

LCIDN55 Corn Tim Dellinger-  
Lincoln Co., Mariposa Rd. No 458

Compliance

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION



JAMES B. HUNT JR.  
GOVERNOR

WAYNE MCDEVITT  
SECRETARY

**CERTIFIED MAIL** Z 204 746 195  
**RETURN RECEIPT REQUESTED**

October 25, 2000

**Timothy Wayne Dellinger**  
T.W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, NC 28164

Fac/Perm/Co ID #	Date	Doc ID#
<i>Carmen</i>	<i>2/25/09</i>	DIN



Re: Notice of Violation  
dated January 27, 1999  
Lincoln County

Dear Mr. Dellinger:

On Wednesday, October 25, 2000, I conducted a compliance inspection of the Land Clearing and Inert Debris Landfill Notification Site located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina. At the time of my inspection, it appeared that work had been completed as requested in the Notice of Violation issued to you on January 27, 1999.

This letter serves to confirm that the requirements of the Notice of Violation have been satisfied and the violation has been corrected. Thank you for your cooperation in this matter.

Should you have any questions or require assistance in the future, please contact me at (704) 663-1699.

Sincerely,  
  
James B. Bealle III  
Environmental Technician

- cc: Philip J. Prete, Field Operations Branch Supervisor/SWS
- Brent S. Rockett, Western Area Supervisor/SWS
- Anthony B. Foster, Waste Management Specialist/SWS
- Michael Landis, Regional Supervisor/DAQ
- Kelly Atkins, Lincoln County Director of Building and Land Development
- Barbara Carpenter, Lincoln County Code Enforcement Officer
- Jeffrey A. Taylor, Lincoln County Attorney
- Howard M. Cohen, Attorney at Law

C:\JBB3\CLOSURE\55980923

NC  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION

CERTIFIED MAIL Z 523 960 849  
RETURN RECEIPT REQUESTED

January 27, 1999  
N0450



JAMES B. HUNT JR.  
GOVERNOR

WAYNE MCDEVITT  
SECRETARY

Timothy Wayne Dellinger  
T. W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, NC 28164

Re: Notice of Violation  
Lincoln County *LCID notification*

Dear Mr. Dellinger:

Pursuant to *North Carolina General Statute §130A-22(a)* and *Title 15A North Carolina Administrative Code 13B*, you are hereby informed that your notified Land Clearing and Inert Debris (LCID) landfill has been operating in violation of the North Carolina Solid Waste Management Rules.

On Wednesday, September 23, 1998, I inspected the LCID notification site owned and operated by you measuring approximately two (2) acres in size, located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina. The inspection revealed that non-permitted waste including municipal solid waste (bagged household trash, clothing materials, discarded furniture, insulation, carpet, floor tile, PVC plastic pipe, HDPE plastic corrugated pipe, recyclables); construction and demolition waste (painted and treated wood, plywood, sheetrock, vinyl siding); metals (scrap metal, metal conduit, wiring); and tires; has been improperly disposed of on your property in the above referenced LCID notification site. The waste was located in and within fifty (50) feet of what appeared to be a running stream at that time.

*15A N.C.A.C. 13B, Section .0566(2)* - "the facility shall only accept those solid wastes which it is permitted to receive." You are in violation of *Section .0566(2)* in that you have accepted solid wastes that are not permitted to be received in the LCID notification site.

*15A N.C.A.C. 13B, Section .0564(9)* - "The facility shall meet the following minimum buffer requirements: (b) 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells." You are in violation of *Section .0564(9b)* in that you have not met the minimum buffer requirement of 100 feet from the disposal area to the property line located at the South end of the property.

919 NORTH MAIN STREET, MOORESVILLE, NORTH CAROLINA 28115  
PHONE 704-663-1699 FAX 704-663-6040

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

Based on the foregoing, you are hereby ordered to comply with *15A N.C.A.C. 13B, Section .0566(2) Operational Requirements for Land Clearing and Inert Debris (LCID) Landfills* and *Section .0564(9b) Siting Criteria for Land Clearing and Inert Debris (LCID) Landfills* and take the following actions:

1. Immediately discontinue all waste dumping operations.
2. Immediately post signs indicating closure.
3. Immediately prevent unauthorized entry to the site by means of gates, berms, or fences.
4. Implement effective vector control, including baiting for at least two (2) weeks following closure to prevent vector migration to adjacent properties.
5. By **Friday, April 30, 1999**, complete the following:
  - a. Remove all materials not designated as inert debris (concrete, brick, concrete block, uncontaminated soil, rock, and gravel), asphalt, land clearing waste (stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material), and untreated wood from the LCID notification site as defined during the meeting on Thursday, January 14, 1999, and transport to the Lincoln County Landfill.
  - b. Properly close the site by taking the following actions:
    - Modify landfill area to meet State minimum buffer requirements.
    - Cover remaining waste with at least two (2) feet of soil.
    - Implement erosion control measures as required by grading and seeding in accordance with the Sedimentation Pollution Control Act (*15A N.C.A.C. 4*). You may contact the Land Quality Section of the Division of Land Resources at (704) 663-1699 if you have any questions pertaining to the Sedimentation Pollution Control Act.

Pursuant to *N.C.G.S. §130A-22(a)* and *15A N.C.A.C. 13B, Section .0701 - .0707*, an administrative penalty of up to Five Thousand Dollars (\$5,000.00) per day, per violation may be assessed for violations involving nonhazardous waste.

Verification that the non-permitted waste has been properly disposed of at a State permitted solid waste management facility will be required. Please submit receipts and any related correspondence to:

**North Carolina Department of Environment and Natural Resources  
Division of Waste Management/Solid Waste Section  
Attn: James B. Bealle III  
919 North Main Street  
Mooresville, NC 28115**

Please submit schedule for compliance prior to start date. Should you have any questions concerning this matter, please contact me at (704) 663-1699. Thank you in advance for your cooperation.

Sincerely,



James B. Bealle III  
Environmental Technician

cc: Philip J. Prete, Field Operations Branch Supervisor/SWS  
Julian M. Foscue, III, Western Area Supervisor/SWS  
Anthony B. Foster, Waste Management Specialist/SWS  
Michael Landis, Regional Supervisor/DAQ  
Kelly Atkins, Lincoln County Director of Building and Land Development  
Richard Smith, Lincoln County Land-Use Coordinator  
Barbara Carpenter, Lincoln County Code Enforcement Officer  
Jeffrey A. Taylor, Lincoln County Attorney  
Debra H. Johnson, Attorney at Law



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

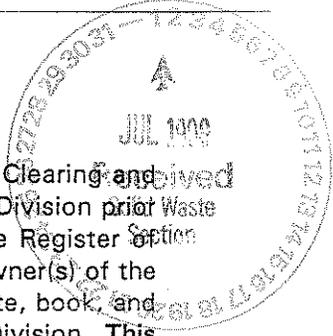
James B. Hunt, Jr., Governor  
 Jonathan B. Howes, Secretary  
 William L. Meyer, Director

Post-it® Fax Note	7671	Date	9/2/98	# of pages	5
To	Phil Prete	From	James Bealle		
Co./Dept.	RCO	Co.	MRO		
Phone #	(919) 733-0692	Phone #	(704) 663-1699		
Fax #	(919) 733-4810	Fax #	(704) 663-6040		

735-8902

NO 458

**LAND CLEARING AND INERT DEBRIS LANDFILL NOTIFICATION**



Pursuant to 15A NCAC 13B .0563(2)(a), the land owner(s) and operator(s) of any Land Clearing and Inert Debris Landfill under two (2) acres in size shall submit this notification form to the Division prior to constructing or operating the landfill. This form must be filed for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification under the name of the owner(s) of the land in the county or counties in which the land is located. The Register's seal and the date, book, and page number of recording must be included on this form when submitted to the Division. This notification is not valid to authorize operation of a landfill unless complete, accurate, recorded, and submitted to the Division as required by 15A NCAC 13B .0563(2)(b).

- Facility Name: Mariposa Road Site
- Facility location (street address): 1873 Mariposa Rd.  
 City: Stanley NC County: Lincoln Zip: 28164
- Directions to Site: 1/2 mile on left on Mariposa Rd - Off Old Plank Rd.

- The land on which this landfill is located is described in the deed recorded in:  
 deed book: 186 page: 565 county: Lincoln
- Name of land owner: Margaret B. Nantz
- ✓ Mailing address of land owner: 6420 Old Plank Rd.  
 City: Stanley State: NC Zip: 28164
- Telephone number of land owner: ( 704 ) 732-6368 Home (Bus. 735-8902)

If the land is owned by more than one person, attach additional sheets with the name, address, and phone number of all additional land owners.

- Name of operator: Timothy Wayne Dellinger
- Trade or business name of operator: Grading & Trucking
- Mailing address of operator: 7624 DAKview TRL  
 City: Stanley State: N.C. Zip: 28164
- Telephone number of operator: ( 704 ) 827-9498 (w) 800-614-7498 (pager)

If the landfill is operated by more than one person, attach additional sheets with the name, address, and phone number of all additional operators.

- Projected use of land after completion of landfill operations: Parking Lot For Speedway

879-8668 (mobile)

The following are the applicability, siting, and operating criteria for Land Clearing and Inert Debris Landfills operating under notification.

