza	10
	Bahiagrass	50
	Redtop	1
	Winter rye (grain)	15
April 1- July 31	Common Bermuda	50
August 1- October 25	Lespedeza (unscarified)	30
	German millet	40
October 25- February 15	Rye (grain- temporary)	120

Soil Amendments

Lime - 2000 lbs/acre or follow recommendations from a soil test.

Fertilizer- 1000 lbs/acre 8-8-8 or 10-10-10, or follow recommendations from a soil test.

Mulch- All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs/acre and anchored appropriately.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan.

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

This permit, issued July 20, 1994 and modified April 22, 1998, is hereby renewed this 1st day of September 1999 pursuant to G.S. 74-52.

By: Charles H. Gardner

Charles H. Gardner, Director
Division of Land Resources
By Authority of the Secretary
Of the Department of Environment and Natural Resources

11/27/06

FOGLEMAN & FOGLEMAN SOILS, INC.
LCID PERMIT No. 32-F
(RENEWAL REQUEST → TECHNICAL REVIEW

.0563 APPLICABILITY REQ. FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Management of land clearing and inert debris shall be in accordance with the State hierarchy for managing solid waste as provided for under G.S. 130A-309.04(a). Disposal in a landfill is considered to be the least desirable method of managing land clearing and inert debris. Where landfilling is necessary, the requirements of this Rule apply.

PERMIT IS REQUIRED

(1) An individual permit from the Division of Solid Waste Management is not required for Land Clearing and Inert Debris (LCID) landfills that meet all of the following conditions:
(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management.
(b) The total disposal area is under two acres in size.

(c) The facility and practices comply with the siting criteria under Rule .0564, and operational requirements under Rule .0566.

(d) The fill activity is not exempt from, and must comply with all other Federal, State, or Local laws, ordinances, Rules, regulations, or orders, including but not limited to zoning restrictions, flood plain restrictions, wetland restrictions, sedimentation and erosion control requirements, and mining regulations.

(2) Where an individual permit is not required, the following applies:
(a) The owner of the land where the landfill is located must notify the Division on a prescribed form, duly signed, notarized, and recorded as per Sub-item (2)(b) of this Rule. The operator of the landfill, if different from the land owner, shall also sign the notification form.
(b) The owner must file the prescribed notification form for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification in the grantor index under the name of the owner of the land in the county or counties in which the land is located. A copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording shall be sent to the Division of Solid Waste Management.

(c) When the land on which the Land Clearing and Inert Debris Landfill is sold, leased, conveyed, or transferred in any manner, 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 property has been used as a Land Clearing and Inert Debris Landfill and a reference by book and page to the recordation of the notification.

→ (3) An individual permit is required, except for landfills subject to Item (5) of this Rule, for the construction and operation of a Land Clearing and Inert Debris (LCID) landfill when:
(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management, and
(b) The total disposal area is greater than two acres in size.

≅ ~~38~~ AC 36.0 WHAT SIZE IS THIS FACILITY? PHASE I = 15.28 AC / II = 7 AC / III = 5 AC

(4) Individual permits for land clearing and inert debris landfills shall be issued for not more than five years.

(5) Landfilling of land clearing and inert debris generated solely from, and within the right of way of, North Carolina Department of Transportation projects shall be subject to the following:
(a) Only waste types as described in Sub-item (1)(a) of this Rule may be disposed of within the Department of Transportation right of way.

* HAS THIS SITE BEEN RECORDED?

(b) Waste is landfilled within the project right of way from which it was generated.
(c) The disposal area shall not exceed two contiguous acres in size.
(d) Disposal sites shall comply with the siting requirements of Rule .0564 of this Section except for Item (10).
(e) Disposal sites are not subject to the requirements of Item (2) of this Rule and Rule .0204 of this Subchapter.

(6) Landfills that are currently permitted as demolition landfills are required to comply with the following:
(a) Only waste types as described in Sub-item (3)(a) of this Rule may be accepted for disposal, as of the effective date of this Rule unless otherwise specified in the existing permit.
(b) Operations must be in compliance with Rule .0566 of this Section as of the effective date of this Rule.
(c) Existing demolition landfills must comply with the siting criteria requirements of these Rules as of January 1, 1998 or cease operations and close in accordance with these Rules.

History Note: Statutory Authority G.S. 130A-294; 130A-301; Eff. January 4, 1993.

.0564 SITING CRITERIA FOR LAND CLEARING AND INERT DEBRIS (LCID) LANDFILLS

The following siting criteria shall apply for Land Clearing and Inert Debris (LCID) landfills:

(1) Facilities or practices, shall not be located in the 100-year floodplain. SHOWN ON MAP
(2) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
(3) Facilities or practices shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17 which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies can be obtained at no cost.
(4) Facilities or practices shall not damage or destroy an archaeological or historical site.
(5) Facilities or practices shall not cause an adverse impact on a state park, recreation or scenic area, or any other lands included in the state nature and historic preserve.
(6) Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).
(7) It must be shown that adequate suitable soils are available for cover, either from on or off site. ONSITE INCL MINING OPERATION
(8) Land Clearing and Inert Debris landfills shall meet the following surface and ground water requirements:
(a) Facilities or practices shall not cause a discharge of pollutants into waters of the state that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as amended. NPDES PERMIT NCG020000
(b) Facilities or practices shall not cause a discharge of dredged materials or fill material into waters of the state that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.
(c) Facilities or practices shall not cause non-point source pollution of waters of the state that violates assigned water quality standards.

(d) Waste in landfills with a disposal area greater than two acres shall be placed a minimum of four feet above the seasonal high water table, except where an alternative separation is approved by the Division. INSPECTION ?
(e) Waste in landfills with a disposal area less than two acres shall be placed above the seasonal high water table.
(9) The facility shall meet the following minimum buffer requirements:
(a) 50 feet from the waste boundary to all surface waters of the state as defined in G.S. 143-212.
(b) 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
(c) Buffer requirements may be adjusted as necessary to insure adequate protection of public health and the environment.
(10) The facility shall meet all requirements of any applicable zoning ordinance.
History Note: Statutory Authority G.S. 130A-294; Eff. January 4, 1993.

.0565 APPLICATION REQUIREMENTS FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

2 SETS → Five sets of plans, maps, and reports shall be required with each application. The seal of a professional engineer is required when submitting plans for a Land Clearing and Inert Debris (LCID) landfill.

(1) The following information is required in order to review and approve the siting of a Land Clearing and Inert Debris (LCID) landfill:
(a) An approval letter from the unit of local government having zoning authority over the area where the facility is to be located stating that the site meets all of the requirements of the local zoning ordinance, or that the site is not zoned.
(b) Location on a county road map.
(c) Information showing that the bottom elevation of the waste shall be four feet above the seasonal high water table. Seasonal high water table elevations shall be obtained from on site test borings, test pits, or from other geological or water table investigations, studies, or reports from the immediate area of the proposed facility. PER PE'S SEAL
(d) A written report indicating that the facility shall comply with all the requirements set forth under Rule .0564 of this Section. OP'S PLAN
(e) A copy of the deed or other legal description of the site that would be sufficient as a description in an instrument of conveyance, showing property owner's name.
(f) Any other information pertinent to the suitability of the proposed facility.
(2) The following shall be provided on a map or aerial photograph with a scale of at least one inch equals four hundred feet showing the area within one-fourth mile of the site:
(a) Entire property or portion thereof owned or leased by the person providing the disposal site.
(b) Location of all homes, buildings, public or private utilities, roads, wells, watercourses, water or other impoundments, and any other applicable features or details.
(c) 100-year flood plain boundaries, if any.
(d) Wetland boundaries, if any.
(e) Historical or archaeological sites, if any.
(f) Park, scenic, or recreation area boundaries, if any.
(3) Development and design plans and details, at a scale of at least one inch equals one hundred feet with one inch equals forty feet preferred, and specifications containing the following information shall be submitted with the application for a proposed Land Clearing and Inert Debris (LCID) landfill:

(MAPS ARE DIFFICULT TO READ)

(a) Property or site boundary, fully dimensioned with bearings and distances, tied to North Carolina grid coordinates where reasonably feasible.
(b) Easements and right-of-ways. ?
(c) Existing pertinent on site and adjacent structures such as houses, buildings, wells, roads and bridges, water and sewer utilities, septic fields, and storm drainage features.
(d) Proposed and existing roads, points of ingress and egress along with access control such as gates, fences, or berms.
(e) Buffer and set back lines along with the buffered boundary or feature.
(f) Springs, streams, creeks, rivers, ponds, and other waters and impoundments.
(g) Wetlands, if any.
(h) Boundary of the proposed waste area. ← DIFFICULT TO DELINEATE
(i) Existing topography with contours at a minimum of five foot intervals. Where necessary, a smaller interval shall be utilized to clarify existing topographic conditions. 10' INTERVALS
(j) Proposed excavation, grading, and final contours at a minimum of five foot intervals. Where necessary, a smaller interval shall be utilized to clarify proposed grading. Excavation, grading, and fill material side slopes shall not exceed three to one (3:1).
(k) Where on site borrow for operational and final cover is proposed, indicate the borrow excavation and grading plan with contours at a minimum of five foot intervals. Where necessary, a smaller interval shall be utilized to clarify proposed grading.
(l) Proposed surface water control features and devices such as slope drains, storm water pipes, inlets, culverts, and channels.
(m) Information showing that the project meets the requirements of 15A NCAC 4, Sedimentation Control Rules.
(n) Location of test borings or test pits, if used to determine the seasonal high water table elevation, shall be shown on the plans.
(o) A minimum of two cross-sections, one each along each major axis, per operational area showing: RECLAMATION PLAN?
(i) Original elevations.
(ii) Proposed excavation.
(iii) Proposed final elevations.

(4) An operational plan addressing the requirements under Rule .0566 of this Section and containing the following information shall be submitted with the application for a proposed Land Clearing and Inert Debris (LCID) landfill:
(a) Name, address, and phone number of individual responsible for operation and maintenance of the facility. KENT FOGLEMAN
(b) Projected use of the land after completion. RECLAMATION PLAN

(c) Description of systematic usage of disposal area, operation, orderly development and closure of the landfill.

(d) Type, source, and quantity of waste to be accepted. → LIFE OF MINING RECLAMATION?

(e) An emergency contingency plan, including fire fighting procedures.

History Note: Statutory Authority G.S. 130A-294; Eff. January 4, 1993.

.0566 OPERATIONAL REQ. FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Land Clearing and Inert Debris (LCID) landfills shall meet the following operational requirements:

(1) Operational plans shall be approved and followed as specified for the facility.
(2) The facility shall only accept those solid wastes which it is permitted to receive.

(3) Solid waste shall be restricted to the smallest area feasible and compacted as densely as practical into cells.

(4) Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.

(5) 120 calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The Division may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.

(6) Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from leaving the site and to prevent excessive on site erosion.

(7) Provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days upon completion of any phase of landfill development.

(8) The facility shall be adequately secured by means of gates, chains, berms, fences, etc. to prevent unauthorized access except when an operator is on duty. An attendant shall be on duty at all times while the landfill is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized wastes.

(9) Access roads shall be of all-weather construction and properly maintained.

(10) Surface water shall be diverted from the working face and shall not be impounded over waste.
(11) Solid waste shall not be disposed of in water.
(12) Open burning of solid waste is prohibited.
(13) The concentration of explosive gases generated by the facility shall not exceed:
(a) Twenty-five percent of the lower explosive limit for the gases in facility structures.
(b) The lower explosive limit for the gases at the property boundary.
(14) Leachate shall be properly managed on site through the use of current best management practices.
(15) Should the Division deem it necessary, ground water or surface water monitoring, or both, may be required as provided for under Rules .0601 and .0602 of this Subchapter.

(16) A sign shall be posted at the facility entrance showing the contact name and number in case of an emergency and the permit number. The permit number requirement is not applicable for facilities not requiring an individual permit.

History Note: Statutory Authority G.S. 130A-294; Eff. January 4, 1993.

MEMORANDUM

TO: File

FROM: Amy Annechino

DATE: November 1, 2006

RE: **FILE CLOSURE:** Compliance Order issued to Fogleman & Fogleman Soils, Inc. c/o Mr. James Fogleman, on September 26, 2006, Durham County Facility

---

I am closing my file pertaining to Fogleman & Fogleman Soils, Inc., relating to actions leading up to, and as a result of the Compliance Order issued to Fogleman & Fogleman Soils, Inc. c/o Mr. James Fogleman on September 26, 2006. On Wednesday, October 26, 2006, Ms. Linda Fogleman hand-delivered a permit renewal application as required by this Compliance Order. Please consider this enforcement file closed pending any future violations of Solid Waste Management Rules.

cc: Lauren Clemmons, Assistant Attorney General
Mark Poindexter, Field Operations Branch Head
Paul Crissman, Chief, Solid Waste Section
Mary Whaley, Waste Management Specialist
Toni Jones, Regional Engineer

6/5/2006

- SPOKE W/ SECRETARY @ FOGELMAN SITE TO PASS ALONG CONTACT INFO
  CONTACT @: 843.449.4548
  CELL: 919.795.4388
  OFFICE: 919.682.0068

- FOGELMAN'S ARE OUT OF TOWN / LOD PERMIT EXPIRED / COMPLIANCE ORDER ISSUED / FILE LOCATED / COMPLIANCE ORDER DEEMED INVALID / APPLICANT ASKED TO RESUBMIT

- NEED TO √ FILE FOR COMPLETENESS

- SPOKE TO MRS. FOGELMAN: WAITING FOR SUBMITTAL

NORTH CAROLINA
DURHAM COUNTY

CONTRACT OF LEASE

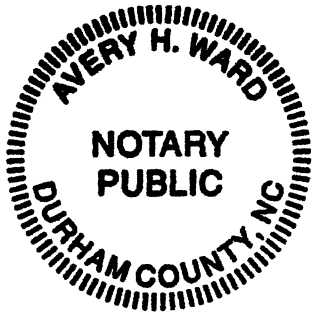
THIS CONTRACT OF LEASE made and entered into this 11 day of October, 2006, by and between JAMES KENT FOGLEMAN (hereinafter referred to as "Lessor") And JAMES KENT FOGLEMAN (hereinafter referred to as "Lessee")

WITNESSETH

Subject to the terms and conditions set forth, Lessors do hereby let and lease to Lessees and Lessee accept of Lessor a certain parcel of land in Durham County known as FOGLEMAN & FOGLEMAN SOILS, INC, 4005 Intermere Rd. Durham, NC 27704 and more particularly shown on the attached plat for the operation of Fogleman & Fogleman Soils, Inc., (Landfill and Mine.)

As rent for said premises, Lessee shall pay to Lessor SIX HUNDRED DOLLARS ($600.00) per week.

LESSOR



James Kent Fogleman

LESSEE

James Kent Fogleman

Avery Ward
Exp 1-4-2011

Willie L. Covington
Register of Deeds
Durham County North Carolina
200 East Main Street, Ground Floor
Durham, North Carolina 27701

State of North Carolina
County of Durham

I do hereby certify this to be a true copy of the attached document filed and recorded in the aforesaid county as evidenced in Book No.5396 Page No. 245 and ends with Page No.290

Witness my hand and seal this24th day of October 2006.