**.0101 DEFINITIONS**

- (72) "Land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material.
- (73) "Land clearing and inert debris landfill" means a facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.
- (74) "Yard trash" means solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative materials.

**.0563 APPLICABILITY REQUIREMENTS FOR LAND CLEARING AND 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 N.C.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:
- 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.
  - The total disposal area is under two acres in size.
  - The facility and practices comply with the siting criteria under Rule .0564, and operational requirements under Rule .0566.
  - 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:
- 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 Rule .0563(2)(b). The operator of the landfill, if different from the land owner, shall also sign the notification form.
  - 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.
  - 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.

**.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:

- Facilities or practices, shall not be located in the 100-year floodplain.
- Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
- 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.
- Facilities or practices shall not damage or destroy an archaeological or historical site.
- 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.
- Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).
- It must be shown that adequate suitable soils are available for cover, either from on or off site.
- Land Clearing and Inert Debris landfills shall meet the following surface and ground water requirements:
  - 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.
  - 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.
  - Facilities or practices shall not cause non-point source pollution of waters of the state that violates assigned water quality standards.
  - 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.
  - Waste in landfills with a disposal area less than two acres shall be placed above the seasonal high water table.
- The facility shall meet the following minimum buffer requirements:
  - 50 feet from the waste boundary to all surface waters of the state as defined in G.S. 143-212.
  - 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
  - Buffer requirements may be adjusted as necessary to insure adequate protection of public health and the environment.
- The facility shall meet all requirements of any applicable zoning ordinance.

**.0566 OPERATIONAL REQUIREMENTS FOR LAND CLEARING AND INERT DEBRIS (LCID) LANDFILLS**

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

- Operational plans shall be approved and followed as specified for the facility.
- The facility shall only accept those solid wastes which it is permitted to receive.
- Solid waste shall be restricted to the smallest area feasible and compacted as densely as practical into cells.
- Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.
- 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.



Certification by Landfill Operator (if different from Owner):

I certify that the information provided by me in this notification is true, accurate, and complete to the best of my knowledge. The facility siting and disposal operations of this Land Clearing & Inert Debris landfill will comply with the requirements of Sections .0563, .0564 and .0566 of 15A NCAC 13B, North Carolina Solid Waste Management Rules. The facility and operations of this landfill will also comply with all applicable Federal, State, and Local laws, rules, regulations, and ordinances. I have informed the land owner of my plans to dispose of solid waste on the land and the land owner has specifically granted permission for the operation of the landfill. I understand that both the operator and land owner are jointly and severally liable for improper operations and proper closure of the landfill as provided for by North Carolina General Statute 130A-309.27. I further understand that North Carolina General Statute 130A-22 provides for administrative penalties of up to five thousand dollars (\$5,000.00) per day per each violation of the Solid Waste Management Rules. I further understand that the Solid Waste Management Rules may be revised or amended in the future and that the facility siting and operations of this landfill will be required to comply with all such revisions or amendments.

Timothy Wayne Dellinger Timothy Wayne Dellinger 12-29-94  
Print Name (Operator) Signature (Operator) Date

North Carolina

Lincoln County

I, Candace R. Dellinger, a Notary Public for said County and State, do hereby certify that Timothy W. Dellinger personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 29<sup>th</sup> day of December, 1994.



(Official Seal)

Candace R. Dellinger  
Notary Public

My commission expires April 20, 1998.

For additional land owners and landfill operators, attach separate notarized certifications for each additional land owner and landfill operator.

For Corporate land owners and/or operators, use the Corporate Certifications, pages 5 and 6. Contact the Division of Solid Waste Management for proper applicable certifications.

INSTRUCTIONS

Purpose: Notification of Land Clearing and Inert Debris Landfills under two (2) acres in size is required under 15 NCAC 13B .0563(2)(a). Contact the Solid Waste Section at the address below for further information.

Distribution: Mail completed recorded original notification to the following address:

Division of Solid Waste Management  
Solid Waste Section  
PO Box 27687  
Raleigh, North Carolina 27611-7687  
(919) 733-0692

Disposition: This form will be transferred to the State Records Center when reference value ends. Records will be held for agency in the State Records Center five (5) additional years and then transferred to the custody of the Archives.



JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

*kc -  
Treat as letter  
warning  
- p*

*not*  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES

MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION

*70830*

November 5, 1998

*NO458*

**CERTIFIED MAIL Z 560 750 091**  
**RETURN RECEIPT REQUESTED**

**Tim Dellinger**  
T.W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, NC 28164

Re: Lincoln County  
*notification LCID*

Dear Mr. Dellinger:

On Wednesday, September 23, 1998, I investigated a complaint pertaining to the property owned by you, located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina. The inspection revealed that non-permitted construction and demolition waste has been landfilled in the Land Clearing and Inert Debris landfill notification site located on the property. The waste was located in and within fifty (50) feet of what appeared to be a running stream at that time.

On Monday, October 12, 1998, Julian Foscue, Western Area Supervisor/SWS, Barbara Carpenter, Lincoln County Code Enforcement Officer, you, and I met and agreed to address the following items:

1. **Running Water** - The water running out of the fill area is to be monitored for a period of up to one (1) year to determine if it is a natural drainage feature (spring), or the result of water seepage into the fill area due to the impoundment of water.
2. **Property Lines** - State minimum buffer requirements to be discussed on Tuesday, November 10, 1998.
3. **Test Pits** - Random test pits have been scheduled to be dug on Tuesday, November 10, 1998. Please have equipment ready to operate by 2:00 p.m.
4. **Landfill Closure** - Following the test pit schedule and any excavation that may be required as a result of the findings on Tuesday, November 10, 1998, the LCID notification site is to be formally closed. This process will require adequate erosion control measures, structures, or devices to prevent silt from leaving the site and to prevent excessive on site erosion.

- Divert surface water runoff thereby preventing impoundment of water over the waste.
- Address steepness of, and the rills in the slopes
- The borrow pit area may be filled in with inert materials only, however, this activity must be coordinated with the County. Please contact Kelly Atkins, Lincoln County Land-Use Coordinator at (704) 736-8726.

**4. Non-Permitted Waste** - Remove all non-permitted waste and notify the Division when landfill closure has been completed. Verification that the non-permitted waste has been properly disposed of at a State permitted facility will be required. Please submit receipts and any related correspondence to:

**North Carolina Department of Environment and Natural Resources  
Division of Waste Management/Solid Waste Section  
Attn: James B. Bealle III  
919 North Main Street  
Mooresville, NC 28115**

Should you have any questions concerning this matter, please contact me at (704) 663-1699. Thank you in advance for your cooperation.

Sincerely,



James B. Bealle III  
Environmental Technician

cc: Philip J. Prete, Field Operations Branch Supervisor/SWS  
Julian M. Foscue, III, Western Area Supervisor/SWS  
Anthony B. Foster, Waste Management Specialist/SWS  
Kelly Atkins, Lincoln County Land-Use Coordinator  
Barbara Carpenter, Lincoln County Code Enforcement Officer

**HOWARD M. COHEN**

ATTORNEY AT LAW

SUITE 952, JOHNSTON BUILDING  
212 SOUTH TRYON STREET

CHARLOTTE, NORTH CAROLINA 28281

TELEPHONE 704-335-8139 FACSIMILE 704-335-8130

June 30, 1999

Sent via fax 633-6040 and by U.S. Mail

Mr. James B. Bealle, III  
Environmental Technician  
NCDENR-Mooresville Regional Office  
819 North Main St.  
Mooresville, NC 28115

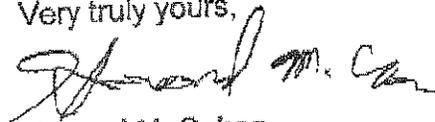
**RE: Tim Dellinger-Lincoln County, Mariposa Road**

Dear James:

As per our telephone conversation of yesterday, this will confirm that Mr. Dellinger expects to complete the required work at the Mariposa Road property by July 13, 1999, weather permitting. He plans to start the work on July 6 and is optimistic that the work will be completed before July 13.

My client also informs me that the purchase of the additional buffer area has been completed and recorded. He has not yet gotten back the copy from the Register of Deeds and as soon as he receives the copy he will forward it to you.

Very truly yours,



Howard M. Cohen

cc: Tim Dellinger



LINCOLN Co.  
DELLINGER SITE

JUNE 2, 1999

2:00pm Spoke w/ Kelly Atkins, Lincoln Co. Zoning, they are awaiting completion of the waste removal project required by our office prior to officially "closing" the site. ~~Mr. Kelly~~ Atkins also advised me that Dellinger's attorney (Mr. Cohen) is to appear ~~at~~ before the Lincoln Co. Bd. of Comm. & request, on Mr. Dellinger's behalf, to utilize a hole adjacent to the landfill to ~~fill~~ <sup>deposit</sup> the LCID waste disturbed during the removal of non-LCID items from this site. Mr. Cohen is to appear before the board on 6-7-99. If the county approves, Mr. Cohen will give us a schedule for completion of the project ASAP. If the county does not approve, I assume the LCID waste will be left in place, graded, compacted, covered & seeded. In either case, we should hear from Mr. Cohen!

2:30pm Relayed the above info. to Mrs. Mary Sercy

Julian Fosque

18 May 1999

After 3:30

Mary Sercy

704-263-5044

Have been dealing with situation for 5 yrs  
Have been dealing with Mooresville since 1997  
Started out dealing with Anthony  
Have been dealing with Julien Foscoe

Upset that state gave Dellinger to April 30  
to close out.