Willie L. Covington, Register of Deeds

Sharon M Cearl

Signature of ~~Assistant~~/Deputy Register of Deeds

Official Seal of Register of Deeds

WILLIE L. COVINGTON
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

2006050107

FOR REGISTRATION REGISTER OF DEEDS
Willie L. Covington
DURHAM COUNTY, NC
2006 OCT 24 03:33:56 PM
BK:5396 PG:245-247 FEE:$17.00

INSTRUMENT # 2006050107

TITLE DEED AND LANDFILL DECLARATION

Prepared by: Charles A. Reinhardt, Jr., Reinhardt Milam Law Group
Mail to: Grantee, 4005 Intermere Road, Durham, NC 27704

NORTH CAROLINA, DURHAM COUNTY

This Title Deed and Landfill Declaration, made and entered into this the 23 day of October, 2006, by and between JAMES KENT FOGLEMAN and wife LINDA FOGLEMAN, Grantors, and JAMES KENT FOGLEMAN, Grantee

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, James Kent Fogleman is the owner of the acreage described below, which was devised to the said James Kent Fogleman by will of his mother, Nora Ellen Fogleman, probated in Estate File 01-E-765, Durham County Clerk (see also will of John H. Fogleman, probated in Estate File 97-E-999, Durham County Clerk); and

THAT WHEREAS, although James Kent Fogleman filed an affidavit on October 11, 2006 in Book 5384 at page 488, Durham County Registry, which said affidavit is incorporated herein by reference, the North Carolina Department of Environmental, Health and Natural Resources, Division of Solid Waste Management, has requested that a "landfill statement" be inserted into the deed of the property

NOW, THEREFORE, Grantors by these presents do grant and convey unto the Grantee, his heirs, successors and assigns, for the sole purpose of inserting into Grantee's deed the landfill statement appearing below, all right, title and interest of Grantor in and to that parcel of land situated in Durham County, North Carolina, more particularly described as follows:

4001 Intermere Road
Durham County Tax Parcel ID 171246, (former Tax Parcel ID 726-01-001)
Durham County GIS PIN No. 0853-02-58-5620

Containing approximately 64.97 acres, more or less, and being all of that property which was described as originally containing 134 acres, more or less, in deed to John H. Fogleman and wife Nora Ellen Fogleman (both now deceased) recorded in Book 142 at page 380, Durham County Registry, BUT SAVE RESERVE AND EXCEPTING from said original 134 acres tract (1) all of that property conveyed to the State Highway Commission for the Interstate 85 right-of-way in Book 284 at page 564, Durham County Registry, (2) those 14 lots appearing in Plat Book 39 at page 64, Durham County Registry, (3) that 1.17 acre tract conveyed out in Book 411 at page 354, Durham County Registry, (4) that 47.24 acre tract conveyed to the United States of America in Book 1026 at page 981, Durham County Registry, and (5) that 4.8915 acre tract conveyed out in Book 1970 at page 69, Durham County Registry.

LANDFILL DECLARATION: Grantors and Grantee hereby acknowledge and declare as a matter of public record in this Title Deed that a solid waste landfill exists and is currently being operated on a 36 acre portion of said 64.97 acre tract, the location of which is more particularly shown on a map on file with the North Carolina Department of Environmental, Health and Natural Resources, Division of Solid Waste Management.

The purpose of this conveyance is solely to make the landfill declaration appearing above. Nothing herein shall be deemed to be a change of ownership or to change in any way the designation of this property for agricultural or deferred tax treatment.

TO HAVE AND TO HOLD the aforesaid parcel of land and privileges and appurtenances thereunto belonging to the said Grantee, his heirs, successors and assigns forever.

IN TESTIMONY WHEREOF, the said Grantors have hereunto set her hand and adopted seal, the day and year first above written.

James Kent Fogleman (SEAL)
James Kent Fogleman

Linda R Fogleman (SEAL)
Linda Fogleman

NORTH CAROLINA, DURHAM COUNTY

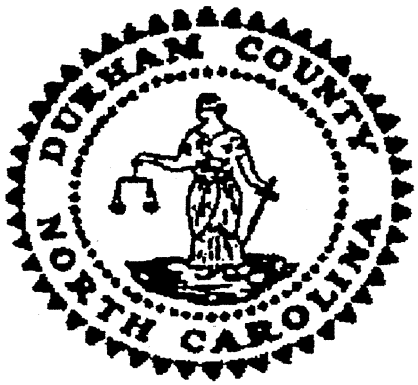
I, Avery H. Ward, a Notary Public, do hereby certify that James Kent Fogleman and wife Linda Fogleman, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day, and acknowledged the voluntary due execution of the foregoing Quitclaim Deed by her for the purposes stated therein.

WITNESS my hand and notarial seal, this the 23 day of October, 2006.

Avery H Ward
Notary Public

My commission expires: 1-4-2011

AVERY H. WARD NOTARY PUBLIC DURHAM COUNTY, NC



WILLIE L. COVINGTON
REGISTER OF DEEDS, DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

PLEASE RETAIN YELLOW TRAILER PAGE

It is part of recorded document, and must be submitted with original for re-recording and/or cancellation.

****

Filed For Registration:	**10/24/2006 03:33:56 PM**
Book:	**RE 5396 Page: 245-247**
Document No.:	**2006050107**
	DEED 3 PGS $17.00
Recorder:	**SHARON M CEARNEL**

2006050107

DURHAM COUNTY PERMIT NO. 32-F

SEE PERMITS AND MAPS DRAWER

FOR ADDITIONAL MAPS

Ed's copy

State of North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross, Jr., Secretary
Dexter R. Matthews, Director

THE DIVISION OF WASTE MANAGEMENT

September 26, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fogleman & Fogleman Soils, Inc.
c/o Mr. James Fogelman
4005 Intermere Road
Durham, NC 27704

Re: Compliance Order
Fogleman LCID Landfill- Durham County

Dear Mr. Fogelman:

Enclosed is a Compliance Order issued to Fogleman & Fogleman Soils, Inc. because of certain violations of the North Carolina Solid Waste Management Act (N.C. General Statute 130A, Article 9) and of the North Carolina Solid Waste Management Rules (15A N.C. Administrative Code 13B) which implements the Act. This Compliance Order describes the violations of concern and the actions required by Fogleman & Fogleman Soils, Inc. to come into compliance with both the General Statutes and the Administrative Code.

I encourage Fogleman & Fogleman Soils, Inc. to schedule an informal conference at once with my staff to discuss this Compliance Order. Please contact Ms. Mary Whaley, Waste Management Specialist at the Raleigh Central Office at (919) 508-8523.

Sincerely,

Paul S. Crissman, Chief
Solid Waste Section
Division of Waste Management

Linda Fogleman
683-3256

Enclosure

cc: Lauren Clemmons, Assistant Attorney General
John Crowder, Eastern District Supervisor
Mary Whaley, Waste Management Specialist
Paul Crissman, Chief, Solid Waste Section
Mark Poindexter, Supervisor, Field Operations Branch
Central Files, Solid Waste

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

In Re: Fogleman & Fogleman Soils, Inc. **COMPLIANCE ORDER**

PRELIMINARY STATEMENT

This Compliance Order is issued under N.C. General Statutes 130A-22, the Solid Waste Management Act (N.C.G.S. 130A, Article 9), and the Solid Waste Management Rules (15A N.C. Admin. Code 13B). Title 15A of the N.C. Admin. Code, Chapter 13B contains standards and requirements applicable to the proper management of solid waste.

On March 1, 1971, the State of North Carolina, Department of Human Resources, Division of Health Services, Solid Waste Section, implemented a Solid Waste Management Program under the Solid Waste Management Act, N.C.G.S. 130A, Article 9 and Rules codified at 15A N.C. Admin. Code 13B. Solid Waste Management is now regulated under the Solid Waste Section of the Division of Waste Management of the Department of Environment and Natural Resources. Mr. Paul S. Crissman, Chief of the Solid Waste Section, Division of Waste Management, Department of Environment and Natural Resources, has been delegated the authority to implement both the Act and the Rules. Based upon information available, the Division has determined that Fogleman & Fogleman Soils, Inc. is in violation of certain requirements of the Act and/or Rules, as set forth below.

STATEMENT OF FACTS

1. On March 16, 1992, the Division of Waste Management issued a permit to operate a demolition landfill (Permit #32-F) to Fogleman & Fogleman Soils, Inc. located on Red Mill Road in Durham, North Carolina, Durham County. Permit #32-F Condition No. 1 states, "This amendment is issued for a period not to exceed five years from the date of issuance. ... Additionally, conditions and revisions of the approved plan shall be approved by the North Carolina Solid Waste Section." No renewal application or revision plans were deemed as acceptable and approved by the Solid Waste Section.

2. On September 21, 2006, Ms. Amy Annechino, Compliance Officer, Solid Waste Section, spoke with Ms. Avery Ward, Office Manager of Fogleman Landfill. Ms. Ward told Ms. Annechino, when asked, that the facility was currently accepting yard waste at the facility.

STATEMENT OF VIOLATIONS

The above facts constitute violations of the following sections of Title 15A N.C. Admin. Code Subchapter 13B:

1. Section .0201(a) states that:

> No person shall establish or allow to be established on his land, a solid waste management facility, or otherwise treat, store, or dispose of solid waste unless a permit for the facility has been obtained from the Division.

Fogleman & Fogleman Soils, Inc. is in violation of *15A NCAC 13B .0201(a)* in that they operated a solid waste management facility without a valid permit.

CONDITIONS FOR COMPLIANCE

Upon receipt of this Compliance Order, you must:

1. Immediately cease accepting all solid waste materials, or

2. Within 30 days submit a permit application to:

   Ed Mussler
   N.C. DENR – Div. of Waste Management
   1646 Mail Service Center
   Raleigh, N.C. 27699-1646

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

You are hereby advised that, pursuant to N.C.G.S. 130A-22, each day of continued violation of any requirement of the act, the 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. If the violation(s) continue, you may also be subject to further enforcement actions including injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

INFORMAL CONFERENCE

The Division encourages you to schedule an informal conference to discuss this matter and to give you an opportunity to provide additional information, including any actions you have taken to correct the violation(s). If you desire an informal conference, please contact:

Mary Whaley
Waste Management Specialist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Rd. Suite 150
1646 Mail Service Center
Raleigh, NC 27669
(919) 508-8523

By: _____

Paul S. Crissman
Chief, Solid Waste Section
Division of Waste Management
Department of Environment and Natural Resources

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Compliance Order to be served upon the person designated below, at the last known address, causing said copy to be deposited in the U.S. Mail, First Class (certified mail postage prepaid, and return receipt requested) in an envelope addressed to:

Fogleman & Fogleman Soils, Inc.
c/o Mr. James Fogelman
4005 Intermere Road
Durham, NC 27704

Dated this 26 day of September, 2006

Amy Annecine
Compliance Officer
Division of Waste Management
Department of Environment and Natural Resources

Kent Fogleman
Yes accepting
yard waste.

FOGLEMAN & FOGLEMAN SOILS, INC.
4005 INTERMERE RD.
DURHAM, NC 27704
PHONE # 919-682-0068
JUNE 23, 2000

HOURS OF OPERATION:
MONDAY – FRIDAY 7AM – 5PM

THIS LANDFILL ***IS PERMITTED*** TO TAKE:
STUMPS, LIMBS, LEAVES, BRICK, CONCRETE, UNPAINTED UNTREATED WOOD, ASPHALT AS PER HB 1131 AND UNCONTAMINATED SOIL.

IF ANY OTHER MATERIAL IS FOUND IN A LOAD THAT YOU DUMP, YOU WILL BE PHYSICALLY AND/ OR FINANCIALLY RESPONSIBLE FOR ITS' REMOVAL.

WE THANK YOU FOR YOUR BUSINESS AND ASK THAT YOU HELP US KEEP OUR LANDFILL "CLEAN"!!

THANK YOU!!
Kent Fog
KENT FOGLEMAN

PERMIT No. 32-F
March 16, 1992

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

DIVISION OF SOLID WASTE MANAGEMENT

P.O. BOX 27687 RALEIGH, NC 27611-7687

S O L I D W A S T E P E R M I T

JAMES KENT FOGLEMAN
is hereby issued a permit to operate a
DEMOLITION LANDFILL

located

on Red Mill Road near Interstate 85 north of the City of Durham in Durham County, North Carolina in accordance with Article 9, Chapter 130A, of the General Statutes of North Carolina and all rules promulgated thereunder and subject to the conditions set forth in this permit. The facility is located and described by the legal description of the site on the attached sheet.

James C Coffey

James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Solid Waste Management
Fayetteville Regional Office
James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

May 24, 1993

Mr. Billy Walker, P.E.
2001 Meadow Road
Durham, N.C. 27705

Attn: Mr. Billy Walker

Ref: Land Clearing and Inert Debris (LCID) Landfill rules

Mr. Walker:

As per our conversation on May 24, 1993, enclosed is the information we discussed that consists of the new LCID rules that replace sections .0506 and .0507; Demolition Landfills, and the Solid Waste Management Policy Memorandum #16-Revised, January 4, 1993.

Policy Memorandum #16-revised differentiates landfills into four categories: yard trash, land clearing debris, inert debris, and construction and demolition debris.

If you have any questions after you have had an opportunity to review the new LCID Rules, please contact Mark Fry or myself at (919) 486-1191.

Respectfully,

Jim Barber
Eastern Area Engineer

enclosures
cc: Mark Fry - Fayetteville Regional Office

225 Green Street, Suite 601, Fayetteville, North Carolina 28301 Telephone: (919) 486-1191 Fax: (919) 486-1791

Mark this is a copy of the
Bill from City of Durham
I am sorry for troubling you
The Contractor that dumped the
trash was Ferrell Grading they came
and Hauled it to the City Dump

Thanks for your Trouble
James Kent Stephenson

RECEIPT

SOLD TO
CASH RECEIPT

CITY OF DURHAM
SANITATION DEPARTMENT
101 CITY HALL PLAZA
DURHAM, N.C. 27701

TELEPHONE 919-560-4505

1209998

SPECIAL INSTRUCTIONS

DRIVER ON ☐ OFF ☐

TRUCK NO.	TRUCKER	DATE	TIME	TICKET NO.
900	CASH CUSTOMER	09/08/92	09:22	209998 a

ORDER NO.	PRODUCT CODE	DESCRIPTION	TIME IN
	SAN		

CUST. ACCT. NO.	CUST. P.O. NO.	CONTRACT NO.	WEIGHMASTER
CASH			MB

Following weights recorded in tons:

From Fogleman Job to Landfill

MB

Yards .00

WEIGHT LOAD

Main Truck

		Scale
Gross	12.85	1
Tare	11.47	k
Net	1.38	
TOTAL NET	1.38	

UNIT PRICE	NET PRICE	DELIVERY CHARGE	SUB-TOTAL	TAX	GRAND TOTAL
38.00	52.44	.00	52.44	.00	52.44

DRIVER _____ REC'D BY _____

MEMO

DATE: _____

TO: _____ SUBJECT: _____

9-3-92 - Visit - Too much C & D.
Told to remove and send receipts.
(He sent receipts)

7/12/93 - JAY FOGLEMAN - SON
T.J. (TOMMY JOE) - REGULAR ATTENDANT

North Carolina Department of Environment, Health, and Natural Resources

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

March 16, 1992

Mr. James K. Fogleman
Rt. 5
Box 170
Durham, North Carolina 27704

RE: Fogleman Demolition Landfill, Permit No. 32-F

Dear Mr. Fogleman:

Enclosed find a Solid Waste Permit, a Certified Copy, and Conditions of the Permit for the above referenced demolition landfill.

This permit is for a five year period from the date of issuance and approves the construction and operation of Phase I of the referenced demolition landfill on the property defined in the attached Legal Description.

Please note Conditions No. 2 and No. 4. Condition No. 2 states that, "this permit shall not be effective unless the certified copy is filed in the Register of Deeds Office, in the grantor index under the name of the owner of the land in the county or counties in which the land is located. After recordation, the certified copy shall be returned to the Solid Waste Section and shall have indicated on it the page and book number, date of recordation, and Register's seal.

Condition No. 4 specifies the types of wastes which may be received at the facility. This disposal site is permitted to receive yard waste, land-clearing debris, and inert debris as defined in the Solid Waste Management Act of 1989.

If you have any questions, please contact our office at (919) 733-0692.

Sincerely,

Ellis Cayton

Ellis Cayton
Environmental Engineer
Solid Waste Section

Enclosure

cc: Terry Dover
Mark Fry
Tom Kagarise
George Frazier

PERMIT No. 32-F
March 16, 1992

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

DIVISION OF SOLID WASTE MANAGEMENT

P.O. BOX 27687 RALEIGH, NC 27611-7687

S O L I D W A S T E P E R M I T

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James C Coffey

James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

PERMIT No. 32-F
March 16, 1992

SOLID WASTE PERMIT

FOGLEMAN DEMOLITION LANDFILL

CONDITIONS OF PERMIT

1. This amendment to permit is issued for a period not to exceed five years from the date of issuance. This permit is for the construction of Phase I of the demolition landfill according to the attached plans. Additional conditions and revisions of the approved plans shall be approved by the North Carolina Solid Waste Section.