Her place is less than 1000 ft. from dump  
Mr. Bealle stated that if she hadn't gotten media <sup>could have</sup> <sub>been done</sub>  
on Feb 19, stated that April 30 is not  
written in storm (Bealle)

Claims there is a spring-fed creek that  
Dellinger has filled over

Feb 23, 1998 - letter that he is in compliance  
↳ Memo from Foster to Foscoe

Tim Dellinger

Stated that anything smaller than a tin can  
can stay in, everything bigger than bucket must come out

Jan 27 letter to Tim Dellinger from Bealle

\* Rt Sept. 23 inspection. Non-permitted waste  
waste too close to water

claims James Bealle has no compliance schedule  
has contacted Senator Forrester

Richard Smith - Zoning in Lincoln County 736-8424

↳ call him or Kelly Atkins 736-8724





NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION



JAMES B. HUNT JR.  
GOVERNOR

WAYNE MCDEVITT  
SECRETARY

Richard B. Smith  
Lincoln County Building & Land Development  
302 North Academy Street  
Lincolnton, NC 28092

May 21, 1999

Re: Lincoln County

Dear Mr. Smith:

This letter is written in reference to your letter addressed to Howard M. Cohen dated April 20, 1999.

Please be informed that the Solid Waste Section will observe the removal of non-permitted waste as time allows, however, will not be present during the entire removal process.

We would encourage County officials to be involved to the maximum extent possible to provide assistance during the removal process.

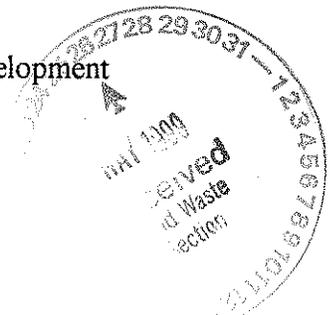
Please contact me at (704) 663-1699 should you have additional questions.

Sincerely,

James B. Bealle III  
Environmental Technician

cc: Philip J. Prete, Field Operations Branch Supervisor/SWS  
Julian M. Foscue, III, Western Area Supervisor/SWS  
Anthony B. Foster, Waste Management Specialist/SWS  
Michael Landis, Regional Supervisor/DAQ  
Kelly Atkins, Lincoln County Director of Building and Land Development  
Barbara Carpenter, Lincoln County Code Enforcement Officer  
Jeffrey A. Taylor, Lincoln County Attorney  
Howard M. Cohen, Attorney at Law  
Timothy W. Dellinger, T.W. Dellinger, Inc.

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NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF SOLID WASTE MANAGEMENT

MAY 20, 1999

*Corrected*



JAMES B. HUNT JR.  
GOVERNOR

Mr. Jimmy Gordon  
Union County Public Works Department  
P.O. Box 987  
Monroe, N.C. 28111

WAYNE McDEVITT  
SECRETARY

SUBJECT: Union County Solid Waste Management 10-Year Plan  
Union County Non-Facility

Dear Mr. Gordon:

The Section has completed the compliance review of Union County's comprehensive Solid Waste Management Plan. It appears that the plan has addressed all the requirements of GS 130 A-309.09A(b). We encourage Union County to implement the programs as stated in the plan and to continually review the effectiveness of the plan in meeting your goals and the goals of the State law. The County should modify the plan as necessary and as conditions change that impact solid waste management.

I would like to remind you that General Statute 130A-309.09A(b) requires that "each plan shall be updated at least every three years." The update would need to be completed no later than July 1, 2000. If conditions change in your county sufficiently to warrant a substantial update of the plan, it can be done earlier than three years. If your county significantly updates the plan before that time, your next update will be three years from the time that your update is completed. I will gladly assist you in evaluating the most optimal time to update your plan based on changes in the priorities and infrastructure of Union County.

Thank you and all those in Union County who participated in the development and implementation of the plan. If you have any questions concerning this letter or future planning requirements, please do not hesitate to contact me at (704)663-1699, extension 212.

Sincerely,

*C. Rick Doby, Sr. / de*  
C. Rick Doby, Sr.  
Waste Management Specialists

CRD/de

cc: Julian Foscue III  
Phil Prete  
Benjamin Ugwuegbu



...ing a community in Washington, considered one of the highest honors in American psychiatry, the award recognizes an educator who has made outstanding

Blake-Stouderman Collection on African-American history and culture at the Lincoln County Library. The collection was established in honor of his lifelong childhood friend Boyce Blake, who died in 1997 of Lou Gehrig's disease. Their friendship is the focus of Stouder-

# Slow cleanup pace irks dump neighbors

By **HEM ROYBACHER**  
Staff Writer

LINCOLN COUNTY — Lincoln County officials aren't doing enough to close an illegal East Lincoln landfill, residents who live near the site said Monday.

"After five years of fighting this, it's time for you all to help us," said Mary Scerrey, one of the neighbors who has long protested the dump off Mariposa Road.

In February, state environmental officials gave Tim Dellinger, the dumping site's owner, until April 30 to remove illegal debris such as plastic and metal and to cover the site. But the task hasn't been finished yet, James Bealle of the N.C. Department of Environment and Natural Resources said Tuesday.

"We have been unable to set a concrete completion date at this point in time," Bealle said. "It's all contingent on Dellinger getting approval for work by the county."

At a previous meeting, the commissioners requested a survey of

the site to verify where materials were being placed and to ensure a buffer around the dump. Dellinger's lawyer, Howard Cohen, said Tuesday that his client is working on the survey and hopes to meet with county officials soon.

"We are waiting for county approval," Cohen said. Yeddy Atkins, the county's building and land development director, said he and the county attorney will meet Tuesday to determine the county's next step.

Commissioner John Gamble said Monday that he wants the situation resolved.

"I think it's horrid it's taking that long," he said. "I don't see why we can't have some action."

In other commissioner news: Lincoln Medical Center lawsuit: County officials are expected to give depositions this week in a lawsuit filed by dismissed Lincoln Health System directors, county attorney Jeff Taylor said.

Lawyers for the directors have asked to talk with County Manager

Seymour D. Vestrumark, director of the training branch of the National Institute of Mental Health. Stouderman and his wife, Sue, live in Atlanta with their two children, Anna Louise and Will.

Joe DeFries

Stan Kiser and commissioners Jim Hallman, John Gamble and David Wilson, Taylor said.

The directors and hospital president Peter Acker sued the commissioners in March after they removed 11 of the 15 directors of the health system, the nonprofit corporation that owns Lincoln Medical Center.

The commissioners dismissed the directors to prevent a vote on a joint-venture agreement with Carolina HealthCare System. The removed directors contend the action was illegal.

Lawyers for both parties have said they hope to have the case heard by a judge in June.

Taylor said the commissioners might ask for depositions from Acker and Jim Peery, who was removed as chairman of the board of directors.

Zoning updates: A plan to revamp Lincoln County zoning regulations will be done piecemeal.

The county commissioners voted 4-1 Monday to look at the

fast-growing eastern end of the county first as they create a new land-use plan, the planning document that guides future development.

The commissioners authorized the planning board, which will lead the effort, to spend \$20,000 on a consultant to help with the process. Commissioner David Wilson dissenting, saying the motion gave too much authority to the planning board.

In January, the commissioners voted unanimously to revamp the entire plan and to simplify zoning regulations, but budget cuts have left only \$20,000 to start the project.

Budget session: The commissioners canceled a budget work session scheduled for tonight, but will hold one planned for Thursday. That meeting starts at 6 p.m. at the Citizens Center, 115 W. Main St., Lincoln.

Reach Rick Rothacker at (704)-868-7748 or rrothacker@charlotte.com

May 19, 1999  
TO: James Bealle  
FROM: Rick Rothacker

ONE DAY ON  
Saturday, May  
You "oughta" be at this national event! Visit us on our website at [www.oughta.com](http://www.oughta.com) for more information. Oughta Be In Pictures. One day only. Also, bring your video - it may be featured on our website.  
Sharyn's  
Columbia  
8-120

Post-it Fax Note 7671  
Date 5/21/99 # of pages 1  
To Phil Prebe From James Bealle  
Conf/Dept. R C U Co. m P U  
Phone # (919) 733-0612 Phone # (704) 663-1679  
Fax # (704) 733-7810 Fax # (704) 663-6940

**GASTON**  
Serving Gaston - Lincoln - Kings Mountain  
407 E. Long Ave.  
Gastonia, NC 28054.  
News  
988-7790 For Gaston County, please call us from 10 a.m. to 10 p.m. daily with

**RAVIER WATCH**  
Gastonia Police have a program called "radar watch" aimed at slowing traffic in problem areas.  
The decision to target specific roads and patrol them heavily was a result of numerous complaints about speeders.

Lincoln's Fargo heist, was changed





NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION

**CERTIFIED MAIL Z 523 955 205**  
**RETURN RECEIPT REQUESTED**

April 23, 1999



JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

**Howard M. Cohen**  
Attorney at Law  
Suite 952, Johnston Building  
212 South Tryon Street  
Charlotte, NC 28281

Re: Lincoln County

Dear Mr. Cohen:

Thank you for submitting the letter dated April 15, 1999 regarding the Dellinger LCID landfill notification site located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina.