   Upcoming amendments to the Solid Waste Management Rules or violation of groundwater standards may necessitate the modification of the construction and operation plans or even closure of this facility prior to this date.

2. <u>This permit shall not be effective unless</u> the certified copy is filed in the Register of Deeds Office, in the grantor index under the name of the owner of the land in the county or counties in which the land is located. After recordation, the certified copy shall be returned to the Solid Waste Section and shall have indicated on it the page and book number, date of recordation, and Register's seal.

3. When this property is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than used in the body of the deed or instrument a statement that the property has been used as a demolition landfill.

4. This solid waste disposal site is permitted to receive yard waste, land-clearing debris, and inert debris as defined in the Solid Waste Management Act of 1989.

5. This facility shall conform to operating procedures in Rule 0.0507 of the Solid Waste Management Rules and the following specific conditions:

   a. Solid Waste shall be restricted to the smallest area feasible and compacted as densely as practical.
   b. Within six months after final termination of disposal operations at the site or a major part thereof or upon revocation of a permit, the area shall be covered with adequate soil cover, adequately sloped to allow surface water runoff in a controlled manner without excessive on-site siltation, and seeded with native grasses or other suitable vegetation. The Division may require further action to be taken in order to correct any condition

which is or may become injurious to the public health.

c. If necessary, to prevent erosion, seeded slopes shall be covered with straw or similar material;
d. Temporary seeding shall be utilized as necessary to control erosion;
e. Adequate erosion control measures shall be practiced to prevent silt from leaving the site;
f. The site shall be adequately secured by means of gates, chains, berms, fences, etc., to prevent unauthorized entry except when a trained operator is on duty. An attendant shall be on duty at the site at all times while it is open for public use to assure compliance with operation requirements and to prevent entry of hazardous waste and other unacceptable waste onto the site;
g. Surface water shall be diverted from the operational area and not allowed to be impounded over waste;
h. Solid waste shall not be disposed of in water;
i. Open burning of solid waste is prohibited;
j. Equipment shall be provided to control accidental fires or arrangements shall be made with the local fire protection agency to immediately provide fire-fighting services when needed.

6. Ground water quality at this facility is subject to the classification and remedial action provisions of 15 NCAC 2L.

7. All earth-disturbing activities will be conducted in accordance with the Durham County Soil and Erosion Control Ordinance.

AFFIDAVIT

Nora Fogleman

Affiant, John H. Fogleman, deposes and says that he is the fee simple owner of real property located at Tax Map 726, Block 1, Lot 1, Oak Grove Township, in Durham County, North Carolina. James Kent Fogleman is applying for a permit to operate a (demolition) landfill on my property. I certify that I have read and understand N.C.G.S. § 130A-309.27 and 15A North Carolina Administrative Code 13B Rule .0201, which statute and rule assign joint and several liability to me as owner of the landfill and to the operator of the landfill for the improper operation and closure of the landfill, as provided by law. I understand that I am financially responsible to the State for fulfilling all regulatory requirements related to the operation of the landfill, for closure and post-closure care of the landfill, for any violations of regulatory requirements, and for any environmental damage resulting from the landfill, including but not limited to environmental clean-up costs. I understand that I am legally liable to third parties for any damages to persons or property caused by the landfill. I also understand that I must file a copy of the landfill permit with the Register of Deeds in Durham County for recordation and indexing in the Grantor Index under my name as property owner. When the land on which the landfill is located is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain a statement in the description section in no smaller type than that used in the body of the instrument that the property has been used as a sanitary landfill and a reference by book and page number to the recordation of the permit.

This, the 25 day of Feb., 19 92.

John H. Fogleman (SEAL)
Nora Fogleman

Subscribed and sworn before me, the
25 day of Feb, 1992.

John L Hardiman

My commission expires 12-13-95

Durham Co NC

JOHN H. FOGLEMAN
JAMES K. FOGLEMAN
PROPOSED DEMOLITION LANDFILL

1. Filling operations to comply with the Durham County Soil and Erosion requirements. Vegetation to be established on completed fill sections as the filling is in process.

2. Shown on plan.

3. Attached.

4. The filling process will begin along the western edge of the proposed dump site so as to provide a negative grade to the east side of the dump site thus eliminating any chance of ponding. The filling materials will be compacted by being pushed from west to east as materials are being trucked into the site. Access to the dump site will be controlled by gates and fences as shown on the plan with an attendant at the dump site during operation hours. Emergency procedures (fire control) to be provided by the Redwood Volunteer Fire Department.

5. (a) The emergency spillway for the Falls Lake Project is 264.0 feet above sea level as per Custis Pope, Corps of Engineers Office, Cary, NC.

   (b) Corps of Engineers permit is attached.

   (c) The high water table will be determined as the bottom of the creek elevation. All solid waste shall be a minimum of four feet (4') above this elevation.

   (d) See attached profiles.

Code NW

U.S. ARMY CORPS OF ENGINEERS
Wilmington District

Nationwide Permit Verification

Property Owner/Agent John H. Fogleman Phone Number (919) 683 - 3256

Address Rt 5 Box 170
Durham, NC 27704

Size and Location of Property 15.28 acres between SR 1632 (Red Mill Road) and I-85 in Durham County, NC.

The proposed project as described below is regulated by ( ) Section 404 of the Clean Water Act (33 U.S.C.) and/or ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and is authorized in accordance with paragraph 330.5 of the Regulatory Programs of the Corps of Engineers as published in the Federal Register November 13, 1986.

A. Waterway Unnamed Tributary to Ellerbe Creek

1. Above headwaters X 2. Isolated _____ N/A ____

B. Type of Project Activity ( ) Private (X) Commercial ( ) Other Demolition Land Fill impacting less than ⅓ acre wetlands/waters of U.S. (50' buffer from main tributary) property line.

C. The described work is authorized by Nationwide Permit Number 26 in accordance with the attached general conditions (where applicable) and the following special conditions: Regional Conditions.

D. Any violation of the general and special conditions described herein may subject the permittee to a work cessation, restoration order, and/or civil or criminal legal action.

E. This Department of the Army Nationwide Permit verification does not relieve the undersigned permittee of the responsibility to obtain any other required approvals. The permittee may need to contact appropriate State and local agencies before beginning work.

F. By signature the applicant certifies an understanding and acceptance of all terms and conditions of this permit.

James Kent Fogleman for J. H. Fogleman
Property Owner/Agent's Signature

Eric C. Alsmeyer
Field Coordinator's Signature

2/4/92 2/4/94
Date Expiration Date

CESAW Form 591
Feb 91

32-F
P

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

February 20, 1992

Mr. Billy Walker, P.E.
2001 Meadow Road
Durham, N.C. 27705

Re: Proposed Demolition Landfill on Red Mill Road

Dear Mr. Walker:

As is the Solid Waste Section's understanding from telephone conversations and the deed enclosed as part of the application for referenced demolition landfill, the owner of the land hosting the demolition landfill is John H. Fogleman and the operator of the landfill will be James Kent Fogleman. The Solid Waste Section must be satisfied that the owner(s) of the land are fully aware of their legal obligations regarding the landfill. A copy of a model affidavit is enclosed which should be executed by each person or legal entity with an ownership interest in the land. Please have the Fogleman's read, sign, and return an affidavit to this office as part of the application.

In situations where the owner or operator are different, the operator is the permit applicant. The permit shall be issued to the operator, only upon receipt of affidavits executed by each person or entity with an ownership interest in the land.

Should you have any questions concerning this requirement, please feel free to contact me at (919) 733-0692.

Respectfully,
Ellis Cayton
Ellis Cayton
Environmental Engineer
Solid Waste Section

cc: Jim Coffey
Terry Dover ✓ T.F.D
Mark Fry

AFFIDAVIT

Affiant, _____, deposes and says that he is the fee simple owner of real property located at _____, _____Township, in _____ County, North Carolina. _____ is applying for a permit to operate a (sanitary), (demolition) landfill on my property. I certify that I have read and understand N.C.G.S. § 130A-309.27 and 15A North Carolina Administrative Code 13B Rule .0201, which statute and rule assign joint and several liability to me as owner of the landfill and to the operator of the landfill for the improper operation and closure of the landfill, as provided by law. I understand that I am financially responsible to the State for fulfilling all regulatory requirements related to the operation of the landfill, for closure and post-closure care of the landfill, for any violations of regulatory requirements, and for any environmental damage resulting from the landfill, including but not limited to environmental clean-up costs. I understand that I am legally liable to third parties for any damages to persons or property caused by the landfill. I also understand that I must file a copy of the landfill permit with the Register of Deeds in _____ County for recordation and indexing in the Grantor Index under my name as property owner. When the land on which the landfill is located is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain a statement in the description section in no smaller type than that used in the body of the instrument that the property has been used as a sanitary landfill and a reference by book and page number to the recordation of the permit.

This, the _____ day of _____, 19___.

_____
(Seal)

Subscribed and sworn before me,
the _____ day of _____, 1992.

_____

My commission expires _____

RECEIVED

DEC 12 1991

SOLID WASTE MANAGEMENT
FAYETTEVILLE REGIONAL OFFICE

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

December 10, 1991

Mr. William C. Walker, Jr., PE, RLS
2001 Meadow Road
Durham, NC 27705

Re: Completeness Review - Fogleman Demolition Landfill

Dear Mr. Walker:

The Solid Waste Section has conducted a preliminary review of the referenced project, submitted by Mr. William C. Walker, Jr., PE, RLS in behalf of Kent Fogleman. In accordance with the N.C. Solid Waste Management Rules, the following comments must be addressed to continue the review process:[1]

1. 0.0506 (2)(c): The plans should show procedures for promoting vegetative growth as soon as possible on all completed areas. Basically, all sedimentation/erosion control activities must be conducted in accordance with the Durham City/County Sedimentation & Erosion Control Ordinance.

2. 0.0506 (2) (a): The plot plan of the proposed site should show access controls (gates, proposed fencing etc...). To enhance the plan, at least two cross sections showing the vertical profile of waste disposal would be helpful.

3. 0.0506 (2)(d): A copy of the deed or other legal description of the site shall be included as part of the application.

4. 0.0507 (1): An operations plan shall be provided describing at a minimum: - waste filling procedures
   - access controls
   - emergency procedures (fire control)

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[1] The number appearing at the beginning of comments No. 1-4 (Ex., 0.0506 (2)(c)) refers to the Solid Waste Management Rule which needs to be addressed.

5. In addition to the requirements outlined in Section 0.0506 and .0507 of the Solid Waste Management Rules, recent policy revisions require that a landfill, with a total disposal area greater than one (1) acre in size, operated for the disposal of land-clearing, yard trash, inert debris, shall meet the following additional restrictions:

   a) 100-year Floodplains: A demolition landfill shall not be located in the 100-year floodplain. Information shall be provided in the application positively demonstrating the site is not in the 100-year floodplain. Previously submitted information appears inconclusive concerning pool elevations for the 100-year floodplain.
   b) Wetland Restrictions: The site shall not be in a Wetland. Information shall be provided that demonstrates this area in not a wetland.
   c) Solid waste will be a minimum of 4 feet above seasonal high water table. Information shall be provided demonstrating a 4 foot separation between waste and the water table.
   d) The permit application must show proposed excavation and final contours. As mentioned above, the permit application could be enhanced through providing two cross sections of the site upon completion of fill activities.

These comments are intended to expedite the review of the application, and in no way do they restrict the Section's right to request additional information during the review process.

If there are any questions, or if you would like to schedule a meeting to discuss the application, please contact me at (919) 733-0692.

Respectfully,

Ellis Cayton

Ellis Cayton
Environmental Engineer
Solid Waste Section

cc: Terry Dover
Mark Fry

N/F
DURHAM CO.

RECORD OF COMMUNICATION

☐ PHONE CALL ☐ DISCUSSION ☐ FIELD TRIP ☐ CONFERENCE
☐ OTHER (SPECIFY)

(Record of item checked above)

TO: Jim Coffey

FROM: MARK FRY

DATE 7-22-91

TIME A.M.

682-6383

SUBJECT: Proposed Demolition (Inert) Landfill - Kent Fogleman, Red Mill Rd., Durham

SUMMARY OF COMMUNICATION

On 7-22-91 I visited the above mentioned property. The entire property is approx. 85 acres. Mr. Fogleman showed me a letter of zoning approval for inert landfill. Access control will be good since there is only one entrance road from Red mill Rd onto the property from the south side. There is a railroad track running parallel to the east property side with a small tract of land between it and Mr. Fogleman. Mr. Fogleman plans to try and purchase this for additional buffer. Red Mill Rd. runs parallel to the west property side with several houses between it and Mr. Fogleman which are served by individual wells. It appears that a buffer of at least 200' could be maintained between waste and wells on this side.

Vacant land owned by the Fed govt. lies to the north. According to Mr. Fogleman this "federal land" was once part of his and was "taken" by them. Also according to Fogleman the federal lands south property line is several feet above the 100 year flood plain. Mr. Foglemans property is above and drains towards the federal land. The federal land is bordered on the north side by Ellerbe Creek. Mr. Fogleman proposes to use two ravines as fill areas (see map) Area one is a man made ravine and was excavated years ago to construct I-85. It is wooded now. It appears to be a dry ravine and consists of 20 acres. Area two is a natural ravine and also appears dry at this time. Area two is approx. 8 acres and is also heavily wooded. Cover material would come from higher property between areas 1 & 2. The waste proposed is stumps only. Once completed the land would be used for pasture.

The closest well to area one that I could see is approx. 200' directly south and upgradient from where waste would start. There are several houses owned by Fogleman along his entrance road. No other

CONCLUSIONS, ACTION TAKEN OR REQUIRED

buildings or wells appear close. The closest wells that I could see to area 2 are along Red Mill Rd. Mr. Fogleman owns enough property there to maintain at least a 200' buffer according to him. No other buildings or wells appear close.

Note - Mr. Foglemans property is outlined in green on map, fill areas in red.

INFORMATION COPIES
TO:

G6
NE
I-85
RAP
2/15/90
HEL

FOGLEMAN LANDFILL

THE FOGLEMAN LANDFILL HAS BEEN IN OPERATION SINCE 1992. DURING THAT TIME APPROXIMATELY 14 ACRES HAVE BEEN USED FOR FILL. THIS AREA HAS NOT BEEN USED TO MAXIMUM CAPACITY SINCE A 3/1 SLOPE HAS NOT YET BEEN ACHIEVED. THE EXISTING 14 ACRES IS APPROVIMATELY AT 2/3 CAPACITY. AT THE SAME FILL RATE THAT HAS OCCURRED DURING THE PAST TEN YEARS THERE STILL REMAINS 3 TO 4 YEARS OF LIFE OVER THESE 14 ACRES. THE PROPERTY IS ALSO PERMITTED AS A MINE THE DEPTH OF WHICH IS AT APPROXIMATELY AT ELEVATION 300. THE DEGREE OF DIFFICULTY OF EXCAVATION DUE TO THE HARDNESS OF THE SAND ROCK AS APPOSED TO THE WATER TABLE IS THE LIMITING THE DEPTH OF THE MINE. THERE ARE APPROXIMATELY 24 ACRES OF UNFILLED AND UNMINED AREA REMAINING. IF FILL MATERIALS WERE RECEIVED AT THE SAME RATE AS IN THE PAST THE LIFE OF THE LANDFILL COULD EXTEND BEYOND TWENTY YEARS.

CROSS SECTIONS INCLUDED SEEM TO INDICATED THAT THERE IS APPROXIMATELY 2.6 MILLION CUBIC YARDS REMAINING EXCLUSIVE OF THE VOLUME CREATED BY THE MINING OPERATION.

0564
SECTION 2 3 4- THE DURHAM COUNTY INVENTORY OF NATURAL AREA AND RARE SPECIES AS WELL AS HISTORICAL SITE SHOWS NO INDICATION OF INTEREST IN THE AREA OF THE LANDFILL.

SECTION 5- THERE ARE NO STATE PARKS BORDERING THE LANDFILL

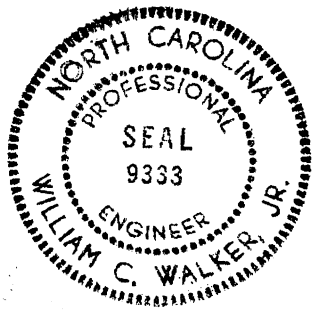
SECTION 7- PORTIONS FO THE FILL MATERIALS BROUGHT TO THE LANDFILL ARE SOILS THAT ARE ADEQUATE FOR COVER.

SECTION 8 A@C- THERE ARE NO KNOWN DISCHARGES OF POLLUTANTS FROM THE MINNING AND FILLING OPERATIONS.

SECTION 8 B- SEDIMENTATION PITS CONTROL DISCHARGE OF DREDGED AND FILL MATERIALS FROM THE SITE

SECTION 8 D- NOTE ON DRAWING

SECTION 9 A B C- SHOWN ON THE DRAWING



3/29/02

Foglaman Landfill
Volume Calculation

Section "A" Cross Sectional Area 8000 ft²

Average × 400 ft
= 8,000,000 ft³

Section "B" Cross Sectional Area 32000 ft²

Average × 400 ft
= 25,200,000 ft³

Section "C" Cross Sectional Area 94000 ft²

Average × 450 ft
= 37,350,000 ft³

Section "D" Cross Sectional Area 77000 ft²

705,500,000

705,500,000 ÷ 27 = 2.6 million yd³

NORTH CAROLINA PROFESSIONAL SEAL 9333 ENGINEER WILLIAM C. WALKER JR.

3/29/02

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

P E R M I T

for the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Fogleman Landfill and Mine, Inc.

Fogleman Mine

Durham County - Permit No. 32-09

for the operation of a

Borrow Pit

which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

MINING PERMIT EXPIRATION DATE: September 1, 2009

PERMIT No. 32-F
March 16, 1992

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

DIVISION OF SOLID WASTE MANAGEMENT

P.O. BOX 27687 RALEIGH, NC 27611-7687

S O L I D W A S T E P E R M I T

JAMES KENT FOGLEMAN

is hereby issued a permit to operate a

DEMOLITION LANDFILL

located

on Red Mill Road near Interstate 85 north of the City of Durham in Durham County, North Carolina in accordance with Article 9, Chapter 130A, of the General Statutes of North Carolina and all rules promulgated thereunder and subject to the conditions set forth in this permit. The facility is located and described by the legal description of the site on the attached sheet.

James C Coffey

James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

32-F

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Waste Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

DEHNR

February 26, 1997

Mr. Billy Walker, P.E.
2001 Meadow Road
Durham, North Carolina 27705

Ref: Fogleman Land Clearing & Inert Debris Landfill Permit Renewal Application.

Mr. Walker:

The Solid Waste Section has conducted a review of the Land Clearing & Inert Debris(LCID) Landfill Permit Application, submitted by you on behalf of Mr. John H. Fogleman. In accordance with the North Carolina Solid Waste Management Rules section .0563 (6)(c); existing demolition landfills must comply with the siting criteria requirements of these Rules(Section .0564) as of 1 January 1998 or cease operations and close in accordance with these Rules. This rule is in reference to Demolition landfills permitted prior to 1 January 1993 under the old Demolition landfill rules, Sections .0506 and .0507 which the Fogleman landfill was permitted under and where repealed on 4 January 1993. In accordance with section .0564 Siting Criteria for Land Clearing and Inert Debris(LCID) Landfills, the following items and comments must be addressed to meet the requirements of this Rule to allow the Solid Waste Section to renew permit 32-F for continued operation of a LCID landfill. Please address the following:

1. The 100-year floodplain location on the original FIRM map shows that the subject property is encroached upon by the 100 year floodplain. Please reference the location of the 100 year floodplain on the site plan or indicate the mean sea level elevation of the floodplain. Also indicate the waste boundary on the site plan relative to the floodplain.

2. Please address items in Section .0564 (2) thru (5) and (7) thru (10), enclosed with this letter.

3. Please indicate on the site plan the limits of the existing waste disposal footprint and show the limits of future cells based on five year waste volume needs(include both horizontal and vertical dimensions).

4. Please provide a copy of the approved Mining Permit from the Land Quality Section.

P.O. Box 27687,
Raleigh, North Carolina 27611-7687
Voice 919-733-4996

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If you have any questions or require any assistance, please do not hesitate to contact me at (910) 486-1191. Based on conversations with you on 25 February 1997, I will meet with you and Mr. Fogleman on Friday February 28 at 9am at the site. If this date and time is not satisfactory, please contact me at the above referenced number.

Thank you,

Jim Barber
Eastern Area Engineer
Solid Waste Section

copy: Jim Coffey-Permitting Branch Head
Terry Dover-Eastern Area Supervisor
Robert Hearn-Environmental Technician
Mr. J.H. Fogleman-Site operator and owner
Raleigh Central File: Fogleman LCID landfill - Permit 32-F

.0563 APPLICABILITY REQ. FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Management of land clearing and inert debris shall be in accordance with the State hierarchy for managing solid waste as provided for under G.S. 130A-309.04(a). Disposal in a landfill is considered to be the least desirable method of managing land clearing and inert debris. Where landfilling is necessary, the requirements of this Rule apply.

(1) An individual permit from the Division of Solid Waste Management is not required for Land Clearing and Inert Debris (LCID) landfills that meet all of the following conditions:

(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management.

(b) The total disposal area is under two acres in size.

(c) The facility and practices comply with the siting criteria under Rule .0564, and operational requirements under Rule .0566.

(d) The fill activity is not exempt from, and must comply with all other Federal, State, or Local laws, ordinances, Rules, regulations, or orders, including but not limited to zoning restrictions, flood plain restrictions, wetland restrictions, sedimentation and erosion control requirements, and mining regulations.

(2) Where an individual permit is not required, the following applies:

(a) The owner of the land where the landfill is located must notify the Division on a prescribed form, duly signed, notarized, and recorded as per Sub-item (2)(b) of this Rule. The operator of the landfill, if different from the land owner, shall also sign the notification form.

(b) The owner must file the prescribed notification form for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification in the grantor index under the name of the owner of the land in the county or counties in which the land is located. A copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording shall be sent to the Division of Solid Waste Management.

(c) When the land on which the Land Clearing and Inert Debris Landfill is sold, leased, conveyed, or transferred in any manner, 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 property has been used as a Land Clearing and Inert Debris Landfill and a reference by book and page to the recordation of the notification.

(3) An individual permit is required, except for landfills subject to Item (5) of this Rule, for the construction and operation of a Land Clearing and Inert Debris (LCID) landfill when:

(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management, and

(b) The total disposal area is greater than two acres in size.

(4) Individual permits for land clearing and inert debris landfills shall be issued for not

more than five years.

(5) Landfilling of land clearing and inert debris generated solely from, and within the right of way of, North Carolina Department of Transportation projects shall be subject to the following:

(a) Only waste types as described in Sub-item (1)(a) of this Rule may be disposed of within the Department of Transportation right of way.

(b) Waste is landfilled within the project right of way from which it was generated.

(c) The disposal area shall not exceed two contiguous acres in size.

(d) Disposal sites shall comply with the siting requirements of Rule .0564 of this Section except for Item (10).

(e) Disposal sites are not subject to the requirements of Item (2) of this Rule and Rule .0204 of this Subchapter.

(6) Landfills that are currently permitted as demolition landfills are required to comply with the following:

(a) Only waste types as described in Sub-item (3)(a) of this Rule may be accepted for disposal, as of the effective date of this Rule unless otherwise specified in the existing permit.

(b) Operations must be in compliance with Rule .0566 of this Section as of the effective date of this Rule.

(c) Existing demolition landfills must comply with the siting criteria requirements of these Rules as of January 1, 1998 or cease operations and close in accordance with these Rules.

History Note: Statutory Authority G.S. 130A-294; 130A-301; Eff. January 4, 1993.

.0564 SITING CRITERIA FOR LAND CLEARING AND INERT DEBRIS (LCID) LANDFILLS

The following siting criteria shall apply for Land Clearing and Inert Debris (LCID) landfills:

☐ (1) Facilities or practices, shall not be located in the 100-year floodplain.

☐ (2) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.

☐ (3) Facilities or practices shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17 which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies can be obtained at no cost.

☐ (4) Facilities or practices shall not damage or destroy an archaeological or historical site.

☐ (5) Facilities or practices shall not cause an adverse impact on a state park, recreation or scenic area, or any other lands included in the state nature and historic preserve.

☐ (6) Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).

(7) It must be shown that adequate suitable soils are available for cover, either from on or off site.

☐ (8) Land Clearing and Inert Debris landfills shall meet the following surface and ground water requirements:

(a) Facilities or practices shall not cause a discharge of pollutants into waters of the state

that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as amended.

☐ (b) Facilities or practices shall not cause a discharge of dredged materials or fill material into waters of the state that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.

☐ (c) Facilities or practices shall not cause non-point source pollution of waters of the state that violates assigned water quality standards.

☐ (d) Waste in landfills with a disposal area greater than two acres shall be placed a minimum of four feet above the seasonal high water table, except where an alternative separation is approved by the Division.

~~(e)~~ Waste in landfills with a disposal area less than two acres shall be placed above the seasonal high water table.

(9) The facility shall meet the following minimum buffer requirements:

☐ (a) 50 feet from the waste boundary to all surface waters of the state as defined in G.S. 143-212.

☐ (b) 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.

☐ (c) Buffer requirements may be adjusted as necessary to insure adequate protection of public health and the environment.

☐ (10) The facility shall meet all requirements of any applicable zoning ordinance.

History Note: Statutory Authority G.S. 130A-294; Eff. January 4, 1993.

.0565 APPLICATION REQUIREMENTS FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Five sets of plans, maps, and reports shall be required with each application. The seal of a professional engineer is required when submitting plans for a Land Clearing and Inert Debris (LCID) landfill.

(1) The following information is required in order to review and approve the siting of a Land Clearing and Inert Debris (LCID) landfill:

(a) An approval letter from the unit of local government having zoning authority over the area where the facility is to be located stating that the site meets all of the requirements of the local zoning ordinance, or that the site is not zoned.

(b) Location on a county road map.

(c) Information showing that the bottom elevation of the waste shall be four feet above the seasonal high water table. Seasonal high water table elevations shall be obtained from on site test borings, test pits, or from other geological or water table investigations, studies, or reports from the immediate area of the proposed facility.

(d) A written report indicating that the facility shall comply with all the requirements set forth under Rule .0564 of this Section.

(e) A copy of the deed or other legal description of the site that would be sufficient as a description in an instrument of conveyance, showing property owner's name.

(f) Any other information pertinent to the suitability of the proposed facility.

(2) The following shall be provided on a map or aerial photograph with a scale of at least one inch equals four hundred feet showing the area within one-fourth mile of the site:

(a) Entire property or portion thereof owned or leased by the person providing the

• ~~Edward Owen~~
~~PO Box 828~~
Rosebon NC 28382

~~Eric Alsmeyer~~
checked the site
<Corps Permit>

mentions (Nationwide Permit)

→ WQ ←

She said July 1993 ←

560 4326
Billy Walker

John
~~Doorney~~
Dorney
he talked to
Monica
~~[illegible]~~
Swihart
Same section
as S. Zouphaly

S.Z
733-5083 - 565

Mail - State of North Carolina BOOK 1722 PAGE 374

Dept. of Environment, Health and Natural Resources
Div. of Solid Waste Management
P.O. Box 27687, Raleigh, NC 27611-7687

CERTIFIED COPY OF SOLID WASTE PERMIT

SOLID WASTE SECTION
APR 2 7 1992

I do hereby certify that the attached PERMIT is an exact and true copy of Permit No. 32-F.

FILED
BOOK 1722 PAGE 374-380
'92 MAR 30 PM 2 15
RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

James C Coffey
James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

North Carolina

Wake County

I, Phyllis H. Jackson, a Notary Public for said County and State, do hereby certify that James C. Coffey, Supervisor, Permitting Branch, Solid Waste Section, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 16th day of March, 1992. 2 PKG

State of North Carolina-Durham County
The foregoing certificate of
Phyllis H Jackson
A Notary (Notaries) Public for the Designated Governmental units is (are) certified to be correct.
This the 30 day Mar 92
Ruth C. Garrett
Register of Deeds
By: Assistant, Deputy
Register of Deeds

OFFICIAL SEAL

Phyllis H. Jackson
NOTARY PUBLIC

My commission expires October 9, 1994.

07662

182

BOOK 1722 PAGE 375

PERMIT No. 32-F
March 16, 1992

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

DIVISION OF SOLID WASTE MANAGEMENT

P.O. BOX 27687 RALEIGH, NC 27611-7687

S O L I D W A S T E P E R M I T

JAMES KENT FOGLEMAN
is hereby issued a permit to operate a
DEMOLITION LANDFILL

located

on Red Mill Road near Interstate 85 north of the City of Durham in Durham County, North Carolina in accordance with Article 9, Chapter 130A, of the General Statutes of North Carolina and all rules promulgated thereunder and subject to the conditions set forth in this permit. The facility is located and described by the legal description of the site on the attached sheet.

James C Coffey

James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

PERMIT No. 32-F
March 16, 1992

SOLID WASTE PERMIT

FOGLEMAN DEMOLITION LANDFILL

CONDITIONS OF PERMIT

1. This amendment to permit is issued for a period not to exceed five years from the date of issuance. This permit is for the construction of Phase I of the demolition landfill according to the attached plans. Additional conditions and revisions of the approved plans shall be approved by the North Carolina Solid Waste Section.

   Upcoming amendments to the Solid Waste Management Rules or violation of groundwater standards may necessitate the modification of the construction and operation plans or even closure of this facility prior to this date.

2. <u>This permit shall not be effective unless</u> the certified copy is filed in the Register of Deeds Office, in the grantor index under the name of the owner of the land in the county or counties in which the land is located. After recordation, the certified copy shall be returned to the Solid Waste Section and shall have indicated on it the page and book number, date of recordation, and Register's seal.

3. When this property is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than used in the body of the deed or instrument a statement that the property has been used as a demolition landfill.

4. This solid waste disposal site is permitted to receive yard waste, land-clearing debris, and inert debris as defined in the Solid Waste Management Act of 1989.

5. This facility shall conform to operating procedures in Rule 0.0507 of the Solid Waste Management Rules and the following specific conditions:

   a. Solid Waste shall be restricted to the smallest area feasible and compacted as densely as practical.
   b. Within six months after final termination of disposal operations at the site or a major part thereof or upon revocation of a permit, the area shall be covered with adequate soil cover, adequately sloped to allow surface water runoff in a controlled manner without excessive on-site siltation, and seeded with native grasses or other suitable vegetation. The Division may require further action to be taken in order to correct any condition

which is or may become injurious to the public health.

c. If necessary, to prevent erosion, seeded slopes shall be covered with straw or similar material;
d. Temporary seeding shall be utilized as necessary to control erosion;
e. Adequate erosion control measures shall be practiced to prevent silt from leaving the site;
f. The site shall be adequately secured by means of gates, chains, berms, fences, etc., to prevent unauthorized entry except when a trained operator is on duty. An attendant shall be on duty at the site at all times while it is open for public use to assure compliance with operation requirements and to prevent entry of hazardous waste and other unacceptable waste onto the site;
g. Surface water shall be diverted from the operational area and not allowed to be impounded over waste;
h. Solid waste shall not be disposed of in water;
i. Open burning of solid waste is prohibited;
j. Equipment shall be provided to control accidental fires or arrangements shall be made with the local fire protection agency to immediately provide fire-fighting services when needed.

6. Ground water quality at this facility is subject to the classification and remedial action provisions of 15 NCAC 2L.

7. All earth-disturbing activities will be conducted in accordance with the Durham County Soil and Erosion Control Ordinance.