I look forward to working with you and Mr. Dellinger on remediation of the site as clearly outlined therein.

Sincerely,

James B. Bealle III  
Environmental Technician

- cc: Philip J. Prete, Field Operations Branch Supervisor/SWS
- Julian M. Foscue, III, Western Area Supervisor/SWS
- Anthony B. Foster, Waste Management Specialist/SWS
- Michael Landis, Regional Supervisor/DAQ
- Kelly Atkins, Lincoln County Director of Building and Land Development
- Richard Smith, Lincoln County Land-Use Coordinator
- Barbara Carpenter, Lincoln County Code Enforcement Officer
- Jeffrey A. Taylor, Lincoln County Attorney
- Timothy W. Dellinger, T.W. Dellinger, Inc.

C:\JBB3\X\55980923.2



919 NORTH MAIN STREET, MOORESVILLE, NORTH CAROLINA 28115  
PHONE 704-663-1699 FAX 704-663-6040

**HOWARD M. COHEN**

ATTORNEY AT LAW

SUITE 952, JOHNSTON BUILDING

212 SOUTH TRYON STREET

CHARLOTTE, NORTH CAROLINA 28281

TELEPHONE 704-335-8139 FACSIMILE 704-335-8130

April 15, 1999

Mr. Julian M. Foscue, III  
Western Area Supervisor  
NCDENR-Mooresville Regional Office  
919 North Main Street  
Mooresville, NC 28115

Mr. James B. Bealle, III  
Environmental Technician  
NCDENR-Mooresville Regional Office  
919 North Main Street  
Mooresville, NC 28115

**RE: Timothy Wayne Dellinger-Lincoln County**

Dear Messrs. Foscue and Bealle:

Thank you for meeting with us on Monday, April 12, at Mr. Dellinger's property on Mariposa Road in Lincoln County. It is our understanding, subject to approval by Lincoln County, that Mr. Dellinger will turn over the material in the area of the second lift plus the immediate area surrounding one test pit where some material had been burned and remove any large pieces of non-permitted waste that might be found at the site.

We also discussed that there is a large existing hole at the site adjacent to the second lift area that was dug for clean fill to cover the site. It was agreed that this hole may pose some safety risks particularly from people who visit the nearby race track and trespass on Mr. Dellinger's property. Again, subject to approval by Lincoln County, it was agreed that the existing permitted material at the site that is turned over may be pushed into the hole at the site. When this work is completed, both areas will be covered with clean fill and seeded.

We will notify you when we obtain written approval from the County to do the work outlined above and give you a date when we plan to start the work. We would

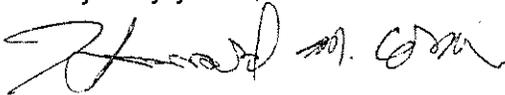
Mr. Julian M. Foscue, III  
Page 2  
April 15, 1999

welcome your presence at the site when the work is started to help us assure that everything is done to your satisfaction.

Finally, as we discussed, Mr. Dellinger, expects to complete the purchase of the adjacent property to the south within the next few days. This should fully address your concern about maintaining more than a 100-foot buffer from the existing disposal area associated with the first lift. The first lift area will not be disturbed. The area where the hole is and that we expect to fill is to the east and Mr. Dellinger already owns more than enough land in that direction so that there will be no problem with maintaining an adequate buffer.

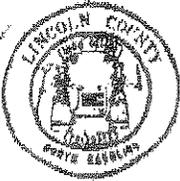
If this letter does not accurately reflect your understanding of our agreement, please let me know. Mr. Dellinger looks forward to working with you and the County to get this matter resolved.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Howard M. Cohen".

Howard M. Cohen

cc: Mr. Richard Smith, Lincoln County Land-Use Coordinator  
Mr. Timothy Dellinger



# COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, LINCOLNTON, NORTH CAROLINA 28092

BUILDING AND LAND DEVELOPMENT  
(704) 736-8440 OFFICE  
(704) 736-8434 INSPECTION REQUEST  
(704) 732-8010 FAX

*Send Letter P, Please call me!!!*

Post-It® Fax Note	7671	Date	4/20/99	# of pages	2
To	Julian Foscoe	From	James Bealle		
Co./Dept.	W3 RO	Co.	W RO		
Phone #	(336) 771-4600	Phone #	(704) 663-1699		
Fax #	(336) 771-4631	Fax #	(704) 663-6040		

Howard M. Cohen  
Attorney at Law  
Suite 952, Johnston Building  
212 South Tryon Street  
Charlotte, NC 28281

April 20, 1999

Dear Mr. Cohen,

On Monday, April 19, 1999, I presented your letter dated April 15, 1999 to the Lincoln County Board of Commissioners. Your letter addressed the results of a meeting between you and your client, Timothy W. Dellinger, and Julian M. Foscoe and James B. Bealle of NCDENR (hereafter referred to as "the state"). The proposed result of this meeting was that Mr. Dellinger would expose the material of two areas on the site designated by the state and remove any large pieces of non-permitted waste that might be found at the site. You and your client made an agreement with the state that a large existing hole on the site would be used to push material that is permitted to stay on the site into this hole contingent upon approval by Lincoln County.

Before the Board of Commissioners meeting was held I contacted Mr. Bealle to confirm the results of the meeting at the landfill site. He stated that the agreement that took place at the meeting was as stated in your letter. He also agreed to provide a letter from NCDENR stating as such. I asked Mr. Bealle to clarify "large pieces and small pieces" of non-permitted waste as related to what was to be removed from the site. He stated that a soda can size piece would probably be considered small, whereas a bucket size piece or greater would be considered to be a large piece that would need to be removed from the site. Mr. Bealle added that he intended to be present at the site during the removal process for monitoring purposes.

The Board of Commissioners' feelings regarding this matter was that there was a need for clarity in two particular areas regarding this matter. First, the Commissioners stated that they would need a letter from a NCDENR representative stating that their office would closely monitor this removal process. The second issue was the location of this existing hole. The Board of Commissioners determined that a survey of this site would be needed in order to determine the exact location of this hole in relation to the landfill site. The Lincoln County Zoning Ordinance specifically prohibits the expansion of a nonresidential nonconforming use beyond its current parcel without first being issued a Conditional Use Permit by the Planning Board. This landfill is deemed to be an existing nonresidential nonconforming use. Additionally, the Board of Commissioners directed the Building and Land Development staff to verify the existence of the 100 foot buffer area on the site. This buffer would also need to be denoted on the survey of this site.



If I may provide further clarity regarding this matter, please feel free to contact me at your earliest convenience. Thank you for your cooperation with this matter.

Sincerely,



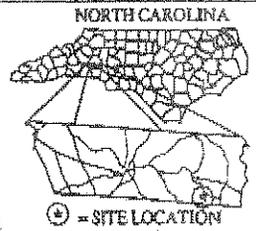
Richard B. Smith  
Land Use Coordinator

Cc: Stan Kiser, County Manager  
Jeff Taylor, County Attorney  
James Bealle, NCDENR  
Kelly Atkins, Director, Building and Land Development

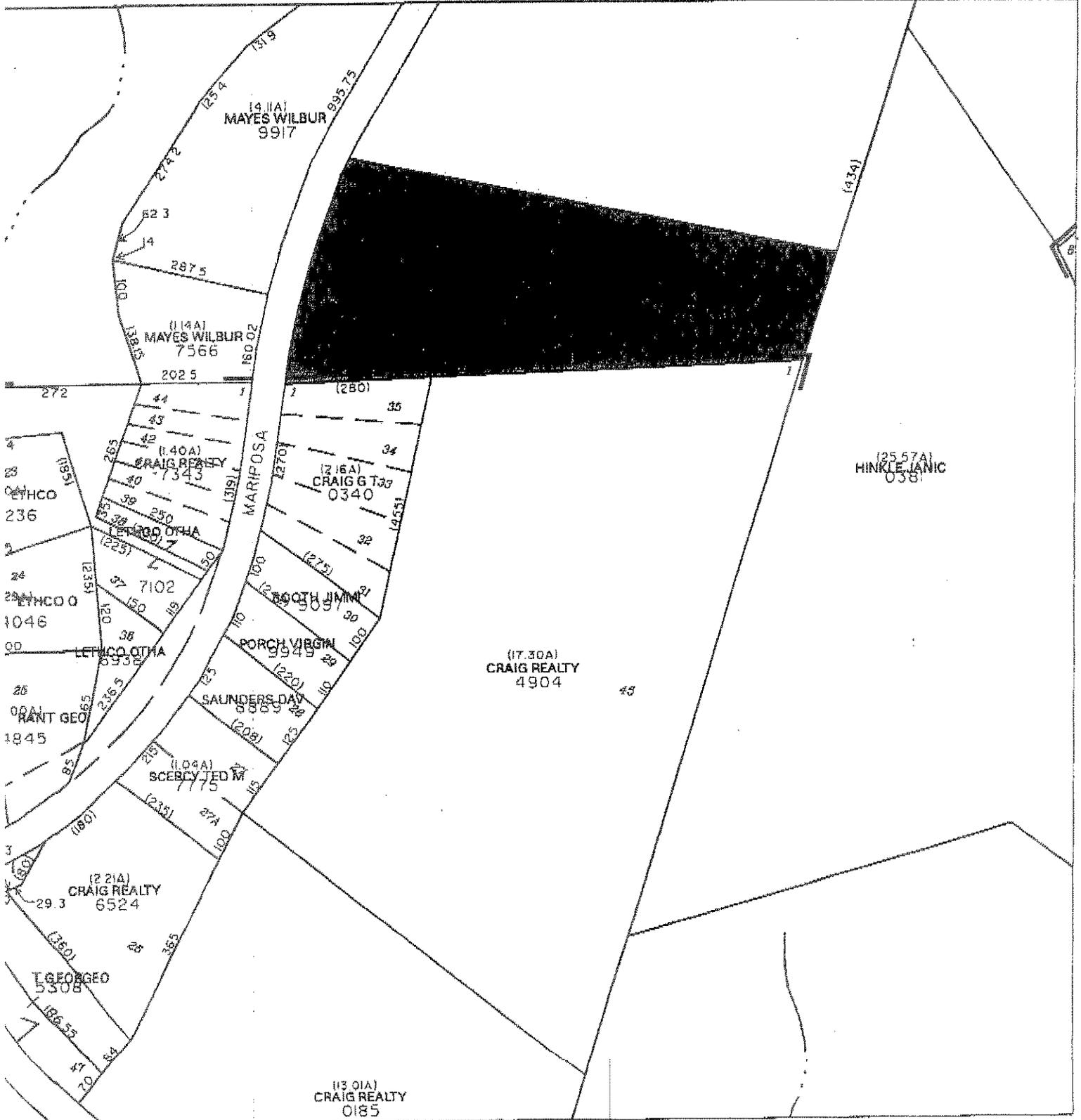
# L I N C O L N C O U N T Y , N C

## OFFICE OF THE TAX ADMINISTRATOR

Plot From the County's Geographic Information System (GIS)  
 BASED ON THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM 1983 NAD  
 LINCOLN COUNTY AND ITS MAPPING CONTRACTORS ASSUME NO LEGAL RESPONSIBILITY FOR  
 THE INFORMATION CONTAINED ON THIS MAP. THIS MAP IS NOT TO BE USED FOR LAND CONVEYANCE.  
 SHADED PIN#1: 3881-04-73-3665 and PID#1: 71170 PLOT FROM MAP(S)# 368104



SCALE: 1" = 250' DATE: 19 Oct 98 11:56:27 Monday



LANDFILLTo all residents and/or property owners of East Lincoln County.

Many of you may or may not be aware of the landfill/dump that is located at East Lincoln Speedway on Mariposa Road.

Attached is an article recently published in the Lincoln Times. We urge you to read the article and ask yourself a question; do you want this DUMP in your neighborhood? We have to use the ground water, which could quite possibly be polluted, by this dump. We feel that we have been let down by our county officials that we elected to protect and serve. In the past we have joined together and showed that we care about our community, especially the future.

**WE URGE EACH OF YOU TO ATTEND A VERY IMPORTANT PUBLIC MEETING TO BE HELD FRIDAY FEBRUARY 20, 1998, AT 7.00PM IN THE FELLOWSHIP HALL AT FAITH BAPTIST CHURCH, LOCATED AT 5194 OLD PLANK ROAD.**

There is also a public hearing on March 2, 1998, for the purpose of renewing the permit so the dump can be reopened. If you care about the future of your community we urge you to please attend this very important meeting. There are many details not mentioned above and we will update you at the meeting on Feb. 20, 1998. There will be a petition available for you to sign at the meeting to protest the dump.

Attention: James Bealle

# Deadline set for properly closing landfill

2-15-99

By RANDY HAWKINS  
LTN Staff Writer

The state has set a deadline for the owner of a private landfill in southeastern Lincoln County to remove materials that were illegally dumped at the site and to properly close it.

The N.C. Department of Environment and Natural Resources has given Tim Dellinger until April 30 to comply or face a fine of up to \$5,000 per day.

Dellinger's landfill, which covers about two acres on Mariposa Road near the East Lincoln Speedway, was permitted to accept land-clearing waste and inert debris from construction and demolition sites such as trees, limbs, stumps, uncontaminated soil, concrete, brick and untreated wood.

But an inspection in September revealed the landfill contained non-permitted waste, including bagged household trash, clothing materials, discarded furniture, insulation, carpet, floor tile, PVC plastic pipe, painted and treated wood, vinyl siding, scrap metal, metal conduit, wiring and tires, according to state environmental technician James Bealle.

The landfill was also found to be in violation of the minimum buffer requirement of 100 feet. The disposal area was too close

to the property line at the south end of the landfill, Bealle said in a letter to Dellinger.

The letter noted that the non-permitted waste was located within 50 feet of what appeared to be a running stream.

Neighbors have complained about the landfill for years, citing concern about possible contamination of groundwater. Some residents are upset with Lincoln County officials for allowing the landfill to continue to operate after a zoning permit expired.

"We proved to them that it was illegal before only a tenth of this stuff was in there. But they ignored our pleas," said Ted Scercy. "Now it's gone to the point where the damage to the land has been done."

County commissioners granted Dellinger a conditional use permit in 1995 to operate the landfill for one year after he explained that he wanted to fill in a low area to create additional parking space for the racetrack.

The landfill remained in operation after the permit expired and after residents repeatedly complained. The county finally ordered Dellinger to stop dumping in January 1998.

He promptly applied for a new permit. Last March, commis-

See LANDFILL, page 15A

## LANDFILL

(Continued From Page 1)

sioners agreed to allow him to operate the landfill until Oct. 1 to give him time to complete any work in progress and properly cover the site.

In September, a fire at the landfill sent black smoke billowing into the air and created a stench that settled on the area. Dellinger was cited for violating state regulations that prohibit open burning of construction debris. Bealle inspected the site and found non-permitted waste.

The county didn't enforce the Oct. 1 deadline for closing the landfill because state action was pending.

The state has ordered Dellinger to complete the following steps by April 30:

- Remove all non-permitted materials and transport them to the Lincoln County Landfill.
- Modify the landfill area to meet the buffer requirement.
- Cover the remaining waste with at least two feet of soil.
- Implement erosion control measures by grading and seeding the site.





NC  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION

**CERTIFIED MAIL Z 523 960 849**  
**RETURN RECEIPT REQUESTED**

January 27, 1999



JAMES B. HUNT JR.  
GOVERNOR

WAYNE MCDEVITT  
SECRETARY

Timothy Wayne Dellinger  
T. W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, NC 28164

Re: Notice of Violation  
Lincoln County

Dear Mr. Dellinger:

Pursuant to *North Carolina General Statute §130A-22(a)* and *Title 15A North Carolina Administrative Code 13B*, you are hereby informed that your notified Land Clearing and Inert Debris (LCID) landfill has been operating in violation of the North Carolina Solid Waste Management Rules.

On Wednesday, September 23, 1998, I inspected the LCID notification site owned and operated by you measuring approximately two (2) acres in size, located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina. The inspection revealed that non-permitted waste including municipal solid waste (bagged household trash, clothing materials, discarded furniture, insulation, carpet, floor tile, PVC plastic pipe, HDPE plastic corrugated pipe, recyclables); construction and demolition waste (painted and treated wood, plywood, sheetrock, vinyl siding); metals (scrap metal, metal conduit, wiring); and tires; has been improperly disposed of on your property in the above referenced LCID notification site. The waste was located in and within fifty (50) feet of what appeared to be a running stream at that time.

*15A N.C.A.C. 13B, Section .0566(2)* - "the facility shall only accept those solid wastes which it is permitted to receive." You are in violation of *Section .0566(2)* in that you have accepted solid wastes that are not permitted to be received in the LCID notification site.

*15A N.C.A.C. 13B, Section .0564(9)* - "The facility shall meet the following minimum buffer requirements: (b) 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells." You are in violation of *Section .0564(9b)* in that you have not met the minimum buffer requirement of 100 feet from the disposal area to the property line located at the South end of the property.

Based on the foregoing, you are hereby ordered to comply with *15A N.C.A.C. 13B, Section .0566(2) Operational Requirements for Land Clearing and Inert Debris (LCID) Landfills* and *Section .0564(9b) Siting Criteria for Land Clearing and Inert Debris (LCID) Landfills* and take the following actions:

1. Immediately discontinue all waste dumping operations.
2. Immediately post signs indicating closure.
3. Immediately prevent unauthorized entry to the site by means of gates, berms, or fences.
4. Implement effective vector control, including baiting for at least two (2) weeks following closure to prevent vector migration to adjacent properties.
5. By **Friday, April 30, 1999**, complete the following:
  - a. Remove all materials not designated as inert debris (concrete, brick, concrete block, uncontaminated soil, rock, and gravel), asphalt, land clearing waste (stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material), and untreated wood from the LCID notification site as defined during the meeting on Thursday, January 14, 1999, and transport to the Lincoln County Landfill.
  - b. Properly close the site by taking the following actions:
    - Modify landfill area to meet State minimum buffer requirements.
    - Cover remaining waste with at least two (2) feet of soil.
    - Implement erosion control measures as required by grading and seeding in accordance with the Sedimentation Pollution Control Act (*15A N.C.A.C. 4*). You may contact the Land Quality Section of the Division of Land Resources at (704) 663-1699 if you have any questions pertaining to the Sedimentation Pollution Control Act.