BOOK 1722 PAGE 378

AFFIDAVIT

Nora Fogleman
Affiant, John H. Fogleman, deposes and says that he is the fee simple owner of real property located at Tax Map 726, Block 1, Lot 1, Oak Grove Township, in Durham County, North Carolina. James Kent Fogleman is applying for a permit to operate a (demolition) landfill on my property. I certify that I have read and understand N.C.G.S. § 130A-309.27 and 15A North Carolina Administrative Code 13B Rule .0201, which statute and rule assign joint and several liability to me as owner of the landfill and to the operator of the landfill for the improper operation and closure of the landfill, as provided by law. I understand that I am financially responsible to the State for fulfilling all regulatory requirements related to the operation of the landfill, for closure and post-closure care of the landfill, for any violations of regulatory requirements, and for any environmental damage resulting from the landfill, including but not limited to environmental clean-up costs. I understand that I am legally liable to third parties for any damages to persons or property caused by the landfill. I also understand that I must file a copy of the landfill permit with the Register of Deeds in Durham County for recordation and indexing in the Grantor Index under my name as property owner. When the land on which the landfill is located is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain a statement in the description section in no smaller type than that used in the body of the instrument that the property has been used as a sanitary landfill and a reference by book and page number to the recordation of the permit.

This, the 25 day of Feb., 19 92.

John H. Fogleman (SEAL)
Nora Fogleman

Subscribed and sworn before me, the
25 day of Feb, 1992.

John L Hardiman

My commission expires 12-13-95

Durham Co NC

JOHN H. FOGLEMAN
JAMES K. FOGLEMAN
PROPOSED DEMOLITION LANDFILL

1. Filling operations to comply with the Durham County Soil and Erosion requirements. Vegetation to be established on completed fill sections as the filling is in process.

2. Shown on plan.

3. Attached.

4. The filling process will begin along the western edge of the proposed dump site so as to provide a negative grade to the east side of the dump site thus eliminating any chance of ponding. The filling materials will be compacted by being pushed from west to east as materials are being trucked into the site. Access to the dump site will be controlled by gates and fences as shown on the plan with an attendant at the dump site during operation hours. Emergency procedures (fire control) to be provided by the Redwood Volunteer Fire Department.

5. (a) The emergency spillway for the Falls Lake Project is 264.0 feet above sea level as per Custis Pope, Corps of Engineers Office, Cary, NC.

   (b) Corps of Engineers permit is attached.

   (c) The high water table will be determined as the bottom of the creek elevation. All solid waste shall be a minimum of four feet (4') above this elevation.

   (d) See attached profiles.

BOOK 1722 PAGE 380

Code NW

U.S. ARMY CORPS OF ENGINEERS
Wilmington District

Nationwide Permit Verification

Property Owner/Agent John H. Fogleman Phone Number (919) 683-3256

Address Rt 5 Box 170
Durham, NC 27704

Size and Location of Property 15.28 acres between SR 1632 (Red Mill Road) and I-85 in Durham County, NC.

The proposed project as described below is regulated by ( ) Section 404 of the Clean Water Act (33 U.S.C.) and/or ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and is authorized in accordance with paragraph 330.5 of the Regulatory Programs of the Corps of Engineers as published in the Federal Register November 13, 1986.

A. Waterway Unnamed Tributary to Ellerbe Creek

1. Above headwaters X 2. Isolated _____ N/A ____

B. Type of Project Activity ( ) Private (X) Commercial ( ) Other Demolition Land Fill impacting less than ⅓ acre wetlands/waters of U.S. (50' buffer from main tributary) property line.

C. The described work is authorized by Nationwide Permit Number 26 in accordance with the attached general conditions (where applicable) and the following special conditions: Regional Conditions.

D. Any violation of the general and special conditions described herein may subject the permittee to a work cessation, restoration order, and/or civil or criminal legal action.

E. This Department of the Army Nationwide Permit verification does not relieve the undersigned permittee of the responsibility to obtain any other required approvals. The permittee may need to contact appropriate State and local agencies before beginning work.

F. By signature the applicant certifies an understanding and acceptance of all terms and conditions of this permit.

James Kent Fogleman for J. H. Fogleman
Property Owner/Agent's Signature

Eric C. Alsmeyer
Field Coordinator's Signature

2/4/92 2/4/94
Date Expiration Date

CESAW Form 591
Feb 91

32-F

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

March 16, 1992

Mr. James K. Fogleman
Rt. 5
Box 170
Durham, North Carolina 27704

RE: Fogleman Demolition Landfill, Permit No. 32-F

Dear Mr. Fogleman:

Enclosed find a Solid Waste Permit, a Certified Copy, and Conditions of the Permit for the above referenced demolition landfill.

This permit is for a five year period from the date of issuance and approves the construction and operation of Phase I of the referenced demolition landfill on the property defined in the attached Legal Description.

Please note Conditions No. 2 and No. 4. Condition No. 2 states that, "this permit shall not be effective unless the certified copy is filed in the Register of Deeds Office, in the grantor index under the name of the owner of the land in the county or counties in which the land is located. After recordation, the certified copy shall be returned to the Solid Waste Section and shall have indicated on it the page and book number, date of recordation, and Register's seal.

Condition No. 4 specifies the types of wastes which may be received at the facility. This disposal site is permitted to receive yard waste, land-clearing debris, and inert debris as defined in the Solid Waste Management Act of 1989.

Post-it® Fax Note 7671	Date 6/24/03	# of pages ▶ 8
To JACKIE	From JIM BARBER	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

If you have any questions, please contact our office at (919) 733-0692.

Sincerely,

Ellis Cayton

Ellis Cayton
Environmental Engineer
Solid Waste Section

Enclosure

cc: Terry Dover
Mark Fry
Tom Kagarise
George Frazier

PERMIT No. 32-F
March 16, 1992

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

DIVISION OF SOLID WASTE MANAGEMENT

P.O. BOX 27687 RALEIGH, NC 27611-7687

S O L I D W A S T E P E R M I T

JAMES KENT FOGLEMAN

is hereby issued a permit to operate a

DEMOLITION LANDFILL

located

on Red Mill Road near Interstate 85 north of the City of Durham in Durham County, North Carolina in accordance with Article 9, Chapter 130A, of the General Statutes of North Carolina and all rules promulgated thereunder and subject to the conditions set forth in this permit. The facility is located and described by the legal description of the site on the attached sheet.

James C Coffey

James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

PERMIT No. 32-F
March 16, 1992

SOLID WASTE PERMIT

FOGLEMAN DEMOLITION LANDFILL

CONDITIONS OF PERMIT

1. This amendment to permit is issued for a period not to exceed five years from the date of issuance. This permit is for the construction of Phase I of the demolition landfill according to the attached plans. Additional conditions and revisions of the approved plans shall be approved by the North Carolina Solid Waste Section.

   Upcoming amendments to the Solid Waste Management Rules or violation of groundwater standards may necessitate the modification of the construction and operation plans or even closure of this facility prior to this date.

2. <u>This permit shall not be effective unless</u> the certified copy is filed in the Register of Deeds Office, in the grantor index under the name of the owner of the land in the county or counties in which the land is located. After recordation, the certified copy shall be returned to the Solid Waste Section and shall have indicated on it the page and book number, date of recordation, and Register's seal.

3. When this property is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than used in the body of the deed or instrument a statement that the property has been used as a demolition landfill.

4. This solid waste disposal site is permitted to receive yard waste, land-clearing debris, and inert debris as defined in the Solid Waste Management Act of 1989.

5. This facility shall conform to operating procedures in Rule 0.0507 of the Solid Waste Management Rules and the following specific conditions:

   a. Solid Waste shall be restricted to the smallest area feasible and compacted as densely as practical.
   b. Within six months after final termination of disposal operations at the site or a major part thereof or upon revocation of a permit, the area shall be covered with adequate soil cover, adequately sloped to allow surface water runoff in a controlled manner without excessive on-site siltation, and seeded with native grasses or other suitable vegetation. The Division may require further action to be taken in order to correct any condition

which is or may become injurious to the public health.

c. If necessary, to prevent erosion, seeded slopes shall be covered with straw or similar material;
d. Temporary seeding shall be utilized as necessary to control erosion;
e. Adequate erosion control measures shall be practiced to prevent silt from leaving the site;
f. The site shall be adequately secured by means of gates, chains, berms, fences, etc., to prevent unauthorized entry except when a trained operator is on duty. An attendant shall be on duty at the site at all times while it is open for public use to assure compliance with operation requirements and to prevent entry of hazardous waste and other unacceptable waste onto the site;
g. Surface water shall be diverted from the operational area and not allowed to be impounded over waste;
h. Solid waste shall not be disposed of in water;
i. Open burning of solid waste is prohibited;
j. Equipment shall be provided to control accidental fires or arrangements shall be made with the local fire protection agency to immediately provide fire-fighting services when needed.

6. Ground water quality at this facility is subject to the classification and remedial action provisions of 15 NCAC 2L.

7. All earth-disturbing activities will be conducted in accordance with the Durham County Soil and Erosion Control Ordinance.

AFFIDAVIT

Nora Fogleman

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This, the 25 day of Feb., 19 92.

John H. Fogleman (SEAL)
Nora Fogleman

Subscribed and sworn before me, the
25 day of Feb, 1992.

John L Hardiman

My commission expires 12-13-95

Durham Co NC

JOHN H. FOGLEMAN
JAMES K. FOGLEMAN
PROPOSED DEMOLITION LANDFILL

1. Filling operations to comply with the Durham County Soil and Erosion requirements. Vegetation to be established on completed fill sections as the filling is in process.

2. Shown on plan.

3. Attached.

4. The filling process will begin along the western edge of the proposed dump site so as to provide a negative grade to the east side of the dump site thus eliminating any chance of ponding. The filling materials will be compacted by being pushed from west to east as materials are being trucked into the site. Access to the dump site will be controlled by gates and fences as shown on the plan with an attendant at the dump site during operation hours. Emergency procedures (fire control) to be provided by the Redwood Volunteer Fire Department.

5. (a) The emergency spillway for the Falls Lake Project is 264.0 feet above sea level as per Custis Pope, Corps of Engineers Office, Cary, NC.

   (b) Corps of Engineers permit is attached.

   (c) The high water table will be determined as the bottom of the creek elevation. All solid waste shall be a minimum of four feet (4') above this elevation.

   (d) See attached profiles.

Code NW

U.S. ARMY CORPS OF ENGINEERS
Wilmington District

Nationwide Permit Verification

Property Owner/Agent John H. Fogleman Phone Number (919) 683 - 3256

Address Rt 5 Box 170
Durham, NC 27704

Size and Location of Property 15.28 acres between SR 1632 (Red Mill Road) and I-85 in Durham County, NC.

The proposed project as described below is regulated by ( ) Section 404 of the Clean Water Act (33 U.S.C.) and/or ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and is authorized in accordance with paragraph 330.5 of the Regulatory Programs of the Corps of Engineers as published in the Federal Register November 13, 1986.

A. Waterway Unnamed Tributary to Ellerbe Creek

1. Above headwaters X 2. Isolated _____ N/A ____

B. Type of Project Activity ( ) Private (X) Commercial ( ) Other Demolition Land Fill impacting less than ⅓ acre wetlands/waters of U.S. (50' buffer from main tributary) property line.

C. The described work is authorized by Nationwide Permit Number 26 in accordance with the attached general conditions (where applicable) and the following special conditions: Regional Conditions.

D. Any violation of the general and special conditions described herein may subject the permittee to a work cessation, restoration order, and/or civil or criminal legal action.

E. This Department of the Army Nationwide Permit verification does not relieve the undersigned permittee of the responsibility to obtain any other required approvals. The permittee may need to contact appropriate State and local agencies before beginning work.

F. By signature the applicant certifies an understanding and acceptance of all terms and conditions of this permit.

James Kent Fogleman for J. H. Fogleman
Property Owner/Agent's Signature

Eric C. Alsmeyer
Field Coordinator's Signature

2/4/92 2/4/94
Date Expiration Date

CESAW Form 591
Feb 91

2001 Meadow Road
Durham, NC 27705
February 26, 1992

Mr. Ellis Cayton
Environmental Engineer
Solid Waste Section
Department of Environmental Health
and Natural Resources
P.O. Box 27687
Raleigh, NC 27611-7687

Dear Mr. Cayton:

SUBJECT: Demolition Landfill - Fogleman Property

Please find enclosed an affidavit executed as requested in your letter of February 20, 1992.

Should there be further information required regarding this matter, feel free to contact me at (919)560-4326.

Sincerely,

William C. Walker, Jr., PE, RLS

WCWJr/dsw

Enclosure

AFFIDAVIT

Nora Fogleman

Affiant, John H. Fogleman, deposes and says that he is the fee simple owner of real property located at Tax Map 726, Block 1, Lot 1, Oak Grove Township, in Durham County, North Carolina. James Kent Fogleman is applying for a permit to operate a (demolition) landfill on my property. I certify that I have read and understand N.C.G.S. § 130A-309.27 and 15A North Carolina Administrative Code 13B Rule .0201, which statute and rule assign joint and several liability to me as owner of the landfill and to the operator of the landfill for the improper operation and closure of the landfill, as provided by law. I understand that I am financially responsible to the State for fulfilling all regulatory requirements related to the operation of the landfill, for closure and post-closure care of the landfill, for any violations of regulatory requirements, and for any environmental damage resulting from the landfill, including but not limited to environmental clean-up costs. I understand that I am legally liable to third parties for any damages to persons or property caused by the landfill. I also understand that I must file a copy of the landfill permit with the Register of Deeds in Durham County for recordation and indexing in the Grantor Index under my name as property owner. When the land on which the landfill is located is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain a statement in the description section in no smaller type than that used in the body of the instrument that the property has been used as a sanitary landfill and a reference by book and page number to the recordation of the permit.

This, the 25 day of Feb., 1992.

John H. Fogleman (SEAL)
Nora Fogleman

Subscribed and sworn before me, the
25 day of Feb, 1992.

John L Headman

My commission expires 12-13-95

Durham Co NC

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

February 20, 1992

Mr. Billy Walker, P.E.
2001 Meadow Road
Durham, N.C. 27705

Re: Proposed Demolition Landfill on Red Mill Road

Dear Mr. Walker:

As is the Solid Waste Section's understanding from telephone conversations and the deed enclosed as part of the application for referenced demolition landfill, the owner of the land hosting the demolition landfill is John H. Fogleman and the operator of the landfill will be James Kent Fogleman. The Solid Waste Section must be satisfied that the owner(s) of the land are fully aware of their legal obligations regarding the landfill. A copy of a model affidavit is enclosed which should be executed by each person or legal entity with an ownership interest in the land. Please have the Fogleman's read, sign, and return an affidavit to this office as part of the application.

In situations where the owner or operator are different, the operator is the permit applicant. The permit shall be issued to the operator, only upon receipt of affidavits executed by each person or entity with an ownership interest in the land.

Should you have any questions concerning this requirement, please feel free to contact me at (919) 733-0692.

Respectfully,
Ellis Cayton
Ellis Cayton
Environmental Engineer
Solid Waste Section

cc: Jim Coffey
Terry Dover
Mark Fry

AFFIDAVIT

Affiant, _____, deposes and says that he is the fee simple owner of real property located at _____, _____Township, in _____ County, North Carolina. _____ is applying for a permit to operate a (sanitary), (demolition) landfill on my property. I certify that I have read and understand N.C.G.S. § 130A-309.27 and 15A North Carolina Administrative Code 13B Rule .0201, which statute and rule assign joint and several liability to me as owner of the landfill and to the operator of the landfill for the improper operation and closure of the landfill, as provided by law. I understand that I am financially responsible to the State for fulfilling all regulatory requirements related to the operation of the landfill, for closure and post-closure care of the landfill, for any violations of regulatory requirements, and for any environmental damage resulting from the landfill, including but not limited to environmental clean-up costs. I understand that I am legally liable to third parties for any damages to persons or property caused by the landfill. I also understand that I must file a copy of the landfill permit with the Register of Deeds in _____ County for recordation and indexing in the Grantor Index under my name as property owner. When the land on which the landfill is located is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain a statement in the description section in no smaller type than that used in the body of the instrument that the property has been used as a sanitary landfill and a reference by book and page number to the recordation of the permit.

This, the _____ day of _____, 19___.