Pursuant to *N.C.G.S. §130A-22(a)* and *15A N.C.A.C. 13B, Section .0701 - .0707*, an administrative penalty of up to Five Thousand Dollars (\$5,000.00) per day, per violation may be assessed for violations involving nonhazardous waste.

Verification that the non-permitted waste has been properly disposed of at a State permitted solid waste management facility will be required. Please submit receipts and any related correspondence to:

**North Carolina Department of Environment and Natural Resources  
Division of Waste Management/Solid Waste Section  
Attn: James B. Bealle III  
919 North Main Street  
Mooreville, NC 28115**

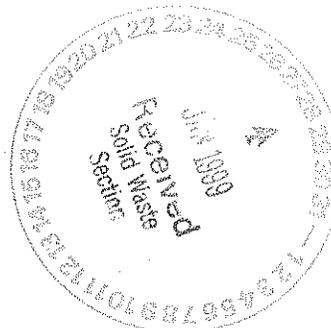
Please submit schedule for compliance prior to start date. Should you have any questions concerning this matter, please contact me at (704) 663-1699. Thank you in advance for your cooperation.

Sincerely,



James B. Bealle III  
Environmental Technician

cc: Philip J. Prete, Field Operations Branch Supervisor/SWS  
Julian M. Foscue, III, Western Area Supervisor/SWS  
Anthony B. Foster, Waste Management Specialist/SWS  
Michael Landis, Regional Supervisor/DAQ  
Kelly Atkins, Lincoln County Director of Building and Land Development  
Richard Smith, Lincoln County Land-Use Coordinator  
Barbara Carpenter, Lincoln County Code Enforcement Officer  
Jeffrey A. Taylor, Lincoln County Attorney  
Debra H. Johnson, Attorney at Law





NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
DIVISION OF AIR QUALITY



December 30, 1998

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Z 127 901 337

MR. TIM DELLINGER, PRESIDENT  
T. W. DELLINGER, INCORPORATED  
7624 OAKVIEW LANE  
STANLEY, NC 28164

SUBJECT: DAQ 98-262  
Civil Penalty Assessment to T. W. DELLINGER, INCORPORATED for Violation of  
15A NCAC 2D .1900 OPEN BURNING, County of LINCOLN.

DEAR MR. DELLINGER:

Pursuant to G.S. 143-215.114A(d), this letter is notice of a civil penalty assessed by the Department of Environment, Health and Natural Resources (DENR). The civil penalty assessment document is attached.

Within thirty days from the date of receipt of this letter, you must do one of the following:

- (1) **Submit Payment of the civil penalty assessment:**

Payment should be by check or money order and made payable to the North Carolina Department of Environment and Natural Resources (DENR) (do not include waiver form). Payment of the penalty will not foreclose enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

*Enforcement Group/Payment*  
DENR - Division of Air Quality  
Post Office Box 29580  
Raleigh, North Carolina 27626-0580

Post-It Fax Note  
To: FAMARA 7671  
Co./Dept: MRD  
Phone #:   
Fax #:   
Date: 1/28/99  
From:   
Co: KIRK Foster  
Phone #: 919 715-5073  
Fax #:   
Page #: 3



MR. DELLINGER

Page 2

or

- (2) Submit a written request for remission or mitigation, which includes a detailed justification for the request:

A request for remission or mitigation is not the proper method for contesting the attached civil penalty assessment. Because a remission request forecloses the option of an administrative hearing, the request must be accompanied by a waiver of your right to an administrative hearing and a stipulation that there are no factual or legal issues in dispute. You must sign and return the attached waiver and stipulation form along with a detailed justification for remission to:

*Enforcement Group-Remission*  
 DENR - Division of Air Quality  
 Post Office Box 29580  
 Raleigh, North Carolina 27626-0580

*Do not submit payment when requesting remission.* Finally, your detailed justification must include any relevant documentation, and state a case that:

- one or more of the civil penalty assessment factors in G.S. 143B-282.1(b) were wrongly applied to the detriment of the petitioner;
- continuing environmental damage resulting from the violation was promptly abated;
- the violation was inadvertent or a result of an accident;
- the violator has not been assessed civil penalties for any previous violations;
- payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

A remission request consisting of only a waiver, absent any supporting justification, will not be considered. If you have any questions concerning this matter, please contact Jessica Bellas at (919) 715-4207.

MR. DELLINGER

Page 3

or

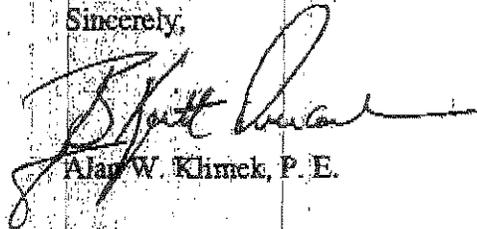
- (3) **Submit a written petition for a contested case hearing in the Office of Administrative Hearings (OAH) appealing the penalty assessment.**

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute 150B-23. File the original petition and one copy with OAH, Post Office Drawer 27447, Raleigh, North Carolina 27611-7447. Any questions about filing a petition may be directed to the Clerk of OAH by telephoning (919) 733-0926. You must serve DENR by mailing a copy of the petition to:

Mr. Daniel F. McLawhorn  
Registered Agent and Deputy Secretary  
Post Office Box 27687  
Raleigh, North Carolina 27611

Your attention to this matter is appreciated.

Sincerely,



Alan W. Klimck, P. E.

cc: MRO/DAQ Supervisor  
Don Reuter, PIO  
Enforcement File

STATE OF NORTH CAROLINA

NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES

COUNTY OF LINCOLN

FILE NO. AQ 98-262

IN THE MATTER OF

T. W. DELLINGER, INC.

FOR VIOLATION OF:

CIVIL PENALTY ASSESSMENT

15A NCAC 2D .1900  
"OPEN BURNING"

Acting pursuant to North Carolina General Statutes (G.S.) 143-215.14A, I, Alan W. Kirnek, P.E., Director of the Division of Air Quality (DAQ), make the following:

I. FINDINGS OF FACT:

- A. On September 22, 1998, the DAQ staff received a complaint concerning open burning at a location on Mariposa Road, Stanley, Lincoln County, North Carolina.
- B. On September 22, 1998, Mr. Barry Adderton of DAQ staff inspected the site and observed that the materials being burned by T. W. Dellinger, Inc. consisted of demolition debris in a pile 15 feet high by 30 feet diameter.
- C. Notice of Violation Form Number 7028 was issued to T. W. Dellinger, Inc. on September 22, 1998, for one violation of 15A NCAC 2D .1900, "Open Burning". A Notice of Violation letter dated September 28, 1998 was sent to T. W. Dellinger, Inc. for the aforementioned violation. A Notice of Recommendation for Enforcement letter dated October 19, 1998, was sent to T. W. Dellinger, Inc. A response letter dated October 20, 1998, was received from Timothy W. Dellinger of T. W. Dellinger, Inc.
- D. Air Quality Compliance History:  
There is no record of previous violations of Air Quality rules by this Company.
- E. The costs of investigation or inspection in this matter totaled \$329.00.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. T. W. Dellinger, Inc. was in violation of 15A NCAC 2D .1900 on September 22, 1998 by burning demolition debris.
- B. G.S. 143-215.114A provides that a civil penalty of not more than ten thousand dollars per violation may be assessed against a person who violates a regulation (15A NCAC 2D .1900) established pursuant to G.S. 143-215.107.
- C. G.S. 143-215.3(a)(9) provides that the costs of any investigation or inspection may be assessed against a person who violates any regulation adopted by the Environmental Management Commission.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

**III. DECISION:**

Pursuant to G.S. 143-215.114A in determining the amount of the penalty, I considered the factors listed in G.S. 143B-282.1(b) and 15A NCAC 21.0006.

T. W. Dellinger, Inc. is hereby assessed a civil penalty of:

\$500.00

For one (1) violation of 15A NCAC 2D .1900, "Open Burning" on September 22, 1998.

\$500.00

**TOTAL CIVIL PENALTY**, which is 5 percent of the maximum penalty authorized by G.S. 143-215.114A.

\$329.00

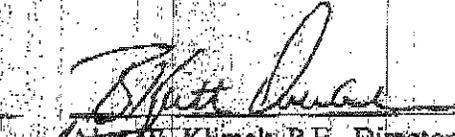
Investigation costs

\$829.00

**TOTAL AMOUNT DUE**

12/30/98

Date

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





JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

*KC -  
Treat as letter  
warning  
-p*

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE  
DIVISION OF WASTE MANAGEMENT  
SOLID WASTE SECTION

*10/23/98*

**CERTIFIED MAIL Z 560 750 091**  
**RETURN RECEIPT REQUESTED**

November 5, 1998

**Tim Dellinger**  
T.W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, NC 28164

Re: Lincoln County

Dear Mr. Dellinger:

On Wednesday, September 23, 1998, I investigated a complaint pertaining to the property owned by you, located at 1873 Mariposa Road, Southeast of Lincolnton, in Lincoln County, North Carolina. The inspection revealed that non-permitted construction and demolition waste has been landfilled in the Land Clearing and Inert Debris landfill notification site located on the property. The waste was located in and within fifty (50) feet of what appeared to be a running stream at that time.

On Monday, October 12, 1998, Julian Foscoe, Western Area Supervisor/SWS, Barbara Carpenter, Lincoln County Code Enforcement Officer, you, and I met and agreed to address the following items:

1. **Running Water** - The water running out of the fill area is to be monitored for a period of up to one (1) year to determine if it is a natural drainage feature (spring), or the result of water seepage into the fill area due to the impoundment of water.
2. **Property Lines** - State minimum buffer requirements to be discussed on Tuesday, November 10, 1998.
3. **Test Pits** - Random test pits have been scheduled to be dug on Tuesday, November 10, 1998. Please have equipment ready to operate by 2:00 p.m.
4. **Landfill Closure** - Following the test pit schedule and any excavation that may be required as a result of the findings on Tuesday, November 10, 1998, the LCID notification site is to be formally closed. This process will require adequate erosion control measures, structures, or devices to prevent silt from leaving the site and to prevent excessive on site erosion.

- Divert surface water runoff thereby preventing impoundment of water over the waste.
- Address steepness of, and the rills in the slopes
- The borrow pit area may be filled in with inert materials only, however, this activity must be coordinated with the County. Please contact Kelly Atkins, Lincoln County Land-Use Coordinator at (704) 736-8726.

4. **Non-Permitted Waste** - Remove all non-permitted waste and notify the Division when landfill closure has been completed. Verification that the non-permitted waste has been properly disposed of at a State permitted facility will be required. Please submit receipts and any related correspondence to:

**North Carolina Department of Environment and Natural Resources  
Division of Waste Management/Solid Waste Section  
Attn: James B. Bealle III  
919 North Main Street  
Mooresville, NC 28115**

Should you have any questions concerning this matter, please contact me at (704) 663-1699. Thank you in advance for your cooperation.

Sincerely,



James B. Bealle III  
Environmental Technician

cc: Philip J. Prete, Field Operations Branch Supervisor/SWS  
Julian M. Foscue, III, Western Area Supervisor/SWS  
Anthony B. Foster, Waste Management Specialist/SWS  
Kelly Atkins, Lincoln County Land-Use Coordinator  
Barbara Carpenter, Lincoln County Code Enforcement Officer



# COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, LINCOLNTON, NORTH CAROLINA 28092

BUILDING AND LAND DEVELOPMENT  
(704) 736-8440 OFFICE  
(704) 736-8434 INSPECTION REQUEST  
(704) 732-9010 FAX

October 2, 1998

Mr. Timothy W. Dellinger  
7624 Oakview Lane  
Stanley, NC 28164

Dear Mr. Dellinger,

This letter is to serve as written notification that on March 16, 1998, the Lincoln County Board of Commissioners approved your request (CUP #127) to operate an LCID landfill. The conditions placed on this permit are as follows:

The landfill must be closed, covered, and replanted by October 1, 1998.

On September 30, 1998, I talked to Mr. James Beal with Environmental Management, concerning the landfill. Mr. Beal informed me that there may be questionable material located in the landfill and they are investigating. *You may leave the landfill uncovered until the State has finished its investigation. After the State has finished their investigation you must cover, and replant the affected area.* If you have any questions regarding this letter don't hesitate calling.

Sincerely,

A handwritten signature in cursive script that reads "Kelly G. Atkins".

Kelly G. Atkins  
Land-Use Coordinator

CcJeff Taylor (Assistant County Attorney)  
Stan Kiser (Assistant County Manager)

# Landfill owner cited for illegal burning

By RANDY HAWKINS  
LTN Staff Writer

The operator of a private landfill on Mariposa Road faces a possible fine for illegal burning and has been ordered to remove materials that were illegally dumped, state officials said Thursday.

The landfill, located near the East Lincoln Speedway and operated by Tim Dellinger, is permitted to accept land-clearing waste and inert debris from construction and demolition sites.

Neighbors, who have complained about the landfill for years, notified environmental officials after a fire Tuesday sent black smoke billowing into the air and created a stench that settled on the area.

"You could not breathe outside," said Mary Scercy. "My son got to coughing and choking and gagging.... That's how bad the smell was."

The flames were finally put out Wednesday with a blanket of dirt, but the fire was still smoldering Thursday, Scercy said.

Mike Landis, regional supervisor with the N.C. Division of Air Quality, said Dellinger was notified that his company was in violation of regulations that prohibit open burning of construction debris. A civil penalty of up to \$10,000 could be assessed against the company, Landis said.

James Bealle, an environmental technician with the N.C. Division of Waste Management, said Dellinger was ordered to remove certain materials from the landfill.

"There was unpermitted waste present," Bealle said. "... We will continue to evaluate the situation and take appropriate action."

The landfill is permitted to accept concrete, brick, concrete block, uncontaminated soil, rock, gravel, asphalt and untreated wood, as well as stumps, trees, limbs, brush, grass and other vegetative material. But materials such as treated wood, insulation and vinyl siding aren't allowed, Bealle said.

Scercy said neighbors have been fighting the landfill for more than four years. They've complained about possible contamination of groundwater, bothersome odors and noisy trucks and machinery.

Lincoln County commissioners granted Dellinger a zoning permit in 1995 to operate a landfill for one year after he explained that he wanted to fill in a low area at the race track to create space for additional parking. He continued dumping, however, after the permit expired and after residents repeatedly complained. The county finally ordered Dellinger to stop dumping in January.

He promptly applied for a new permit. In March, commissioners agreed to allow him to operate the landfill until Oct. 1 to give him time to complete any work in progress and properly cover the site.

Dellinger has now applied for another permit to continue operating the landfill. A public hearing is scheduled for Oct. 6 at 6:30 p.m. at the Citizens Center.

Post-It* Fax Note	7671	Date	10/1/98	# of pages	1
To	Julian Foscare	From	James Bealle		
Co./Dept.	W's R.O	Co.	M.R.O		
Phone #	(336) 771-4600	Phone #	(704) 663-1619		
Fax #	(336) 771-4631	Fax #	(704) 663-6040		



# COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, LINCOLNTON, NORTH CAROLINA 28092

BUILDING AND LAND DEVELOPMENT  
(704) 736-8440 OFFICE  
(704) 736-8434 INSPECTION REQUEST  
(704) 732-8010 FAX

March 17, 1998

Mr. Timothy W. Dellinger  
7624 Oakview Lane  
Stanley, NC 28164

Dear Mr. Dellinger,

This letter is to serve as written notification that on March 16, 1998, the Lincoln County Board of Commissioners approved your request (CUP #127) to operate an LCID landfill on that portion of Parcel ID #71170 which is currently zoned General Industrial. The conditions placed on this permit are as follows:

*The landfill must be closed, covered, and replanted by October 1, 1998.*

*The portion of the parcel currently zoned General Industrial (I-G) will revert to its original Residential Transition (R-T) classification on October 1, 1998.*

This Conditional Use Permit is effective immediately. If you have any questions concerning this matter, please do not hesitate to call my office at 736-8440.

Sincerely,

A handwritten signature in cursive script that reads "Judy Francis".

Judy Francis  
Zoning Administrator

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE



DIVISION OF SOLID WASTE MANAGEMENT

February 25, 1998

JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

Mr. Tim Dellinger, President  
T. W. Dellinger, Inc.  
7624 Oakview Lane  
Stanley, North Carolina 28164

RE: Warning Letter

Dear Mr. Dellinger:

This letter is to remind you of the materials in which you are allowed to dump into the East Lincoln Speedway Landfill and to make you aware of some potential problems. The referenced landfill is a notified LCID (Land Clearing and Inert Debris) site. Land Clearing and Inert Debris consists of concrete, block, brick, rock, gravel, trees, limbs, stumps, unpainted and untreated wood, and uncontaminated soil. Also, asphalt is considered a non-regulated waste. These are the only materials that may be disposed of at an LCID site. In recent inspections at the dump site, small quantities of painted wood, metals, fabrics, and plastics were noted. Please take care in separating these materials in order to avoid future compliance problems. You also need to address erosion problems at the site. Silt and run-off should be contained on-site and held to a minimum. Some measure such as a sedimentation basin should be utilized in order to address the erosion factor. If you have any questions, please contact me at (704) 663-1699.

Sincerely,

Anthony B. Foster  
Waste Management Specialist

cc: Julian Foscue, III

ABF/ae

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE

## DIVISION OF SOLID WASTE MANAGEMENT

February 23, 1998



JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

Mr. Julian Foscue, III  
Solid Waste Western Area Supervisor  
Winston-Salem Regional Office  
585 Waughtown Street  
Winston-Salem, North Carolina 27107

Dear Julian:

On February 20, 1998, I met with Tim Dellinger at the East Lincoln Speedway LCID Landfill after receiving complaints that Mr. Dellinger had been accepting wastes that he is not permitted to receive. Mr. Dellinger is the owner and operator of the site. Five test pits were dug at my direction. After careful inspection of the test pits, I found no evidence that Mr. Dellinger was out of compliance with the solid waste law or regulations. The materials noted during the inspection were mostly brick, unpainted concrete, and unpainted wood. A very small amount of metals such as rebar and conduit was noticed, but in trace amounts. Mr. Dellinger stated that metals are removed twice before being dumped. Once at the demolition site and again at the dumpsite before being buried. No odors were detected and no leachate was observed. Mr. Dellinger is within the two acre size limit designated by the LCID Landfill notification, and the set backs and buffers are in compliance with the solid waste law designated distances. No violations were observed during the inspection. If you have any questions, please call me at (704) 663-1699.