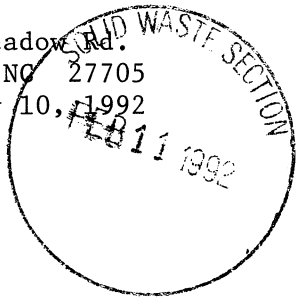
_____
(Seal)

Subscribed and sworn before me,
the _____ day of _____, 1992.

_____

My commission expires _____

2001 Meadow Rd.
Durham, NC 27705
February 10, 1992



Mr. Ellis Cayton
Environmental Engineer
Solid Waste Section
P.O. Box 27687
Raleigh, NC 27611-7687

Dear Mr. Cayton:

RE: Fogleman Demoliton Landfill

Please find enclosed the information which I feel will answer the questions of your letter of December 10, 1991.

If you have further questions, feel free to call me at 560-4326.

Sincerely,

William C. Walker, Jr., PE, RLS

WCWJr/dsw

Enclosure

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

December 10, 1991

Mr. William C. Walker, Jr., PE, RLS
2001 Meadow Road
Durham, NC 27705

Re: Completeness Review - Fogleman Demolition Landfill

Dear Mr. Walker:

The Solid Waste Section has conducted a preliminary review of the referenced project, submitted by Mr. William C. Walker, Jr., PE, RLS in behalf of Kent Fogleman. In accordance with the N.C. Solid Waste Management Rules, the following comments must be addressed to continue the review process:[1]

1. 0.0506 (2)(c): The plans should show procedures for promoting vegetative growth as soon as possible on all completed areas. Basically, all sedimentation/erosion control activities must be conducted in accordance with the Durham City/County Sedimentation & Erosion Control Ordinance.

2. 0.0506 (2) (a): The plot plan of the proposed site should show access controls (gates, proposed fencing etc...). To enhance the plan, at least two cross sections showing the vertical profile of waste disposal would be helpful.

3. 0.0506 (2)(d): A copy of the deed or other legal description of the site shall be included as part of the application.

4. 0.0507 (1): An operations plan shall be provided describing at a minimum: - waste filling procedures
   - access controls
   - emergency procedures (fire control)

---

[1] The number appearing at the beginning of comments No. 1-4 (Ex., 0.0506 (2)(c)) refers to the Solid Waste Management Rule which needs to be addressed.

5. In addition to the requirements outlined in Section 0.0506 and .0507 of the Solid Waste Management Rules, recent policy revisions require that a landfill, with a total disposal area greater than one (1) acre in size, operated for the disposal of land-clearing, yard trash, inert debris, shall meet the following additional restrictions:

   a) 100-year Floodplains: A demolition landfill shall not be located in the 100-year floodplain. Information shall be provided in the application positively demonstrating the site is not in the 100-year floodplain. Previously submitted information appears inconclusive concerning pool elevations for the 100-year floodplain.
   b) Wetland Restrictions: The site shall not be in a Wetland. Information shall be provided that demonstrates this area in not a wetland.
   c) Solid waste will be a minimum of 4 feet above seasonal high water table. Information shall be provided demonstrating a 4 foot separation between waste and the water table.
   d) The permit application must show proposed excavation and final contours. As mentioned above, the permit application could be enhanced through providing two cross sections of the site upon completion of fill activities.

These comments are intended to expedite the review of the application, and in no way do they restrict the Section's right to request additional information during the review process.

If there are any questions, or if you would like to schedule a meeting to discuss the application, please contact me at (919) 733-0692.

Respectfully,

Ellis Cayton

Ellis Cayton
Environmental Engineer
Solid Waste Section

cc: Terry Dover
Mark Fry

County of Durham

120 E. PARRISH STREET
DURHAM, N.C. 27701
919-560-0600

INSPECTIONS &
ZONING DEPARTMENT

October 15, 1991

SOLID WASTE SECTION
OCT 18

TO WHOM IT MAY CONCERN:

RE: Property Located on Durham County Tax Map 726-1-1 & 1B

The above referenced property is zoned Rural District. After discussion with Gerald Kelley at City-County Planning Department, we see no problem with a demolition landfill holding only stumps, trees, untreated wood, concrete, rock, asphalt and clean soil on said property provided a permit is obtained from N.C. State Authority and monitored by N.C. State Authority.

Sincerely,

Lockwood Chamberlain

Lockwood Chamberlain
Director of Inspections
Durham County

LFC:jh

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Waste Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

DEHNR

February 26, 1997

Mr. Billy Walker, P.E.
2001 Meadow Road
Durham, North Carolina 27705

Ref: Fogleman Land Clearing & Inert Debris Landfill Permit Renewal Application.

Mr. Walker:

The Solid Waste Section has conducted a review of the Land Clearing & Inert Debris(LCID) Landfill Permit Application, submitted by you on behalf of Mr. John H. Fogleman. In accordance with the North Carolina Solid Waste Management Rules section .0563 (6)(c); existing demolition landfills must comply with the siting criteria requirements of these Rules(Section .0564) as of 1 January 1998 or cease operations and close in accordance with these Rules. This rule is in reference to Demolition landfills permitted prior to 1 January 1993 under the old Demolition landfill rules, Sections .0506 and .0507 which the Fogleman landfill was permitted under and where repealed on 4 January 1993. In accordance with section .0564 Siting Criteria for Land Clearing and Inert Debris(LCID) Landfills, the following items and comments must be addressed to meet the requirements of this Rule to allow the Solid Waste Section to renew permit 32-F for continued operation of a LCID landfill. Please address the following:

1. The 100-year floodplain location on the original FIRM map shows that the subject property is encroached upon by the 100 year floodplain. Please reference the location of the 100 year floodplain on the site plan or indicate the mean sea level elevation of the floodplain. Also indicate the waste boundary on the site plan relative to the floodplain.

2. Please address items in Section .0564 (2) thru (5) and (7) thru (10), enclosed with this letter.

3. Please indicate on the site plan the limits of the existing waste disposal footprint and show the limits of future cells based on five year waste volume needs(include both horizontal and vertical dimensions).

4. Please provide a copy of the approved Mining Permit from the Land Quality Section.

P.O. Box 27687,
Raleigh, North Carolina 27611-7687
Voice 919-733-4996

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If you have any questions or require any assistance, please do not hesitate to contact me at (910) 486-1191. Based on conversations with you on 25 February 1997, I will meet with you and Mr. Fogleman on Friday February 28 at 9am at the site. If this date and time is not satisfactory, please contact me at the above referenced number.

Thank you,

Jim Barber
Eastern Area Engineer
Solid Waste Section

copy: Jim Coffey-Permitting Branch Head
Terry Dover-Eastern Area Supervisor
Robert Hearn-Environmental Technician
Mr. J.H. Fogleman-Site operator and owner
Raleigh Central File: Fogleman LCID landfill - Permit 32-F

.0563 APPLICABILITY REQ. FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Management of land clearing and inert debris shall be in accordance with the State hierarchy for managing solid waste as provided for under G.S. 130A-309.04(a). Disposal in a landfill is considered to be the least desirable method of managing land clearing and inert debris. Where landfilling is necessary, the requirements of this Rule apply.

(1) An individual permit from the Division of Solid Waste Management is not required for Land Clearing and Inert Debris (LCID) landfills that meet all of the following conditions:

(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management.

(b) The total disposal area is under two acres in size.

(c) The facility and practices comply with the siting criteria under Rule .0564, and operational requirements under Rule .0566.

(d) The fill activity is not exempt from, and must comply with all other Federal, State, or Local laws, ordinances, Rules, regulations, or orders, including but not limited to zoning restrictions, flood plain restrictions, wetland restrictions, sedimentation and erosion control requirements, and mining regulations.

(2) Where an individual permit is not required, the following applies:

(a) The owner of the land where the landfill is located must notify the Division on a prescribed form, duly signed, notarized, and recorded as per Sub-item (2)(b) of this Rule. The operator of the landfill, if different from the land owner, shall also sign the notification form.

(b) The owner must file the prescribed notification form for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification in the grantor index under the name of the owner of the land in the county or counties in which the land is located. A copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording shall be sent to the Division of Solid Waste Management.

(c) When the land on which the Land Clearing and Inert Debris Landfill is sold, leased, conveyed, or transferred in any manner, 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 property has been used as a Land Clearing and Inert Debris Landfill and a reference by book and page to the recordation of the notification.

(3) An individual permit is required, except for landfills subject to Item (5) of this Rule, for the construction and operation of a Land Clearing and Inert Debris (LCID) landfill when:

(a) The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the local government solid waste management plan as approved by the Division of Solid Waste Management, and

(b) The total disposal area is greater than two acres in size.

(4) Individual permits for land clearing and inert debris landfills shall be issued for not

more than five years.

(5) Landfilling of land clearing and inert debris generated solely from, and within the right of way of, North Carolina Department of Transportation projects shall be subject to the following:

(a) Only waste types as described in Sub-item (1)(a) of this Rule may be disposed of within the Department of Transportation right of way.

(b) Waste is landfilled within the project right of way from which it was generated.

(c) The disposal area shall not exceed two contiguous acres in size.

(d) Disposal sites shall comply with the siting requirements of Rule .0564 of this Section except for Item (10).

(e) Disposal sites are not subject to the requirements of Item (2) of this Rule and Rule .0204 of this Subchapter.

(6) Landfills that are currently permitted as demolition landfills are required to comply with the following:

(a) Only waste types as described in Sub-item (3)(a) of this Rule may be accepted for disposal, as of the effective date of this Rule unless otherwise specified in the existing permit.

(b) Operations must be in compliance with Rule .0566 of this Section as of the effective date of this Rule.

(c) Existing demolition landfills must comply with the siting criteria requirements of these Rules as of January 1, 1998 or cease operations and close in accordance with these Rules.

History Note: Statutory Authority G.S. 130A-294; 130A-301; Eff. January 4, 1993.

.0564 SITING CRITERIA FOR LAND CLEARING AND INERT DEBRIS (LCID) LANDFILLS

The following siting criteria shall apply for Land Clearing and Inert Debris (LCID) landfills:

(1) Facilities or practices, shall not be located in the 100-year floodplain.

(2) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.

(3) Facilities or practices shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17 which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies can be obtained at no cost.

(4) Facilities or practices shall not damage or destroy an archaeological or historical site.

(5) Facilities or practices shall not cause an adverse impact on a state park, recreation or scenic area, or any other lands included in the state nature and historic preserve.

(6) Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).

(7) It must be shown that adequate suitable soils are available for cover, either from on or off site.

(8) Land Clearing and Inert Debris landfills shall meet the following surface and ground water requirements:

(a) Facilities or practices shall not cause a discharge of pollutants into waters of the state

that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as amended.

☐ (b) Facilities or practices shall not cause a discharge of dredged materials or fill material into waters of the state that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.

☐ (c) Facilities or practices shall not cause non-point source pollution of waters of the state that violates assigned water quality standards.

☐ (d) Waste in landfills with a disposal area greater than two acres shall be placed a minimum of four feet above the seasonal high water table, except where an alternative separation is approved by the Division.

~~(e)~~ Waste in landfills with a disposal area less than two acres shall be placed above the seasonal high water table.

(9) The facility shall meet the following minimum buffer requirements:

☐ (a) 50 feet from the waste boundary to all surface waters of the state as defined in G.S. 143-212.

☐ (b) 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.

☐ (c) Buffer requirements may be adjusted as necessary to insure adequate protection of public health and the environment.

☐ (10) The facility shall meet all requirements of any applicable zoning ordinance.

History Note: Statutory Authority G.S. 130A-294; Eff. January 4, 1993.

.0565 APPLICATION REQUIREMENTS FOR LAND CLEARING/INERT DEBRIS (LCID) LANDFILLS

Five sets of plans, maps, and reports shall be required with each application. The seal of a professional engineer is required when submitting plans for a Land Clearing and Inert Debris (LCID) landfill.

(1) The following information is required in order to review and approve the siting of a Land Clearing and Inert Debris (LCID) landfill:

(a) An approval letter from the unit of local government having zoning authority over the area where the facility is to be located stating that the site meets all of the requirements of the local zoning ordinance, or that the site is not zoned.

(b) Location on a county road map.

(c) Information showing that the bottom elevation of the waste shall be four feet above the seasonal high water table. Seasonal high water table elevations shall be obtained from on site test borings, test pits, or from other geological or water table investigations, studies, or reports from the immediate area of the proposed facility.

(d) A written report indicating that the facility shall comply with all the requirements set forth under Rule .0564 of this Section.

(e) A copy of the deed or other legal description of the site that would be sufficient as a description in an instrument of conveyance, showing property owner's name.

(f) Any other information pertinent to the suitability of the proposed facility.

(2) The following shall be provided on a map or aerial photograph with a scale of at least one inch equals four hundred feet showing the area within one-fourth mile of the site:

(a) Entire property or portion thereof owned or leased by the person providing the

FAX COVER SHEET

FOGLEMAN & FOGLEMAN SOILS, INC.
4005 INTERMERE RD.
DURHAM, NC 27704
PHONE # 919-682-0068
TOLL FREE # 800-450-3827
Fax # 919-682-0662

Send to:	**From:** Avery Ward
Attention: Jim Barbour	**Date:** 4-9-02
Office location:	**Office location:**
Fax number: 733-4810	**Phone number:**

☐ Urgent ☐ Reply ASAP ☐ Please comment ☐ Please review ☐ For your information

Total pages, including cover: 3

Comments:

The following is information that your office requested. I hope this will be of some help. Please do not hesitate to contact me if you should need anything else.

w 682-6062
682-0062

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

May 27, 1998

Mr. John H. Fogleman
Route 5, Box 170
Durham, NC 27705

Richard N. Watson, Esq.
Pulley, Watson, King & Lischer
P.O. Drawer 3600
Durham, NC 27702

Re: Fogleman Mine, Red Mill Road
Durham Tax Parcel 726-01-001
Durham Board of Adjustment Case B97-34

Dear Mr. Fogleman and Mr. Watson:

Further to our letter of December 29, 1997, we have reviewed your claim that the entire Fogleman tract (Tax Parcel 726-01-001) should be considered a legal nonconforming use for mining activities under the concept of "diminishing asset" as outlined in the various court cases you provided. After examining the documentation provided, we offer the following determination:

1. Future expansion of the current mining/resource extraction operations onto the northernmost area of this tract does not constitute an illegal expansion of a nonconforming use. Since the land itself is the primary asset and not any structures or uses on top of the land, the entire tract noted above encompasses the mining/resource extraction use.

2. Any expansion of this use onto land outside the boundaries of Tax Parcel 726-01-001 will be considered an illegal expansion of a nonconforming use and will be treated as a violation of the Durham Zoning Ordinance.

3. As noted previously, demolition land fill activities on this parcel are only allowed in conjunction with the mining/resource extraction activities permitted by the State, which activities are directly related to the land reclamation plan under the State mining permit. A "stand alone" demolition land fill is not allowed on this site due to the Durham Watershed regulations.

Should you have any questions regarding this matter, please call the undersigned at the number listed below.

Dennis Doby, Zoning Enforcement Officer

Tel. No. 560-4137, Ext. 252

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

FEB 1998
Received
Solid Waste
Section

December 29, 1997

Mr. John H. Fogleman
Route 5, Box 170
Durham, NC 27705

Richard N. Watson, Esq.
Pulley, Watson, King & Lischer
P.O. Drawer 3600
Durham, NC 27702

Re: Fogleman Mine, Red Mill Road
Durham Tax Parcel 726-01-001
Durham Board of Adjustment Case B97-34

Dear Mr. Fogleman and Mr. Watson:

In the application filed with the above referenced Board of Adjustment case, you stated that the mining operation and demolition landfill located on the above referenced property are legal nonconforming uses under Section 19 of the Durham Zoning Ordinance and not zoning violations (i.e. an illegal mining operation located in a Rural District [RD] zoning district and in Falls Lake Watershed District F-J/A and a demolition landfill located in Falls Lake Watershed District F-J/A) as this Department had claimed. As you know, the application for appeal was placed on hold while we reviewed the claim of nonconformity. We have completed our investigation and offer the following determination:

1. The area between and including the original State DOT "borrow pit", begun in 1955, and current mining area is accepted as a legal nonconforming use, since the borrow pit operations were begun prior to the adoption of the first County Zoning Ordinance in January 1956.