Sincerely,



Anthony B. Foster  
Waste Management Specialist

cc: Tim Dellinger

ABF/ae

- Contract Hauling • Stone • Sand • Asphalt
- Demolition • C & D Dump Available
- Grading & Lot Clearing

# DELLINGER

TIM DELLINGER — President

OFFICE — 704-827-9490

7624 Oakview Lane  
Stanley, NC 28164

Pager - 800-614-7059  
Mobile - 572-9493

Post-it® Fax Note	7671	Date	9/24/98	# of pages	5
To	Phil Preje	From	James Bealle		
Co./Dept.	R C O	Co.	M R O		
Phone #	(919) 733-0692	Phone #	(704) 663-1699		
Fax #	(919) 733-4310	Fax #	(704) 663-6040		

064716

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

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

Post-it® Fax Note	7671	Date	5/24/98	# of pages	5
To	Phil Pfele	From	James Bealle		
Co./Dept.	RCO	Co.	MRO		
Phone #	(919) 733-0692	Phone #	(704) 663-1699		
Fax #	(919) 733-4810	Fax #	(704) 663-6040		

**LAND CLEARING AND INERT DEBRIS LANDFILL NOTIFICATION**

Pursuant to 15A NCAC 13B .0563(2)(a), the land owner(s) and operator(s) of any Land Clearing and Inert Debris Landfill under two (2) acres in size shall submit this notification form to the Division prior to constructing or operating the landfill. This form must be filed for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification under the name of the owner(s) of the land in the county or counties in which the land is located. The Register's seal and the date, book, and page number of recording must be included on this form when submitted to the Division. This notification is not valid to authorize operation of a landfill unless complete, accurate, recorded, and submitted to the Division as required by 15A NCAC 13B .0563(2)(b).

- 1. Facility Name: Mariposa Road Site
- 2. Facility location (street address): 1873 Mariposa Rd.  
City: Stanley NC County: Lincoln Zip: 28164
- 3. Directions to Site: 1/2 mile on left on Mariposa Rd - Off Old Plank Rd.

- 4. The land on which this landfill is located is described in the deed recorded in:  
deed book: 186 page: 505 county: Lincoln
- 5. Name of land owner: Margaret B. Nantz
- 6.  Mailing address of land owner: 6420 Old Plank Rd.  
City: Stanley State: NC Zip: 28164
- 7. Telephone number of land owner: (704) 732-6368 Home - (Bus. 735-8902)

If the land is owned by more than one person, attach additional sheets with the name, address, and phone number of all additional land owners.

- 8. Name of operator: Timothy Wayne Dellinger
- 9. Trade or business name of operator: Grading & Trucking
- 10. Mailing address of operator: 7624 DAKVIEW TRL  
City: Stanley State: N.C. Zip: 28164
- 11. Telephone number of operator: (704) 827-9490 (w) 800-64-7498 (res)

If the landfill is operated by more than one person, attach additional sheets with the name, address, and phone number of all additional operators.

- 12. Projected use of land after completion of landfill operations: Parking Lot For Speedway

735-8902

587-8668 (no bills)

The following are the applicability, siting, and operating criteria for Land Clearing and Inert Debris Landfills operating under notification.

.0101 DEFINITIONS

- (72) "Land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material.
- (73) "Land clearing and inert debris landfill" means a facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.
- (74) "Yard trash" means solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative materials.

.0563 APPLICABILITY REQUIREMENTS FOR LAND CLEARING AND 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 N.C.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 Rule .0563(2)(b). 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.

.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.

.0566 OPERATIONAL REQUIREMENTS FOR LAND CLEARING AND 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.
- (16) 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.

**Certification by Land Owner:**

I certify that the information provided by me in this notification is true, accurate, and complete to the best of my knowledge. The facility siting and disposal operations of this Land Clearing & Inert Debris landfill will comply with the requirements of Sections .0563, .0564 and .0566 of 15A NCAC 13B, North Carolina Solid Waste Management Rules. The facility and operations of this landfill will also comply with all applicable Federal, State, and Local laws, rules, regulations, and ordinances. Where the operator is different from the land owner, I, the land owner, have knowledge of the operator's plans to dispose of solid waste on the land and I specifically grant permission for the operation of the landfill. I understand that both the land owner and operator are jointly and severally liable for improper operations and proper closure of the landfill as provided for by North Carolina General Statute 130A-309.27. I further understand that North Carolina General Statute 130A-22 provides for administrative penalties of up to five thousand dollars (\$5,000.00) per day per each violation of the Solid Waste Management Rules. I further understand that the Solid Waste Management Rules may be revised or amended in the future and that the facility siting and operations of this landfill will be required to comply with all such revisions or amendments.

Margaret B. Nantz                      Margaret B. Nantz                      12-29-94  
 Print Name (Owner)                      Signature (Owner)                      Date

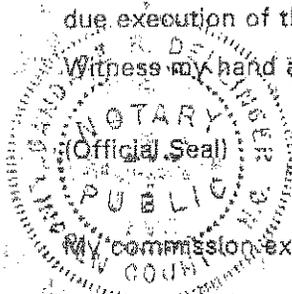
North Carolina

Lincoln County

I, Candace R. Dellinger, a Notary Public for said County and State, do hereby certify that Margaret B. Nantz personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 29<sup>th</sup> day of December, 19 94.

Candace R. Dellinger  
 Notary Public



My commission expires April 20, 19 98.

NORTH CAROLINA, LINCOLN COUNTY

The foregoing certificates of Candace R. Dellinger, Notary Public of Lincoln County, NC, are certified to be correct. Presented for registration and recorded this the 29th day of December, 1994, at 10:00 A.M. in Book 890, Page 001.

ELAINE N. HARMON, Register of Deeds

By John W. Martin, asst.  
 Register of Deeds

**Certification by Landfill Operator (if different from Owner):**

I certify that the information provided by me in this notification is true, accurate, and complete to the best of my knowledge. The facility siting and disposal operations of this Land Clearing & Inert Debris landfill will comply with the requirements of Sections .0563, .0564 and .0566 of 15A NCAC 13B, North Carolina Solid Waste Management Rules. The facility and operations of this landfill will also comply with all applicable Federal, State, and Local laws, rules, regulations, and ordinances. I have informed the land owner of my plans to dispose of solid waste on the land and the land owner has specifically granted permission for the operation of the landfill. I understand that both the operator and land owner are jointly and severally liable for improper operations and proper closure of the landfill as provided for by North Carolina General Statute 130A-309.27. I further understand that North Carolina General Statute 130A-22 provides for administrative penalties of up to five thousand dollars (\$5,000.00) per day per each violation of the Solid Waste Management Rules. I further understand that the Solid Waste Management Rules may be revised or amended in the future and that the facility siting and operations of this landfill will be required to comply with all such revisions or amendments.

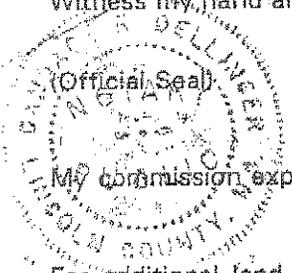
Timothy Wayne Dellinger Timothy Wayne Dellinger 12-29-94  
Print Name (Operator) Signature (Operator) Date

North Carolina

Lincoln County

I, Bondar R Dellinger, a Notary Public for said County and State, do hereby certify that Timothy W. Dellinger personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 29<sup>th</sup> day of December, 1994.



Bondar R Dellinger  
Notary Public

My commission expires April 20, 1998.

For additional land owners and landfill operators, attach separate notarized certifications for each additional land owner and landfill operator.

For Corporate land owners and/or operators, use the Corporate Certifications, pages 5 and 6. Contact the Division of Solid Waste Management for proper applicable certifications.

**INSTRUCTIONS**

**Purpose:** Notification of Land Clearing and Inert Debris Landfills under two (2) acres in size is required under 15 NCAC 13B .0563(2)(a). Contact the Solid Waste Section at the address below for further information.

**Distribution:** Mail completed recorded original notification to the following address:

Division of Solid Waste Management  
Solid Waste Section  
PO Box 27687  
Raleigh, North Carolina 27611-7687  
(919) 733-0692

**Disposition:** This form will be transferred to the State Records Center when reference value ends. Records will be held for agency in the State Records Center five (5) additional years and then transferred to the custody of the Archives.

From: "Kristina Callahan" <callahan@wastenot.enr.state.nc.us >  
Organization: SOLID WASTE MGMT.  
To: pretepj@wastenot.enr.state.nc.us  
Date sent: Mon, 17 May 1999 10:02:59 EST  
Subject: Lincoln County  
Priority: normal

Could you please call Ms. Mary Sercy (704) 263-5044 (she would prefer to be called after 3pm)

You referred her call to me last week - it was regarding an illegal dump in Lincoln County. I spoke to James Bealle about the case, and it is an lcid notification site that received other waste. He and Julian Foscue are working with the violator and the violator's attorney.

I phoned Ms. Sercy, and she is pretty upset that the violator's deadline to clean the site up was April 30th and that nothing has been done. She told me that she has been trying to get this site cleaned up for years now and that she has every intention of going up the chain of command to see that it gets done. She is not happy with the drawn out process and would like to speak with Julian Foscue's supervisor (those are her words).

Anyhow - let me know if you would like more information although I am sure she won't mind giving it to you.

Kris