2. The northernmost extent of the nonconforming use is limited to the 12.5 acres currently being mined under the State mining permit issued July 20, 1994 and valid to July 20, 1999. Section 19.6.1 of the zoning ordinance states "For any nonconforming use, floor area may not be enlarged, residential density may not be increased, and lot coverage may not be increased." Accordingly, any further expansion of this use beyond the area covered under the current mining permit would constitute an illegal expansion of the use.

RECEIVED
DEC 31 1997

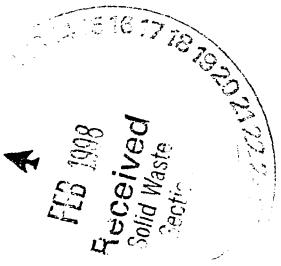
3. The demolition landfill activities currently taking place on this site are, according to the State Division of Land Resources, approved as part of the required reclamation of this area under the mining permit. Accordingly, the demolition landfill may continue on this site as long as the activities are directly related to the mining reclamation plan. A "stand alone" demolition landfill on this site, not related to the reclamation plan for the legal nonconforming mining activities, would not be allowed since such a use is not permitted in the Falls Lake F-J/A Watershed District. Costs of the equipment, etc. for the allowed demolition landfill operation may be recovered through the charging of fees.

Should you have any questions regarding this matter, please call the undersigned at the number listed below.

Dennis Doty, Zoning Enforcement Officer

Tel. No. 560-4137, Ext. 252

cc: Durham County Attorney
Paul Norby, Director, Durham Planning Department
File B97-34



FAX TO:
JIM BARBER
(410) 486-1791

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Waste Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

March 20, 1997

Mr. Dennis Doty
Zoning Enforcement Officer
Durham City/County Planning Department
101 City Hall Plaza
Durham, NC 27701

Dear Sir:

This letter is in response to our telephone conversation and your subsequent request for information concerning the Solid Waste Section's(Section) policy towards existing demolition landfills.

New rules for land clearing and inert debris(LCID) landfills, which replaced rules for demolition landfills, became effective on January 1, 1993. Rule .0563 (6) of these rules require that all landfills currently permitted as demolition landfills meet the waste acceptance and operational requirements as of the effective date of the rules. This rule also requires these landfills to comply with the siting criteria requirements as of January 1, 1998, or cease operations and close in accordance with these rules. The siting criteria includes floodplains, endangered species, historical sites, state parks or scenic areas, wetlands, cover soil requirements, buffers, surface and ground water requirements and zoning requirements.

As you are probably aware, the Solid Waste Management Rules require all municipal solid waste landfills(MSWLFs) operating after January 1, 1998, to be equipped with a liner, leachate collection, and final cover system. The Section currently has 17 permit applications for lined MSWLFs under review. Because of the workload generated by this deadline and the potential environmental impact of these permit decisions, the Section has established the permitting of these MSWLFs as the top permitting priority.

The Section is developing a form letter to be sent to all existing demolition landfills requiring documentation of compliance with the siting criteria by January 1, 1998. The Section will schedule review of this documentation based on permitting priorities.

It is important to note that this policy does not restrict local governments from taking compliance and enforcement action based on their local ordinances.

P.O. Box 27687,
Raleigh, North Carolina 27611-7687
Voice 919-733-4996

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END

Mr. Doty
March 20, 1997
Page Two

If there are any questions, please contact me at (919) 733-0692, extension 255.

Sincerely,

James C. Coffey, Head
Permitting Branch
Solid Waste Section

cc: Dexter Matthews
Terry Dover
Julian Foscue
Phil Prete

END

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

FAX TRANSMITTAL INFORMATION FORM

DATE: March 10, 1997 **TIME**: 4:50 ~~A.M.~~/P.M. **NUMBER OF PAGES**: 2 (including FAX form)

TO FAX NUMBER: (919)733-4810

TRANSMITTED TO: Jim Coffey/Div. Of Solid Waste Management

ADDRESS: P.O. Box 27687

CITY & STATE: Raleigh, NC 27611

* * * * * * * * * * * * * * * *

SENDER'S NAME: Dennis Doty, Zoning Enforcement
DURHAM CITY-COUNTY PLANNING DEPARTMENT
101 CITY HALL PLAZA - Mailing Address
314 NORTH MANGUM STREET - Physical Location
DURHAM, NORTH CAROLINA 27701
OFFICE NUMBER: (919)560-4137, EXT. 252
FAX NUMBER: (919)560-4641

MESSAGE: RE: FOGLEMAN DEMOLITION LANDFILL, RED MILL ROAD, DURHAM

We faxed this last Thursday and it showed it was received. Pls advise if problems in receiving.

IF PROBLEMS OCCUR IN RECEIVING THIS INFORMATION, PLEASE CONTACT SENDER.

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

6 March 1997

Mr. Jim Coffey
Division of Solid Waste Management
N.C. Department of Environment, Health and Natural Resources
P.O. Box 27687
Raleigh, NC 27611-7687

Re: Fogleman Demolition Landfill
Red Mill Road, Durham; Durham Tax Map 726-01-001
Your Landfill Permit issued March 16, 1992

Dear Mr. Coffey:

This is to advise your office that the above referenced demolition landfill operation is currently operating as a violation of the Durham City/County Zoning Ordinance. This property lies within the Falls Lake Watershed District One Mile Critical Area (F/J-A), which prohibits all landfill operations within the watershed F/J-A boundaries.

We have notified Mr. Fogleman via certified mail that all demolition landfill operations are to cease on or before March 16. 1997, which is the expiration date of your Department's current permit for this site. Any demolition landfill operations which take place after that date will constitute a violation of the zoning Ordinance and may be subject to civil penalties of up to $300.00 per day, plus further enforcement actions in both civil and criminal courts.

Should you have any questions, please contact the undersigned at (919)560-4137, ext. 252.

Sincerely,

Dennis Doty
Zoning enforcement Officer

cc: Lesley Moxley, Deputy County Attorney
Paul Norby, Director, Durham Planning Department
Paul Joyner, Planning Manager

NC DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES
RALEIGH REGIONAL OFFICE
3800 Barrett Drive, Suite 101, Raleigh, NC 27609
Phone: 919/571-4700 FAX: 919/571-4718

FACSIMILE

You should be receiving 3 pages (including cover sheet).
If you do not receive all pages, please contact sender at 919/571-4700.

TO: JIM BARBER	FROM: ROBERT H.
ORGANIZATION: SWS - DWM	SUBJECT: DURHAM LCIDs
FAX NUMBER: 919 486 1791	DATE: 1/31/97

MESSAGE: TURNS OUT ~~[illegible]~~ THAT THIS LETTER ADDRESSES A LARGER SITUATION THAN JUST THE LANDFILL. NEVERTHELESS, THE COUNTY APPEARS TO UNDERSTAND THE FOGELMAN'S PERMIT EXPIRES IN MARCH.

I'LL WILL TOUCH BASE WITH YOU SOON ON THIS SITUATION.

Robert

Durham City/County Planning Department

101 City Hall Plaza
Durham, NC 27701
Phone: (919) 560-4137
Fax: (919) 560-4641

NOTICE OF VIOLATION

January 22, 1997

Mr. John H. Fogleman
Route 5 Box 170
Durham, NC 27705

CERTIFIED MAIL #P 537 522 504
RETURN RECEIPT REQUESTED

Re: Fogleman Landfill, Red Mill Road
Durham Tax Map 726, Block 1, Parcel 1
Zoned Rural District (RD)

Dear Mr. Fogleman:

During a site visit on December 16, 1996 by the undersigned, we discussed the history of the current demolition landfill and reclamation mining operations on the above referenced site. According to our conversation and available documentation, the demolition landfill operation began in 1992 and the reclamation mining operation began in 1994. We have found that a Zoning Compliance Sign-Off was issued by this department on July 8, 1992 for the demolition landfill but we do not find any documentation regarding zoning approval of the reclamation mining operation.

You stated during our meeting that the mining operation was reviewed by both the Planning Board and the County Commissioners but we cannot find any mention of such reviews or approvals in the minutes from meetings held in 1994. If you can provide copies of approval letters from County departments for this operation or dates of meetings at which this land use was discussed, please contact the undersigned so that we may verify the data.

Based on information currently available to this department, we find the following violation of the Durham City/County Zoning Ordinance existing on this site:

Illegal reclamation mining in a RD Zoning District. The Table of Permitted Uses (Section 6 of the Zoning Ordinance) shows that Resource Extraction (Reclamation Mining) is permitted only in the Heavy Industrial I-3 Zoning District and then only with a Major Use Permit approved by the governing body. Resource Extraction is not a permitted use in the RD Zoning District.

Since we can find no documentation showing that this use was approved by this Department, **you are hereby ordered to comply with the Zoning Ordinance and cease all illegal reclamation mining operations within thirty (30) days from the date of receipt of this letter**. We will be notifying the State Division of Land Resources that this site is not zoned for any type of mining and that the current operations are in violation of local zoning regulations.

Also, please be aware that our watershed regulations currently do not allow for demolition landfill activities in this location, which is in the Falls Lake Watershed District. **Accordingly, upon expiration of your current State landfill permit on March 16, 1997, operation of a demolition landfill on this site will be constitute a violation of Sec. 5.5.5(1) of the Durham Zoning Ordinance.**

Please note that failure to comply with this request may result in the imposition of a civil penalty ranging from $100.00 to $300.00 per day for each day the violation exists after the compliance deadline. Failure to comply may also result in this Department seeking injunctive relief through the courts as well as prosecution of this matter as a criminal misdemeanor as allowed under Sec. 20.3.3 of the Zoning Ordinance. Additionally, Sec. 20.2.2 of the Ordinance allows a person charged with a violation of the Zoning Ordinance the right to appeal the determination to the Durham Board of Adjustment.

Copies of the pertinent Ordinance sections are enclosed for your reference. Should you have any questions regarding this matter, please call the undersigned at the number listed below.

Tel. No. (919)560-4137, Ext. 252

Dennis Doty, Zoning Enforcement Officer

enc.

cc: Lesley Moxley, Deputy County Attorney
Gene Bradham, Director, Inspections Department
Paul Norby, Director, Planning Department
Paul Joyner, Planning Manager

N/F
DURHAM

RECORD OF COMMUNICATION

☐ PHONE CALL ☐ DISCUSSION ☐ FIELD TRIP ☐ CONFERENC
☐ OTHER (SPECIFY)

(Record of item checked above)

TO: Jim Coffey

FROM: Mark Fry

DATE 7-22-91

TIME 10:00 A.M.

SOLID WASTE SECTION JUL 29 1991

SUBJECT

Proposed Demolition (Inert) Landfill - Kent Fogleman, Red Mill Rd., Durham

SUMMARY OF COMMUNICATION

On 7-22-91 I visited the above mentioned property. The entire property is approx. 85 acres. Mr. Fogleman showed me a letter of zoning approval for inert landfill. Access control will be good since there is only one entrance road from Red Mill Rd onto the property from the south side. There is a railroad track running parallel to the east property side with a small tract of land between it and Mr. Fogleman. Mr. Fogleman plans to try and purchase this for additional buffer. Red Mill Rd. runs parallel to the west property side with several houses between it and Mr. Fogleman which are served by individual wells. It appears that a buffer of at least 200' could be maintained between waste and wells on this side.

Vacant land owned by the Fed govt. lies to the north. According to Mr. Fogleman this "federal land" was once part of his and was "taken" by them. Also according to Fogleman the federal lands south property line is several feet above the 100 year flood plain. Mr. Foglemans property is above and drains towards the federal land. The federal land is bordered on the north side by Ellerbe Creek. Mr. Fogleman proposes to use two ravines as fill areas (see map) Area one is a man made ravine and was excavated years ago to construct I-85. It is wooded now. It appears to be a dry ravine and consists of 20 acres. Area two is a natural ravine and also appears dry at this time. Area two is approx. 8 acres and is also heavily wooded. Cover material would come from higher property between areas 1 & 2. The waste proposed is stumps only. Once completed the land would be used for pasture.

The closest well to area one that I could see is approx. 200' directly south and upgradient from where waste would start. There are several houses owned by Fogleman along his entrance road. No other

CONCLUSIONS, ACTION TAKEN OR REQUIRED

buildings or wells appear close. The closest wells that I could see to area 2 are along Red Mill Rd. Mr. Fogleman owns enough property there to maintain at least a 300' buffer according to him. No other buildings or wells appear close.

Note - Mr. Foglemans property is outlined in green on map & fill areas in red.

INFORMATION COPIES
TO:

EPA Form 1300-6 (7-72)

RAP 1630
C 2436
T 983
F 1096
T 972
C 452
T 1647
F 1017
T 1587
F 1017
T 969
C 391
T 980
1691
F 1017
T 1952
FED LAND
1771
F 1464
T 993
F 1042
T 1159
F 1954
T 975
F 892
T 964
F 914
T 1588
F 891
T 963
F 987
T 965
F 909
T 999
F 1017
T 970
F 915
T 1165
I-85
F 1047
T 1004
F 1521
T 1009
RAP 2/15/90
F 1017
T 971
F 2655
T 1012

NORTH CAROLINA—DURHAM COUNTY

286 This Deed, made and entered into this, the 16th day of October, 19 56, by and between C. T. Husketh and wife, Pearl F. Husketh

part ies of the first part, and J. H. Fogleman and wife, Nora N. Fogleman

part ies of the second part, WITNESSETH:

That for and in consideration of the sum of Ten Dollars and other good, sufficient and valuable consideration to them in hand paid, the receipt of which is hereby fully acknowledged, said part ies of the first part have given, granted, bargained and sold and do by these presents, give, grant, bargain, sell and convey unto them said part ies of the second part and their heirs and assigns, the following lot or parcel of land, lying and being in Oak Grove Township, in said County and State bounded and described as follows, to-wit:

BEGINNING at a stake on the northwest side of the new U. S. Highway #15 at W. A. Mayton's corner, and running thence North 9° East 189.5 feet to a stake, J. H. Fogleman's corner; thence South 84° East 224 feet to a stake on the northwest side of the new U. S. Highway #15; thence along and with the northwest side of said new U. S. Highway #15 South 57° 45' West 303 feet to a stake, the point of beginning, containing .5 of an acre, more or less, as per plat and survey of the C. T. HUSKETH PROPERTY now on file in the office of the Register of Deeds of Durham County in Plat Book 32 at Page 109, to which reference is hereby made for a more particular description of same.

DOCUMENTARY 50 CENTS 50 DOCUMENTARY 5 CENTS 5

To Have and To Hold said lot or parcel of land, together with all privileges and appurtenances thereon and thereto belonging, unto them said part ies of the second part and their heirs and assigns forever in fee simple.

And said C. T. Husketh and wife, Pearl F. Husketh for themselves and their heirs covenant to and with said part ies of the second part and their heirs and assigns that they are seized of said premises in fee, and ha ve good right to convey the same in fee simple; that the same are free and clear of all encumbrances, and that they will forever warrant and defend the said title to the same against the claims of all persons whomsoever.

In Testimony Whereof, The said part ies of the first part ha ve set their hand s and seal s the day and year first above written.

[SEAL] C. T. Husketh [SEAL]

[SEAL] Pearl F. Husketh [SEAL]

NORTH CAROLINA—Durham County.

I, C. C. Kirkland, a Notary Public of Durham County, N. C., do hereby certify that C. T. Husketh and wife, Pearl F. Husketh personally appeared before me this day and acknowledged the due execution of the foregoing deed. Let said deed, with this certificate be registered.

Witness my hand and notarial seal this the 3rd day of ~~October~~ November, 19 56.

My commission expires: 9-29-58

C. C. Kirkland
Notary Public.

NORTH CAROLINA—Durham County.

I, _____, Deputy Clerk Superior Court of Durham County, N. C. do hereby certify that _____

personally appeared before me this day and acknowledged the due execution of the foregoing deed. Let said deed, with this certificate be registered.

Witness my hand this the _____ day of _____, 19____

_____
Deputy Clerk Superior Court.

NORTH CAROLINA—Durham County.

The foregoing certificate of C. C. Kirkland, a Notary Public of Durham County, N. C., is adjudged to be correct. Let said deed, with all certificates, be registered.

Witness my hand this 19 day of Nov., 19 56

Mildred B. Abbott
Deputy Clerk Superior Court.

Filed for registration in my office on the 19 day of November, 19 56, at 11:05 o'clock A. M., and registered on the 19 day of Nov. 19 56, in Book 239 of Deeds for said County on Page 286.

R. G. Brooks, Register of Deeds of Durham County.

NORTH CAROLINA — DURHAM COUNTY

286 This Deed, made and entered into this, the 16th day of October, 19 56, by and between C. T. Husketh and wife, Pearl F. Husketh

part ies of the first part, and J. H. Fogleman and wife, Nora N. Fogleman

part ies of the second part, WITNESSETH:

That for and in consideration of the sum of Ten Dollars and other good, sufficient and valuable consideration to them in hand paid, the receipt of which is hereby fully acknowledged, said part ies of the first part have given, granted, bargained and sold and do by these presents, give, grant, bargain, sell and convey unto them said part ies of the second part and their heirs and assigns, the following lot or parcel of land, lying and being in Oak Grove Township, in said County and State bounded and described as follows, to-wit:

BEGINNING at a stake on the northwest side of the new U. S. Highway #15 at W. A. Mayton's corner, and running thence North 9° East 189.5 feet to a stake, J. H. Fogleman's corner; thence South 84° East 224 feet to a stake on the northwest side of the new U. S. Highway #15; thence along and with the northwest side of said new U. S. Highway #15 South 57° 45' West 303 feet to a stake, the point of beginning, containing .5 of an acre, more or less, as per plat and survey of the C. T. HUSKETH PROPERTY now on file in the office of the Register of Deeds of Durham County in Plot Book 32 at Page 109, to which reference is hereby made for a more particular description of same.

DOCUMENTARY 50 CENTS 50 DOCUMENTARY 5 CENTS 5

To Have and To Hold said lot or parcel of land, together with all privileges and appurtenances thereon and thereto belonging, unto them said part ies of the second part and their heirs and assigns forever in fee simple.

And said C. T. Husketh and wife, Pearl F. Husketh for themselves and their heirs covenant to and with said part ies of the second part and their heirs and assigns that they are seized of said premises in fee, and ha ve good right to convey the same in fee simple; that the same are free and clear of all encumbrances, and that they will forever warrant and defend the said title to the same against the claims of all persons whomsoever.

In Testimony Whereof, The said part ies of the first part ha ve set their hand s and seal s the day and year first above written.

[SEAL] C. T. Husketh [SEAL]

[SEAL] Pearl F. Husketh [SEAL]

NORTH CAROLINA — Durham County.

I, C. E. Kirkland, a Notary Public of Durham County, N. C., do hereby certify that C. T. Husketh and wife, Pearl F. Husketh personally appeared before me this day and acknowledged the due execution of the foregoing deed. Let said deed, with this certificate be registered.

Witness my hand and notarial seal this the 3rd day of ~~October~~ November 19 56

My commission expires: 9-29-58

C. E. Kirkland
Notary Public.

NORTH CAROLINA — Durham County.

I, Deputy Clerk Superior Court of Durham County, N. C. do hereby certify that personally appeared before me this day and acknowledged the due execution of the foregoing deed. Let said deed, with this certificate be registered.

Witness my hand this the day of , 19

Deputy Clerk Superior Court.

NORTH CAROLINA — Durham County.

The foregoing certificate of C. E. Kirkland, a Notary Public of Durham County, N. C., is adjudged to be correct. Let said deed, with all certificates, be registered.

Witness my hand this 19 day of Nov. 19 56

Mildred G. O'Brien
Deputy Clerk Superior Court.

Filed for registration in my office on the 19 day of November, 19 56, at 11:05 o'clock A M., and registered on the 19 day of Nov, 19 56, in Book 239 of Deeds for said County on Page 286

R. G. Brooks Register of Deeds of Durham County.

RECORD OF DEEDS No. 142

NORTH CAROLINA—Durham County

THIS DEED, Made and entered into this the 16th day of December 1941, by and between C. T. Husketh and wife, Pearl Husketh

part ies of the first part, and John H. Fogleman and wife, Nora Ellen Fogleman

part ies of the second part

Witnesseth, That for and in consideration of the sum of One and no/100 dollars and other good, sufficient and valuable consideration Dollars to them in hand paid, the receipt of which is hereby fully acknowledged, said part ies of the first part ha ve given, granted, bargained and sold, and do by these presents give, grant, bargain, sell and convey unto said part ies of the second part and their heirs and assigns, the following tract or parcel of land, lying and being in Oak Grove Township, in said County and State, bounded and described as follows, to-wit:

Beginning at a stake on the east side of the old Roxboro Road, 122.1 feet in a southerly direction from the south end of the bridge across Ellerby Creek, and running thence North 80° east 2260.5 feet to a stake; thence south 2° east 2079 feet to a stake and pointers on Hancock Branch; thence along and with said Hancock Branch in a southerly direction 2432 feet to a cedar; thence south 87° east 117.5 feet to the west right of way line of the Southern Railroad; thence along and with the right of way line of said railroad in a southerly direction 394 feet to a stake; thence North 84° 30' west 674 feet to a stake; thence North 9° 15' east 2018 feet to a gum stump; thence North 85° west 650 feet to an ash on the east side of the Old Roxboro Road; thence along and with the east side of said Old Roxboro Road 2287 feet to a stake, the point of beginning, containing 134 acres, more or less, and being all of the 106 acres of land described in the deed from P. T. Fogleman and wife to C. T. Husketh and wife, dated April 22, 1918, and recorded in deed Book 53, at page 236 and being a portion of the 53.8 acres, described in the deed from S. T. Morgan and wife, to C. T. Husketh dated September 3, 1906, and recorded in deed Book 36, at page 489, and being a portion of the two acre tract described in the deed from James H. Holloway and wife to C. T. Husketh recorded in deed Book 38, at page 476.

The property herein described is conveyed subject to the balance due the Commissioner and the Federal Land Bank of Columbia and R. E. Husketh.

To Have and to Hold said tract or parcel of land, together with all privileges and appurtenances thereon and thereto belonging, unto said part ies of the second part, and their heirs and assigns forever, in fee simple.

And said parties of the first part for themselves and their heirs covenant to and with said part ies of the second part and their heirs and assigns that they are seized of said premises in fee and ha ve good right to convey the same in fee simple; that the same are free and clear of all encumbrances, and that they will forever warrant and defend said title to the same against the claims of all persons whomsoever.

In Testimony Whereof, the said parties of the first have set their hands and seals, the day and year first above written.

C. T. Husketh (Seal)
Pearl Husketh (Seal)
(Seal)
(Seal)

NORTH CAROLINA, Durham County.

I, Hazel J. Brown, Notary Public, do hereby certify that C. T. Husketh and Pearl ~~Xxxx~~ Husketh, his wife, personally appeared before me this day and both acknowledged the due execution of the foregoing deed, and the said Pearl Husketh being by me thereafter privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto. Let the same with this certificate be registered.

Witness my hand and notarial seal this 3rd day of January 1942

(notarial seal) My commission expires 8-26-43 Hazel J. Brown, Notary Public.

NORTH CAROLINA, County.

The execution of the foregoing deed was this day acknowledged before me by the grantor, for the purposes therein expressed. Let the same with this certificate be registered.

Witness my hand and notarial seal this day of 19

(notarial seal) My commission expires Notary Public.

NORTH CAROLINA, County.

The execution of the foregoing deed was this day proven before me by the oath and examination of the subscribing witness thereto. Let the same with this certificate be registered.

Witness my hand and notarial seal this day of 19

NORTH CAROLINA, DURHAM COUNTY.

The foregoing certificate of Hazel J. Brown, Notary Public, of Durham County is adjudged to be correct. Let said deed with all certificates be registered.

Witness my hand this 3rd day of January 1942 A. J. Gresham, Deputy Clerk Superior Court.

Filed for registration 11:30 o'clock A M., Jan. 3 1942 and registered Jan. 5. 1942

Recorded and verified by JMB W. B. Markham Register of Deeds.

RECORD OF DEEDS No. 142

NORTH CAROLINA—Durham County

THIS DEED, Made and entered into this the 16th day of December 19 41, by and between C. T. Husketh and wife, Pearl Husketh

part ies of the first part, and John H. Fogleman and wife, Nora Ellen Fogleman part ies of the second part

Witnesseth, That for and in consideration of the sum of One and no/100 dollars and other good, sufficient and valuable consideration Dollars to them in hand paid, the receipt of which is hereby fully acknowledged, said part ies of the first part ha ve given, granted, bargained and sold, and do by these presents give, grant, bargain, sell and convey unto said part ies of the second part and their heirs and assigns, the following tract or parcel of land, lying and being in Oak Grove Township, in said County and State, bounded and described as follows, to-wit:

Beginning at a stake on the east side of the old Roxboro Road, 122.1 feet in a southerly direction from the south end of the bridge across Ellerby Creek, and running thence North 80° east 2260.5 feet to a stake; thence south 2° east 2079 feet to a stake and pointers on Hancock Branch; thence along and with said Hancock Branch in a southerly direction 2432 feet to a cedar; thence south 87° east 117.5 feet to the west right of way line of the Southern Railroad; thence along and with the right of way line of said railroad in a southerly direction 394 feet to a stake; thence North 84° 30' west 674 feet to a stake; thence North 9° 15' east 2018 feet to a gum stump; thence North 85° west 650 feet to an ash on the east side of the Old Roxboro Road; thence along and with the east side of said Old Roxboro Road 2287 feet to a stake, the point of beginning, containing 134 acres, more or less, and being all of the 106 acres of land described in the deed from P. T. Fogleman and wife to C. T. Husketh and wife, dated April 22, 1918, and recorded in deed Book 53, at page 236 and being a portion of the 53.8 acres, described in the deed from S. T. Morgan and wife, to C. T. Husketh dated September 3, 1906, and recorded in deed Book 36, at page 439, and being a portion of the two acre tract described in the deed from James H. Holloway and wife to C. T. Husketh recorded in deed Book 38, at page 476.

The property herein described is conveyed subject to the balance due the Commissioner and the Federal Land Bank of Columbia and R. E. Husketh.

SOLID WASTE SECTION FEB 11 1992

To Have and to Hold said tract or parcel of land, together with all privileges and appurtenances thereon and thereto belonging, unto said part ies of the second part, and their heirs and assigns forever, in fee simple.

And said parties of the first part for themselves and their heirs covenant to and with said part ies of the second part and their heirs and assigns that they are seized of said premises in fee and ha ve good right to convey the same in fee simple; that the same are free and clear of all encumbrances, and that they will forever warrant and defend said title to the same against the claims of all persons whomsoever.

In Testimony Whereof, the said parties of the first have set their hands and seals, the day and year first above written.

C. T. Husketh (Seal)
Pearl Husketh (Seal)
(Seal)
(Seal)

NORTH CAROLINA, Durham County.

I, Hazel J. Brown, Notary Public, do hereby certify that C. T. Husketh and Pearl ~~Xxxxx~~ Husketh, his wife, personally appeared before me this day and both acknowledged the due execution of the foregoing deed, and the said Pearl Husketh being by me thereafter privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto. Let the same with this certificate be registered.

Witness my hand and notarial seal this 3rd day of January 19 42

(notarial seal) My commission expires 8-26-43 Hazel J. Brown, Notary Public.

NORTH CAROLINA, County.

The execution of the foregoing deed was this day acknowledged before me by the grantor, for the purposes therein expressed. Let the same with this certificate be registered.

Witness my hand and notarial seal this day of 19

(notarial seal) My commission expires Notary Public.

NORTH CAROLINA, County.

The execution of the foregoing deed was this day proven before me by the oath and examination of the subscribing witness thereto. Let the same with this certificate be registered.

Witness my hand and notarial seal this day of 19

NORTH CAROLINA, DURHAM COUNTY.

The foregoing certificate of Hazel J. Brown, Notary Public, of Durham County is adjudged to be correct. Let said deed with all certificates be registered.

Witness my hand this 3rd day of January 19 42 A. J. Grasham, Deputy Clerk Superior Court.

Filed for registration 11:30 o'clock A M., Jan. 3 19 42 and registered Jan. 3 5 19 42

Recorded and verified by JMB W. E. Markham, Register of Deeds.

Landfill fire proves stubborn

By Aisling Swift
STAFF WRITER

DURHAM — A landfill fire that sent smoke billowing over Interstate 85 on Thursday morning will smolder for about a week before it dies out, officials say.

The fire at Fogleman Landfill & Mine at 4005 Intermere Road that burned throughout Wednesday night is buried beneath layers of construction debris, making it difficult for firefighters to douse, said Douglas Sasser, Redwood fire captain. The fire started spontaneously in the decomposing timber, tree stumps, soil, concrete and metal, he said.

"It kicked up several times during the night," Sasser said. "We had sparks shooting 100 to 150 feet in the air. Out there, it looked like daylight."

Firefighters drenched the blaze with "deluge guns" that spew 1,000 gallons a minute, but the fire was still burning after about 75,000 gallons of water, Sasser said.

The state is under a burning ban that began Oct. 29 because of dry weather and forest fires.

"We put a dent in it, but it's too hot to get machines to break things up," Sasser said, adding that heavy rain is needed. "We cleared what we could, but it's going to have to burn itself out."

Landfill owner James Fogleman couldn't be reached for comment.

Smoke was first reported about 8:15 p.m. Wednesday, but Sasser and another fire captain were unable to find the source and initially attributed it to a wood stove. About an hour later, Sasser said, another caller reported that the smoke was coming from the construction landfill.

Seven tanker trucks and 30 firefighters from departments in Redwood, Bahama, Lebanon, Bethesda, Parkwood, Butner and Creedmoor, along with members of the state Forestry Service, responded to the fire in northeastern Durham County near Falls Lake.

The closest homes are on Tom Clark Road, Sasser said, but no homes or wooded areas were endangered

Staff writer Aisling Swift can be reached at 956-2468 or aswift@newsobserver.com

This is enough
Do not look back
And grieve over the past
For it is gone
And do not be troubled
About the future
Live in the present
And make it so beautiful
That it will be worth
Remembering
Wherever we are, you are
there with us
We will always remember

ALICE ELIZABETH BEAVERS

GREENSBORO — Alice Elizabeth Beavers, 91, of 4100 Wellspring Drive, passed away on November 15, 2001 at her residence. She was born and raised in Wake County and was a graduate of Meredith College. Miss Beavers was a resident of Greensboro for 52 years and worked as a medical technologist with the Guilford Health Department for 25 years. She was a long-time member of the First Baptist Church.

Miss Beavers was the daughter of George Monroe and Daisy Olive Beavers of Wake County. She is survived by five brothers, George M. Beavers, Jr. of Apex, Dr. David L. Beavers of Winston-Salem, Dr. William O. Beavers of Greensboro, Dr. Franklin C. Beavers of Winston-Salem and John R. Beavers of Greenwood, SC.

She was preceded in death by four siblings, Jane Beavers Banks of Wake County, Dr. James W. Beavers of Greensboro, Lydia E. Beavers of Greensboro

If Tears Could Build a Stairway

If tears could build a stairway
And memories were a lane
We would walk right up
to heaven
And bring you back again
No farewell words were spoken
No time to say goodbye
You were gone before we knew it
And only God knows why
Our hearts still ache in sadness
And secret tears still flow
What it meant to lose you
No one can ever know
But now we know you want us
To mourn for you no more
To remember all the
happy times
Life still has much in store
Since you'll never be forgotten
We pledge to you today
A hallowed place within
our hearts
Is where you'll stay
Yor children, Karen and Kevin

In Our Hearts

We thought of you with
love today.
But that is nothing new.
We thought about
you yesterday.
And days before that too.
We think of you in silence.
We often speak your name.
Now all we have is memories.
And your picture in a frame.
Your memory is our keepsake.
With which we'll never part.
God has you in his keeping.
We have you in our hearts.